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SYDNEY NSW 2000**

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ABN 50 105 256 228

25 May 2022

Mr Justin Doyle  
Chair  
Sydney Western City Planning Panel

[enquiry@planningpanels.nsw.gov.au](mailto: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 that was considered by the Sydney Western City Planning Panel (SWCPP) at a public meeting on 26 April 2022.

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.

Determination of the application was matter was deferred by the SWCPP. On 29 April 2022 Urbis on behalf of the Applicant furnished a written response to the draft conditions of consent and to the matters discussed in the public meeting. 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.

This letter has been prepared following consultation with Penrith Council (Council). Council has provided written feedback and in principle agreement with the Applicant's proposed amendments to the draft conditions set out below. This importantly includes Council's agreement that the condition requiring the surrender of consent to DA19/0975 will not be required- refer correspondence at **Attachment A**.

We understand that on this basis of this mutual agreement Council will now provide an updated assessment report and an amended set of conditions to the Panel for their consideration in determining DA22/0130.

## **CONDITION 3 – OPERATING HOURS**

The works and use proposed under DA21/0130 are the same as that to which Deferred Commencement consent under DA19/0875 was granted by the SWCPP on 31 August 2021. Draft Condition 3 currently provides more restrictive operating hours for the development including that the Club close at 11pm on Friday and Saturday nights, and that there be no use of the bowling green after 6pm.

The operating hours approved under DA19/0875 provide for marginally extended hours including the use of the bowling green until 7pm, which is of particular benefit during daylight savings.

We communicated to Council that as the use and scale of works proposed to the Wallacia Country Club under DA21/0210 are the same as approved under DA19/0875 (absent the 27,000 plot cemetery) the approved operating hours should be the same, ie:

*Golf clubhouse -*

*10.00am to 10.00pm Mondays, Tuesdays, Wednesdays, Thursdays and Sundays, and 10.00am to 12.00am Fridays and Saturdays. (i.e. 1 additional hour on Tuesday, Friday, Saturday and Sunday).*

*Use of the golf clubhouse outdoor terrace at ground and lower ground floor is to cease at 10:00pm, 7 days and terrace doors are to be kept closed after this time. (No change).*

*Bowling green – Any use of the bowling green is prohibited after 7:00pm, 7 days. (i.e. 1 additional hour).*

*Community facility (pool and gymnasium building) - 6.00am to 10.00pm, 7 days. (No change)*

*Entry to the community facility is not to be restricted to club members and is to be open for use by the general public. (No change)*

*Parking provided on the site is to be open to those visiting the clubhouse, golf course and community facility. (No change)*

Council requested an addendum to the noise impact assessment to support this position. Acoustic Logic, (the consultant responsible for the original noise impact assessment) prepared this and it has been provided to Council – refer **Attachment B**. The addendum has also been lodged through the Planning Portal. The addendum confirms that the proposed operating hours for the Wallacia Country Club are acceptable from a noise impact perspective.

Council has provided a written response to the Applicant:

- advising that they have no objection to the Applicant's amended hours of operation
- noting that Conditions 1, 31, 37 and 46 will need to be amended to also refer to the Addendum and Condition 46 will need to be amended to note that use of the bowling green will cease at 7:00pm.

The Applicant has no objection to these minor amendments that will provide consistency within the set of conditions.

## **CONDITION 6 – SURRENDER CONDITION**

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 relation to this draft condition remains unchanged from the April 29 2022 submission. There is no need or justification for DA19/0875 to be surrendered as a result of this development. 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.

The scope of works proposed under both DAs could proceed independently, with a modification to DA19/0875 to take out the scope of works relating to the Country Club 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

Environmental Planning and Assessment Act 1979 (NSW). We suggest an alternate draft condition as follows:

*Condition X – Modification of DA19/0875*

*Pursuant to s4.17(1)(b) and s4.17(5) of the Environmental Planning and Assessment Act 1979 (NSW), the consent to DA 2019/0875 shall be modified in accordance with clause 97 of the Environmental Planning and Assessment Regulations 2000 (NSW) prior to the issue of a construction certificate for this consent by adding a new condition 1A as follows:*

*“1A. Relationship with Consent to DA 2021/0130*

*Development Consent No. DA 2021/0130 authorises alterations & additions to Wallacia Country Club including internal building alterations to form function rooms & expanded gaming areas & facilities, addition of indoor swimming pool, gymnasium & synthetic bowling green, expansion & modification of car parking area, road works, tree removal, landscaping works including practice putting green, stormwater drainage works & site servicing works.*

*This consent to DA 2019/0875 is modified such that no approval is granted for the scope of works approved under the consent to DA 2021/0130.*

*Where there is an inconsistency between this consent and the consent to DA 2021/0130, then consent to DA 2021/0130 shall prevail to the extent of the inconsistency.”*

Council has advised that they do not object to modifying DA19/0975 in this way, but would prefer a more comprehensive modification that removes all reference to the works to the Wallacia Country Club. This would require:

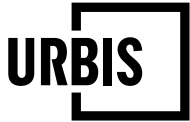
- A full set of amended plans and any reports (where relevant) to remove any reference and proposed works to the alterations and additions to the Clubhouse and associated works, with subsequent amendments made to Condition 1,
- The deletion of all conditions relating specifically to the alterations and additions of the Clubhouse and associated works, including any reference to ‘Phase 1’ or approved works to the Clubhouse,
- Amendments to any conditions referring to ‘Phase 2’, and ‘relevant phase’, and
- Amendment to Condition 53 to recalculate the 7.12 Development Contributions to reflect the cost of works relating specifically to the Cemetery and associated works.

We do appreciate Council recognising that Condition 53 would be updated to adjust the amount of development contributions. However, we have significant concerns about the potential requirement to update numerous existing reports and plans to remove all references to the Club, at significant cost to the Applicant. Our suggested alternate condition provides a clear, simple and far less expensive way to achieve the same result

We ask that the Panel consider the practical implications arising from Council’s suggested condition, including the cost imposition on the Applicant, in making their decision about this condition.

## **CONDITION 7-CESSATION OF USE CONDITION**

Draft Condition 7 requires that the use of the clubhouse cease if the golf course closes for a period of more than three months. 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).*

The Applicant has considered this matter further and is willing to accept this condition. Therefore, we confirm that Condition 7 as drafted by Council is accepted by the Applicant without alteration.

## **CONCLUSION**

We appreciate the time and opportunity provided by the SWCPP to prepare this further submission on the matter. We understand that Council will shortly be providing the Panel with a supplementary assessment report and conditions, and request that the Applicant be provided with the opportunity to review these prior to the determination of the DA21/0130 by the Panel.

Kind regards,

A handwritten signature in black ink, appearing to read "David Hoy", with a stylized flourish at the end.

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

Enc: A      Acoustic Logic Addendum Noise Statement 21 May 2022  
      B      Correspondence from Penrith Council 23 May 2022

20191301.1/2105A/R0/VF

21/05/2022

St Johns Park Bowling Club  
93 Edensor Road  
ST JOHNS PARK NSW 2176

Attn: David Marsh

**Nepean Gardens and Wallacia Country Club - Addendum to DA Acoustic Assessment**

This letter is an addendum to the previous noise impact assessment (ref: 20191301.1/1129A/R3/TT) for the proposed clubhouse.

It is proposed to modify the proposed hours of operation as indicated below.

*Golf clubhouse -*

- *10.00am to 10.00pm Mondays, Tuesdays, Wednesdays, Thursdays and Sundays, and 10.00am to 12.00am Fridays and Saturdays. (i.e. 1 additional hour on Tuesday, Friday, Saturday and Sunday).*
- *Use of the golf clubhouse outdoor terrace at ground and lower ground floor is to cease at 10:00pm, 7 days and terrace doors are to be kept closed after this time. (No change).*
- *Bowling green – Any use of the bowling green is prohibited after 7:00pm, 7 days. (i.e. 1 additional hour).*
- *Community facility (pool and gymnasium building) - 6.00am to 10.00pm, 7 days. (No change)*

The revised proposed hours of operation are compared to the previously assessed hours of operation below:

- Clubhouse – Our previous assessment assumed operation up to 10pm all days except Friday and Saturday where operation to midnight was assessed (Section 2 of previous report). The proposed hours of operation fall within the operating times. Therefore, the recommendations and conclusions of the previous report are unchanged.
- Clubhouse outdoor terrace – No change to previous assessment. Therefore, the recommendations and conclusions of the previous report are unchanged.
- Bowling Green – an additional hour of operation is sought so that the use of the greens can occur up to 7pm, 7 days per week. The extra hour of use would be treated as a shoulder period at the end of

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the EPA "day" period. Examination of the background noise levels previously measured indicates the 6pm-7pm background noise level is no higher than "day" rating background noise level at 1586 Mulgoa Road, and at 21 Park the background noise level was higher than the day RBL. This indicates that, during the extra hour of operation, noise impact from the use of the court will be no greater than previously assessed. Therefore, the recommendations and conclusions of the previous report are unchanged.

- Community facility - No change to previous assessment. Therefore, the recommendations and conclusions of the previous report are unchanged.

It is concluded that the proposed changes to hours of operation do not affect the recommendations and conclusions of the previous noise impact assessment report.

We trust this information is satisfactory. Please contact us should you have any further queries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'V Fattoretto', with a stylized flourish at the end.

Acoustic Logic Consultancy Pty Ltd  
Victor Fattoretto



23 May 2022

Dear Rosie,

**RE: DA21/0130 – Response to Panel Submission**  
**Address: 13 and 17 Park Road, Wallacia**

I refer to your request regarding Council's response to the proposed amendments to Conditions 3 and 6 of DA21/0130.

### **Condition 3 – Operating Hours**

#### Proposed Amended Condition:

##### **A. Golf Clubhouse –**

- 10:00am to 10:00pm Mondays, Tuesdays, Wednesdays, Thursdays and Sundays, and 10:00am to 12:00am Fridays and Saturdays,
- The use of the golf clubhouse outdoor terrace at ground and lower ground floor is to cease at 10:00pm, 7 days and terrace doors are to be kept closed after this time.

**B. Bowling Green –** Any use of the bowling green is prohibited after 7:00pm, 7 days.

**C. Community Facility (pool and gymnasium building) –** 6:00am to 10:00pm, 7 days.

Entry to the community facility is not to be restricted to club members and is to be open for use by the general public.

Parking provided on the site is to be open to those visiting the clubhouse, golf course and community facility.

Response – Council raises no objections to the amended hours of operation to the Clubhouse and Bowling Green, noting an Addendum to the previous Noise Impact Assessment has now been submitted confirming the revised hours do not affect the recommendations and conclusions of the previous report.

However, it is noted that Conditions 1, 31, 37 and 46 will need to be updated and slightly amended to also refer to the Addendum. In particular, Condition 46 will be required to be amended to specifically note the use of the bowling green will cease at 7:00pm.

These minor amendments to the relevant conditions can be made by Council and submitted to the Panel in an addendum report.

## **Condition 6 – Surrender of Consent**

### Proposed Alternate Condition:

Pursuant to s4.17(1)(b) and s4.17(5) of the *Environmental Planning and Assessment Act 1979*, the consent to DA19/0875 shall be modified in accordance with Clause 97 of the *Environmental Planning and Assessment Regulations 2000* prior to the issue of a construction certificate for this consent by adding a new Condition 1A as follows:

#### 1A – Relationship with Development Consent DA21/0130

Development Consent No. DA21/0130 authorises alterations and additions to Wallacia Country Club including building alterations to form function rooms, expanded gaming areas and facilities, the addition of an indoor swimming pool, gymnasium and synthetic bowling green, expansion and modification of car parking area, road works, tree removal, landscaping works including practice putting green, stormwater drainage works and site servicing works.

This consent to DA19/0875 is modified such that no approval is granted for the scope of works approved under the consent to DA21/0130.

Where there is an inconsistency between this consent and the consent to DA21/0130, then consent to DA21/0130 shall prevail to the extent of the inconsistency.

Response – Notwithstanding further assessment and consideration of permissibility and existing use rights, Council raises no objections to modifying DA19/0875, subject to the Panel's approval.

However, Council does not support the proposed wording of the alternate condition. It is Council's preference the modification deletes and removes the approved Clubhouse alterations and additions with associated works component entirely from the consent, rather than the addition of a single condition as proposed. In this regard, Council requests the modification to DA19/0875 include:

- A full set of amended plans and any reports (where relevant) to remove any reference and proposed works to the alterations and additions to the Clubhouse and associated works, with subsequent amendments made to Condition 1,
- The deletion of all conditions relating specifically to the alterations and additions of the Clubhouse and associated works, including any reference to 'Phase 1' or approved works to the Clubhouse,
- Amendments to any conditions referring to 'Phase 2', and 'relevant phase', and
- Amendment to Condition 53 to recalculate the 7.12 Development Contributions to reflect the cost of works relating specifically to the Cemetery and associated works.

Kind Regards,

Jacqueline Klincke  
**Development Assessment Planner**