



STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55(2) for Internal and external modifications to DA 76/2017.

No. 35 Racecourse Road

Muswellbrook NSW 2333

Prepared for: Racing NSW

REF: M230370

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1. Introduction

This Statement of Environmental Effects (SEE) has been prepared on behalf of the owner(s) of No. 35 Racecourse Road, Muswellbrook, NSW. It is noted the original DA Assessment Report noted the address as No. 16 Sheppard Avenue, but the registered address is No. 35 Racecourse Road, Muswellbrook. The report accompanies an application pursuant to Section 4.55(2) of the EP&A Act, 1979 to modify DA 76/2017, which approved *Renovations and Additions to Racing and Function Centre*.

The proposed modifications to the function centre and racecourse are a direct result of the club moving in a different direction and seeking to rationalise the extent of changes to the originally approved development. In this regard, the Muswellbrook Race Club (MRC) have engaged a new team of consultants, including new architects to modify the approved development and accommodate desired changes by the club. One of the main drivers for this modification is that the MRC seek to retain the finishing post in situ rather than moving it approximately 35m east to align with the approved tower and grandstand. Given MRC now intend to retain the finishing post in situ, the approved tower would be located well before the finishing post, limiting its utility while the grandstand element is cost prohibitive relative to the number of seats provided. Therefore, the grandstand element is to be deleted and the existing tower (which aligns with the existing finishing post) retained as part of this modification application.

In addition, the proposed modifications seek various internal changes to the ground floor level of the approved building to enhance facilities for jockeys, staff and media during race days while also modifying various elements of the first floor level function area/bar to improve facilities for patrons, either on race days or for functions. The changes are detailed in Part 3 of this SEE and detailed on the Architectural Plans prepared by CKDS.

The proposal is substantially the same as that approved under DA 76/2017. Whilst the proposed modifications alter the built form and rationalise the extent of works, the essence of the building and its associated areas will remain the same. That is, a function centre for patrons ancillary to the MRC. This will be detailed in Part 4 of this SEE.

The proposal continues to align with the objectives of its RU1: Primary Production zoning and will not lead to any additional variations to the principal development standards in the *Muswellbrook Local Environmental Plan 2009*. The proposal satisfies the controls and/or objectives in the *Muswellbrook Development Control Plan 2009*.

The purpose of this Statement is to address the planning issues associated with the modification proposal and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Sections 4.55 and 4.15(1) of the Environmental Planning & Assessment (EP&A) Act, 1979.

This Statement is divided into five sections. The remaining sections include a locality and site analysis; a description of the proposal; an environmental planning assessment; and a conclusion.

2. Locality and Site Analysis

2.1 THE SITE

The subject site is known as No. 35 Racecourse Rad, Muswellbrook, NSW and has a legal description of Lot 150 in DP 708030. An aerial photograph of the site and surrounds is provided at **Figure 1** and the site is outlined in red.



Figure 1 Aerial image of the subject site and surrounding locality (SIX Maps).

It is noted that access to the site is from Sheppard Avenue, and the original DA Assessment report noted the address as No. 16 Sheppard Avenue, however the registered and correct address is No. 35 Racecourse Road.

The subject site is situated in between Racecourse Road and Sheppard Avenue located approximately 600m from Denman Road/Sydney Street that provides direct access to the Muswellbrook town centre. The site is irregular in shape to reflect its use as a racecourse, with an approximant area of 43.26ha. Vehicular access to the site is provided from both Racecourse Road and Sheppard Avenue. The area of concern within the subject site regarding this application is located at the southern portion of the site relating to the function centre.

Photographs of the racecourse function centre and surrounds is provided in **Figures 2-6** below.



Figure 2 Southern elevation of the existing function centre.



Figure 3 Eastern elevation of the existing function centre with the approved extension to the function centre to occur in the foreground



Figure 4 The existing grandstand and bar area to the east of the approved function centre



Figure 5 Existing car parking area to the west of the function centre



Figure 6 Existing informal car parking area to the east of the grandstand and bar

2.2 SURROUNDING DEVELOPMENT

To the north and west of the site are large allotments ranging from approximately 3-4 ha in size, mostly containing detached residential dwellings and ancillary structures. The allotments are bound by the Hunter River. To the north-east of the site, the site adjoins smaller allotments along Sheppard Avenue. These allotments range from approximately 1,200sqm to 4,300sqm, containing one to two storeys detached, residential dwellings. Adjoining the site to the east is No. 30 & 260 Denman Road which contain both horse stables and other structures. Directly to the south of the site is No. 310 Denman Road, containing farmland, a detached residential dwelling, and ancillary structures.

3. Description of the Proposal

3.1 BACKGROUND

3.1.1 DA 11/2016

Development Application (11/2016) was lodged with Muswellbrook Shire Council on 16 February 2016 seeking consent for 'improvements to the Race Club Pavilion'. The application was approved by a delegated authority on 2 May 2016.

3.1.2 DA 76/2017

Development Application (76/2017) was lodged with Muswellbrook Shire Council on 24 August 2017 seeking consent for "Renovations and Additions to Racing and Function Centre". The application was approved by Muswellbrook Shire Council on 19 November 2018, subject to conditions including Condition 34 which is the subject of this modification application. Works have not yet commenced, and the consent is still valid until 13 November 2025 under s4.53(1)(c) of the EPA Act 1979.

This subject application seeks amendments to the approved plans and conditions for DA 76/2017, as detailed below.

3.1.3 DA 35/2019

Development Application (35/2019) was lodged with Muswellbrook Shire Council on 15 April 2019 seeking consent for the installation of a 45 square metre electronic screen. The application was approved by Council during a meeting on 30 July 2019.

3.1.4 DA 25/2020

Development Application (25/2020) was lodged with Muswellbrook Shire Council on 27 February 2020 seeking consent for the construction of a 'racetrack observation building'. The application was approved by a delegated authority on 13 May 2020.

3.1.5 DA 118/2020

Development Application (118/2020) was lodged with Muswellbrook Shire Council on 25 October 2020 seeking consent for a 'Profession Consulting Room – Swab Box and Vet Room'. The application was approved by a delegated authority on 5 November 2020.

3.2 PROPOSAL

The proposal seeks both internal and external modifications to the approved development under DA 76/2017. Other modifications relate to the internal amenity of the function centre, retaining more of the existing façade, and reducing the overall intensity of the development as approved.

3.2.1 Ground Floor/Lower Level

This application proposes various minor changes to the ground floor/lower level. Most notably the application rationalises the facilities below the approved extension to the function centre by deleting the undercroft open plan bar area and entertainment area for this space to be used exclusively as an open under-croft area with seating and no other ancillary development. The approved ground floor/lower level and the proposed amended ground floor/lower level can be seen within **Figures 7-8** below.

A full list of the proposed changes to the ground floor/lower level is provided below:

- The male jockey room and bathroom will be made smaller;
- The previously proposed winners' room and newly proposed Sky TV Media room is proposed to be south of the male jockey room;
- Within the main foyer the previously approved desk area will be moved to the eastern side of the foyer and this space replaced with a Jockey Storeroom/IT room;
- The previously approved office space will be rearranged to within its original footprint to create an open office space with two private office spaces and its own kitchenette;
- A new accessible bathroom in the north-east area of the office space accessed from the undercroft area is now proposed;
- The previously approved stewards meeting and training room will maintain its original location but will be made square with a storage room and cleaners' room to the north of this (accessed from the under-croft area);
- The female jockey room will be expanded with the inclusion of a new unisex jockey spa and communal jockey room with its own kitchenette;
- The staircase and lift within the approved undercroft area will be moved to the south and the existing staircase within the existing main foyer will be retained;
- The approved function patron seating and standing areas are no longer proposed and will be replaced with under-croft seating area;
- The open plan bar, outdoor seating and other ancillary facilities will be deleted and replaced with an undercroft seating area; and
- The grandstand to the north of building will be deleted.

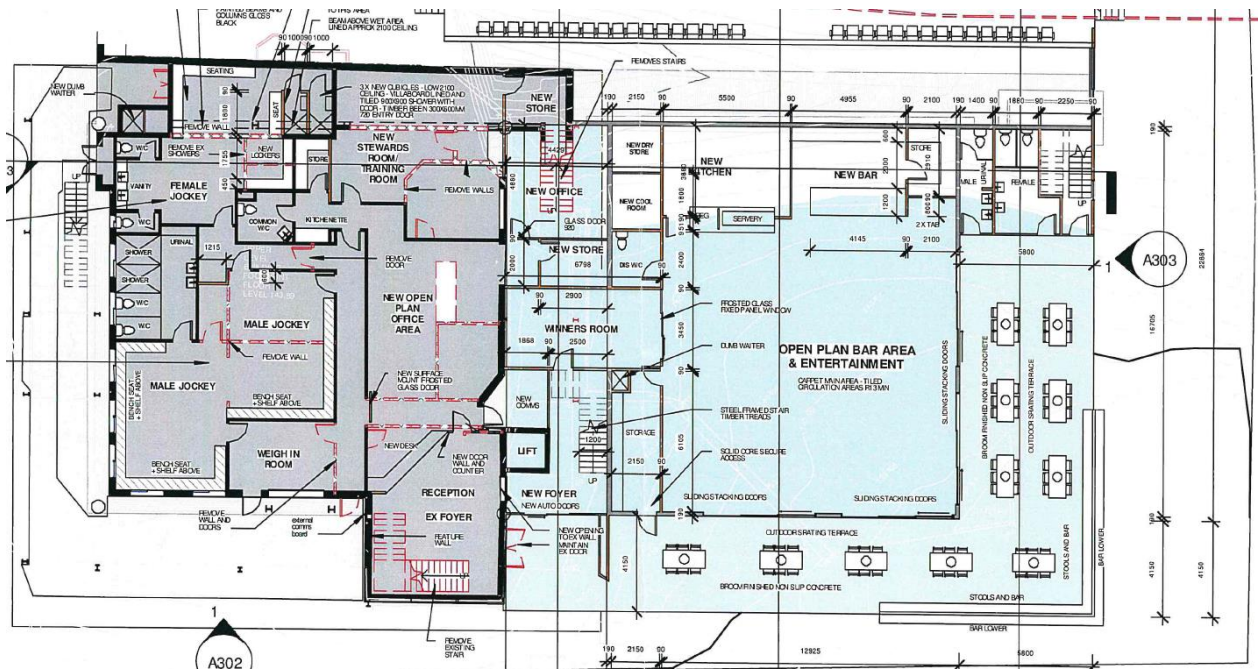


Figure 7 Approved Ground Floor/Lower Level

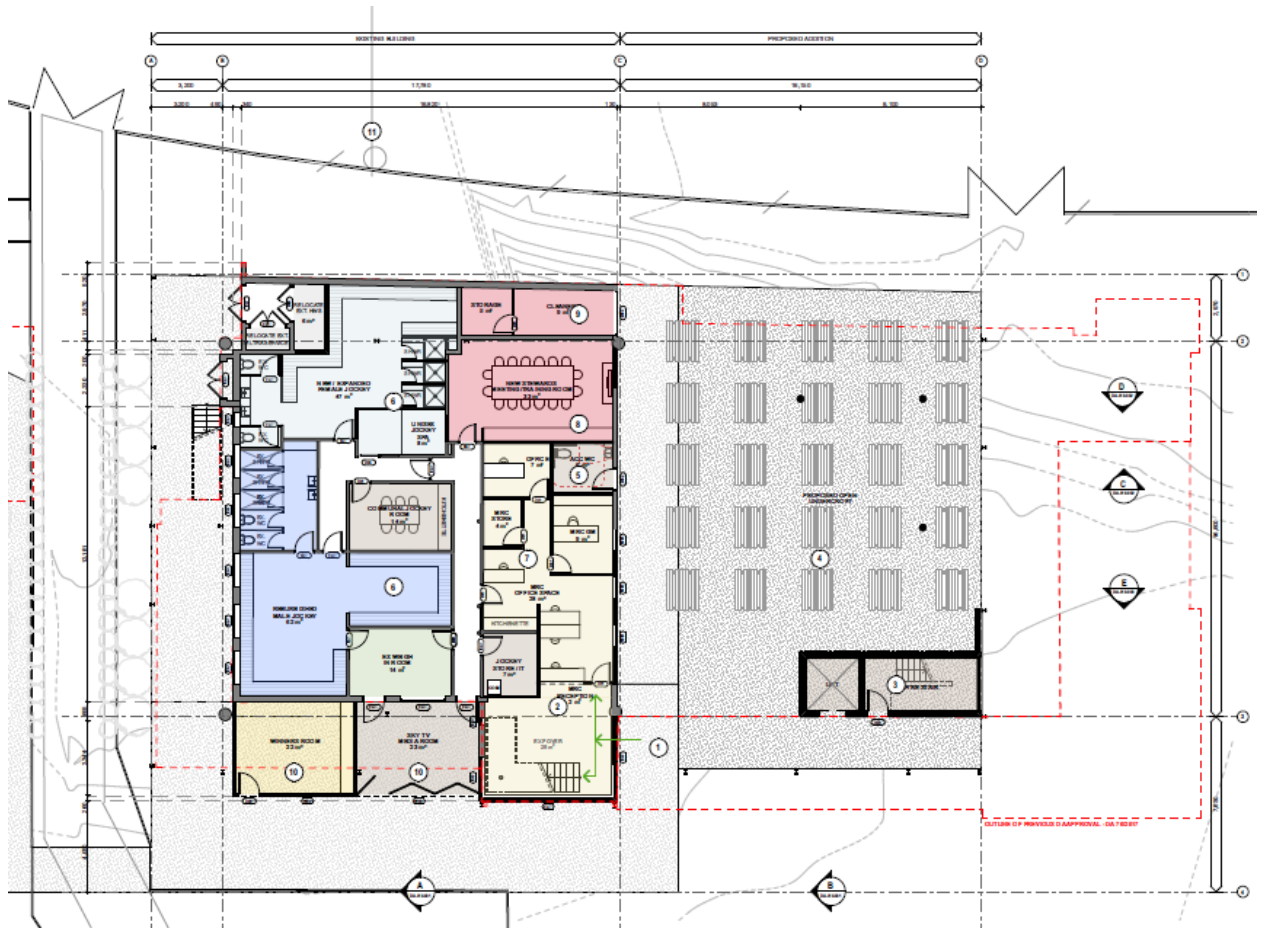


Figure 8 Proposed Modified Ground Floor/Lower Level

3.2.2 First Floor/ Upper Level

Similar to the proposed changes within the ground floor/lower level, the first floor/ upper level will be rationalised with a number of existing elements retained when compared to the approved development and will produce a better internal amenity for the club. The previously approved plans and the proposed modified plans are represented in **Figures 9-10** below.

The proposed changes are described below:

- Stairs to the approved TV and commentary boxes are deleted (given the existing tower is retained) with the existing access to the tower retained;
- The proposed grandstand in front of the new function centre has been deleted;
- The previously approved balcony to the east and south is to be deleted;
- The existing bar area and back of house is to be retained within the existing function centre building;
- The new bar and betting area in the approved function centre extension has been modified in terms of size and location;
- Approved easterly bathrooms are deleted with changes to the existing bathrooms proposed;
- The kitchen is to be relocated within the centre of the club to maximise flexibility for use of the function centre;
- Improvements to existing bathrooms and addition of an accessible toilet in lieu of the existing bathrooms;

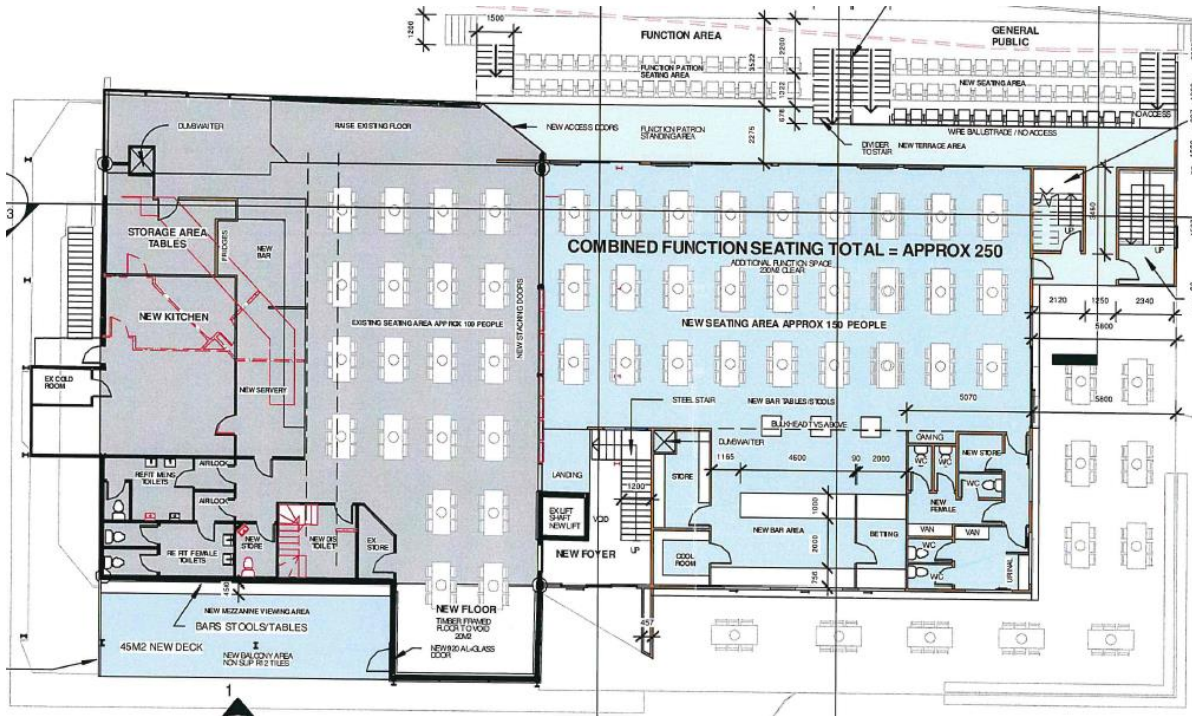


Figure 9 Approved First Floor

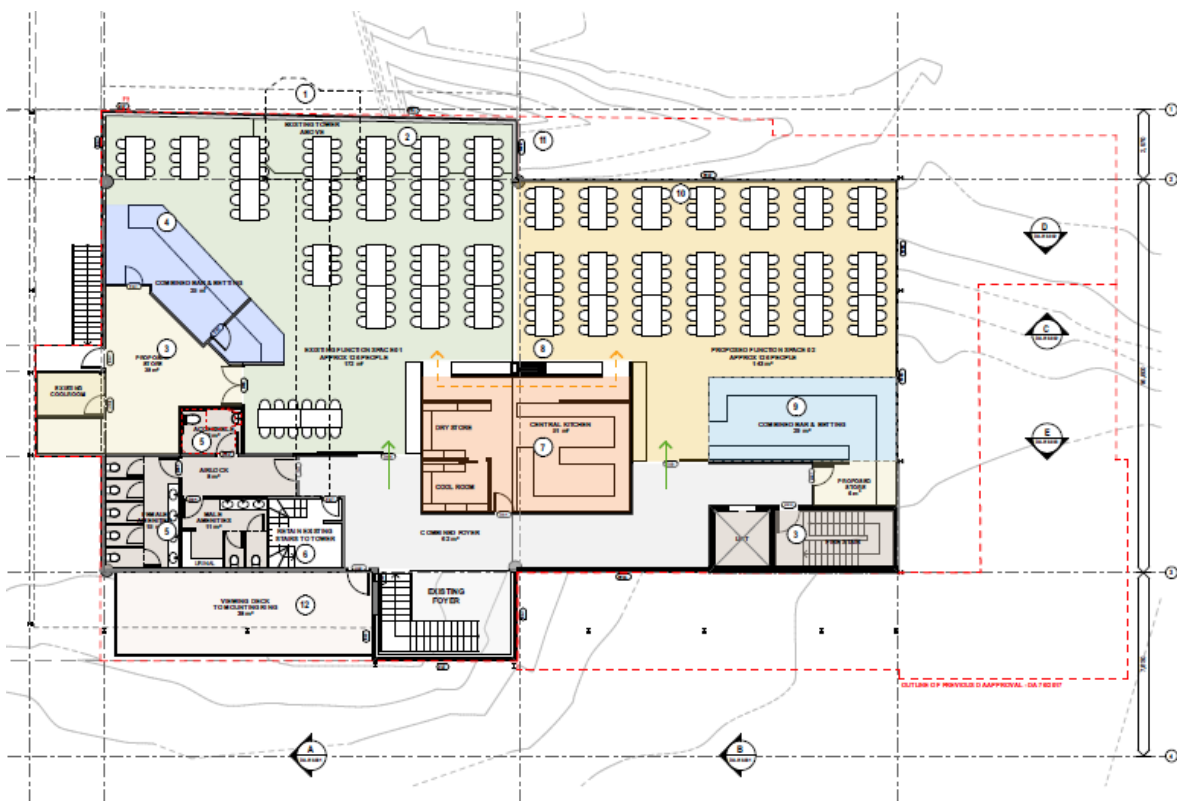


Figure 10 Modified First Floor

3.2.3 Façades and Racing Tower

The proposed modifications seek to retain large areas of the existing façade and ensure the new works match the colours and materiality. The proposed modifications also seek to delete the approved racing tower and retain the existing tower. As discussed above, this change was driven by the retention of the finishing post in situ and there is

now no need to relocate the racing tower. Extracts of the approved and modified elevations and provided in **Figures 11-18** below.

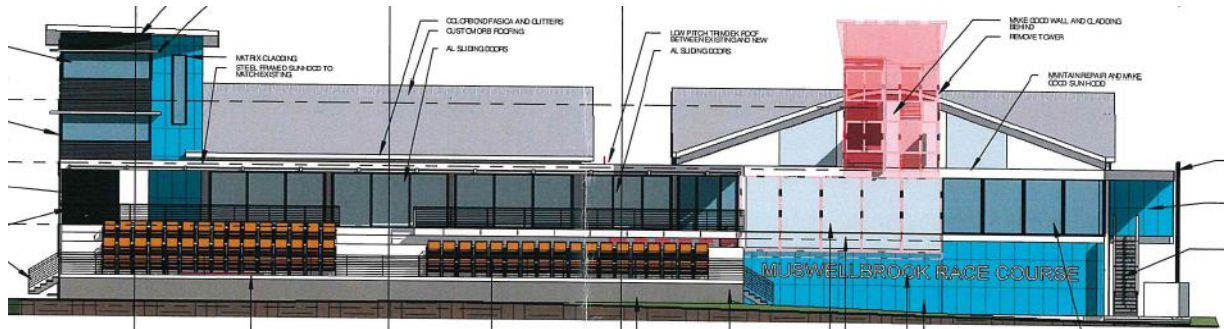


Figure 11 Approved north elevation.

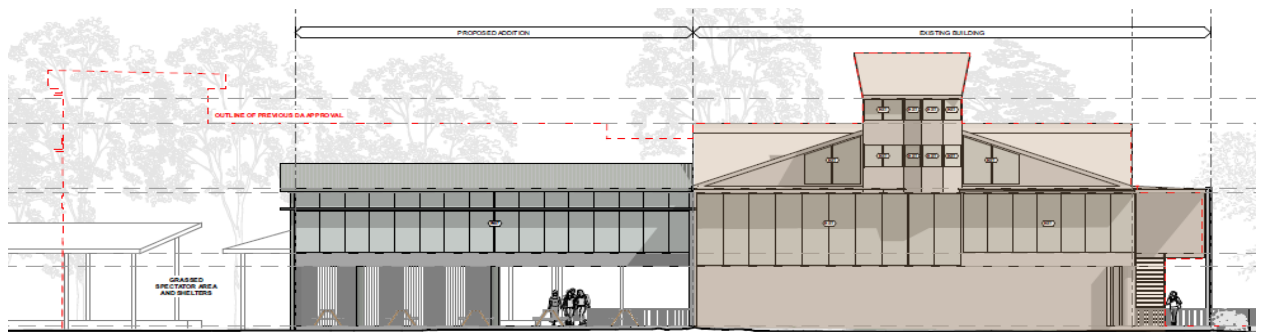


Figure 12 Modified north elevation.

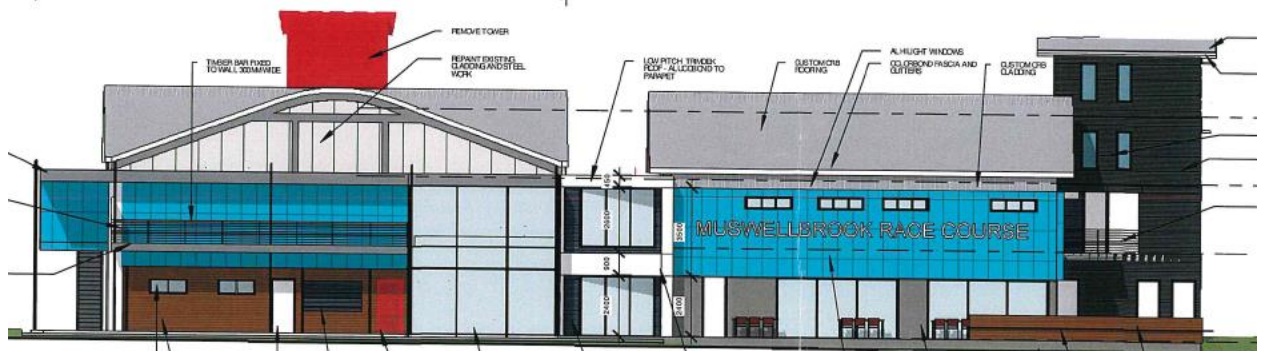


Figure 13 Approved south elevation.

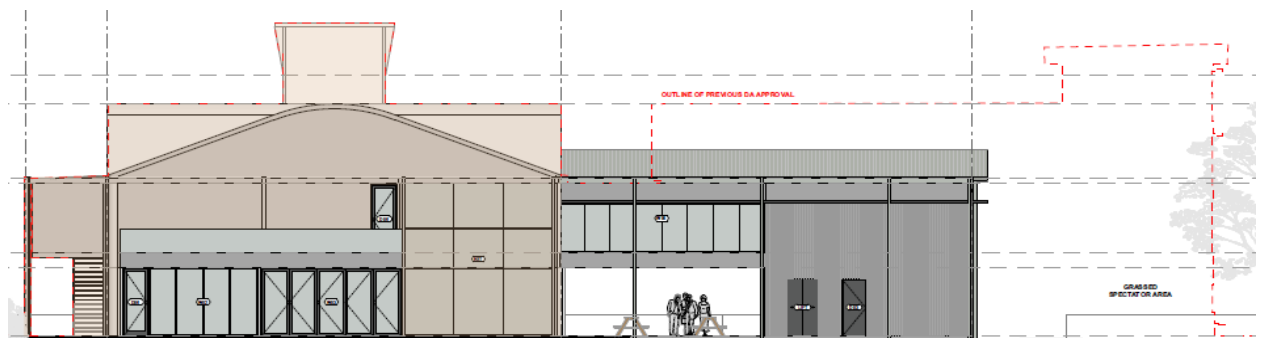


Figure 14 Modified south elevation.

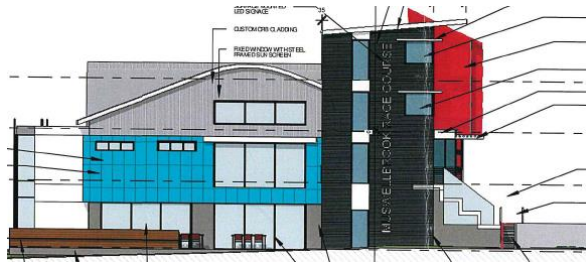


Figure 15 Approved east elevation.

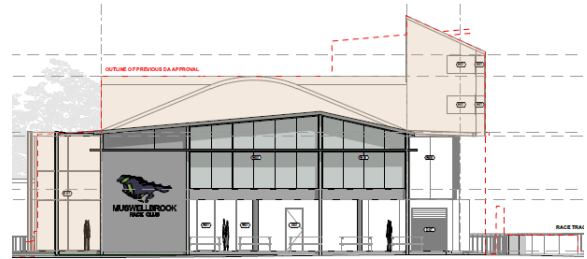


Figure 16 Modified east elevation.

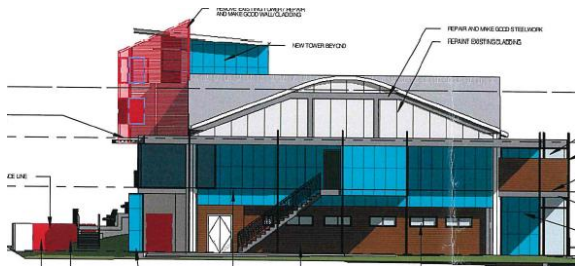


Figure 17 Approved west elevation.

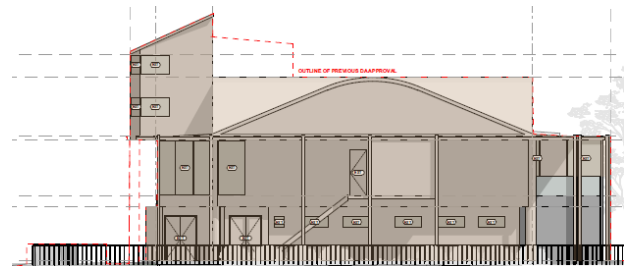


Figure 18 Modified west elevation.

3.2.4 Parking Areas

In addition to the proposed changes to the approved club area, this modification application proposes changes to the approved formalised club parking area. The formalised club parking area to the west of the function centre currently caters for 75 parking spaces with limited landscaping. The proposed modifications seek to alter the layout and provide 82 spaces and improve the landscaped area (reducing hard surfaces).

3.3 MODIFICATION TO CONDITIONS

3.3.1 Conditions to be Modified.

Condition 1: “The development being carried out in accordance with the development application and the drawings referenced below, and endorsed with Council’s approval stamp, except where amended by the following conditions, amendments marked on the plans in red or referenced in the notes immediately below this condition”.

Reason: Condition 1 is to be modified to reflect the modified plans submitted with this application.

All other conditions of consent will be maintained per the original approval.

4. Statutory and Policy Compliance

4.1 SECTION 4.55

Section 4.55 of the EP&A Act 1979 contains provisions relating to the modification of development consents. Specifically, subclause (2) refers to other modifications and states:

(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.

The proposal is the subject of a Section 4.55(2) modification. When assessing a modification application, the consent authority has a threshold decisions to make. In this regard, the Council must be satisfied that what is proposed is “substantially the same” development as the original development, as set out in Section 4.55(2)(a) of the EP&A Act. The proposed modifications are relatively minor in nature and do not significantly change the essence, appearance of the club or its relationship with adjacent properties. The development will appear as essentially or substantially the same as that which has been approved (as discussed below).

Whilst it is acknowledged that financial constraints are not a reason for development to be substantially the same development (or otherwise), the rationalisation of the work approved pre-COVID is important when considering the context for the proposed modifications sought by the MRC.

Substantially the same development

The traditional ‘test’ as to whether or not a development as modified will be “substantially the same” development as that originally approved was applied by J Stein and the Court of Appeal in *Vacik Pty Limited v Penrith City Council [1992] NSWLEC 8* and endorsed by J Bignold in *Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280*.

J Stein stated in the *Vacik* case: “In my opinion ‘substantially’ when used in the section [s102, the predecessor of s96] means essentially or materially having the same essence”.

J Bignold expressed in the *Moto* case: “The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified ... not merely a comparison of the physical features or components of the development ... rather ... involves an appreciation, qualitative as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).”

In *Tipalea Watson Pty Limited v Kurringai Council [2003] NSWLEC 253* Justice J Bignold came to deal with the matter of “substantially the same.” From this Judgement, one can distil a list of matters or ‘tests’ to consider, being whether the modification involves the following:

- (a) significant change to the nature or the intensity of the use;
- (b) significant change to the relationship to adjoining properties;
- (c) adverse amenity impacts on neighbours from the changes;
- (d) significant change to the streetscape; and
- (e) change to the scale or character of the development, or the character of the locality

Based on these tests it is considered that the development is substantially the same as that approved under DA 76/2017 for the following reasons:

- a) The proposed modifications do not change the use of the building as race club or increase the overall number of function spaces or intensity of the approved development;
- b) The proposal will not substantially impact the club’s relationship with those on neighbouring sites;
- c) The proposal does not give rise to any additional impacts on the amenity of adjacent sites in terms of view loss, privacy, or solar access;
- d) The works will not significantly alter the approved appearance of the club; and
- e) The proposed modifications will not significantly change the scale or character of the development, nor the character of the locality, as proposed amendments to the materiality of the development will complement the existing nature of the locality.

The proposed modification to the approved function centre still provides for a development that is substantially the same as the development for which consent was originally granted (DA 76/2017) and the consent authority can therefore consider the application pursuant to Section 4.55(2) of the EP&A Act. In reaching this conclusion, we have considered the above principles against the proposed modification described at Section 3 of this SEE.

A comparison between the development, as modified, and the development the subject of the original consent can conclude that there is no significant change to the approved building. Whilst the physical form of the building will differ from the original approval, it is not substantially different in the context of the approved building and functionality of the racecourse. Furthermore, the proposed modifications do not alter the approved development to the extent that it will alter its relationship with adjacent sites or detract from the character of the streetscape.

As discussed above, the proposed modification also does not alter the approved use of the land. Whilst the intensity of use, of itself, is not sufficient to conclude the development is substantially the same, it is a relevant consideration which adds to the above analysis.

We have also considered guidance provided by the Land & Environmental Court Case, *Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298*, which outlines principles for determining whether a Section 96(2) (now s4.55) application is ‘substantially the same’ as an originally issued development consent. The assessment of ‘substantially the same’ needs to consider qualitative and quantitative matters.

In *Moto Projects (No. 2) Pty Limited v North Sydney Council [1999] NSWLEC 280; (1999) 106 LGERA 298*, which outlines principles for determining whether a S.4.55(2) application is ‘substantially the same’ as an originally issued development consent. The assessment of ‘substantially the same’ needs to consider qualitative and quantitative matters.

In terms of a quantitative assessment, the changes are primarily limited to the exterior with the deletion of the grandstand, retention of the existing tower (deletion of approved tower) and changes to the materiality. These changes are directly attributable to the location of the finishing post being retained in situ and the need to rationalise the scale

of development post COVID. The proposed modifications will not increase the existing maximum building height and will retain the existing tower element. The use of the function centre and its environmental performance is also unchanged. The proposal improves the approved landscaping, reduces the approved footprint, and does not require any new excavation.

In terms of qualitative assessment, the relationship of the function centre to the street frontages will be maintained as per the approved development and the proposal will have no adverse material impacts on the amenity of adjoining neighbours beyond those which have already been considered. The proposed modifications will not have an adverse impact on the amenity of adjoining properties in terms of overshadowing, privacy, and views.

In conclusion, the overall form and scale of the approved development will not be radically transformed and is entirely compatible with the scale of other buildings within the Muswellbrook Race Club. It is therefore demonstrated through test established in the NSW Land and Environment Court that the proposed modifications result in a development which is substantially the same as originally approved. The proposed development will not have any significant or adverse environmental impacts on the locality and the application is appropriately categorised as a S.4.55(2) application.

4.2 STATUTORY AND POLICY COMPLIANCE

Section 4.55(3) requires consideration of Section 4.15(1)(a) of the EP&A Act, 1979 which was undertaken in the original development application assessment report and associated planning documents. The majority of the applicable Environmental Planning Instruments (EPIs) were considered in the original development application assessment report prepared by Muswellbrook Shire Council and the proposed modifications do not seek to vary the assessment or conclusions of this report. Where the relevant heads of consideration for a s.4.15 assessment have changed or differ, these are addressed in turn below.

4.2.1 Muswellbrook Local Environmental Plan 2009

The *Muswellbrook Local Environmental Plan (MLEP) 2009* applies to the subject site. Under WLEP, the subject site is identified as being within the *Zone RU1 – Primary Production*.

The proposed development is permissible within the RU1 zone in that both “*recreation facility (major)*” and “*function centres*” are permissible with consent in the zone. The proposed modifications do not change the use of the approved development.

In terms of height of buildings, the original assessment report noted that the approved development attained a height of 12.16m. The report stated the following:

The maximum building height relevant to the land is 12m and the proposed building structure would have a maximum height of 12.161m. Despite the proposed minor height exceedance, Clause 5.6 of the Muswellbrook LEP 2009 permits architectural roof features above the relevant height limitation prescribed by the height of buildings map.

The proposed modifications seek to delete the approved race tower and retain the existing tower. When measured from the ground level of the existing building, the existing tower attains a height of approximately 13.2m which exceeds the 12m height of buildings standards under Clause 4.3 of MLEP 2009.

In accordance with recent decisions of the Land and Environment Court such as *Landcorp Australia Pty Ltd v The Council of the City of Sydney* [2020] NSWLEC 174, a Variation Request must only address the aspects of the proposal which represent further exceedances of clause 4.3 of the MLEP as compared to exceedances already reflected in the existing building. In particular, these decisions support the position that a Variation Statement is not required to address the Proposed Development’s exceedance of clause 4.3 if a new development application was lodged for the works. This is because the proposed exceedance complies with the 12m height of buildings development standard and is less than the exceedance which already results from the existing building on the site.

In any event, the NSW Land and Environment Court case of *Gann & Anor v Sutherland Shire Council [2008]*, the Court held that there is power to modify a development application where the modification would result in the breach of development standards. The Court took the view that development standards within an LEP did not operate to prohibit the grant of consent if they were not complied with (and no objection pursuant to SEPP No. 1 or Clause 4.6 of Standard template LEPs had been lodged). Notwithstanding, the Court held that despite a SEPP No. 1 Objection (or Clause 4.6 variation) not being required, Section 4.55(3) of the EP&A Act still requires the consent authority to take into consideration those matters referred to in Section 4.15. Therefore an assessment of the objectives of Clause 4.3 of MLEP 2009 is provided as follows:

- (a) *to limit the height of buildings,*
- (b) *to promote development that is compatible with the height of surrounding development and conforms to and reflects natural landforms by stepping development on sloping land to follow the natural gradient,*
- (c) *to promote the retention and, if appropriate, sharing of existing views,*
- (d) *to maintain solar access to new and existing dwellings and public recreation areas and to promote solar access to new buildings,*
- (e) *to maintain privacy for residents of existing dwellings and promote privacy for residents of new buildings.*

The proposed modifications satisfy the above objectives for the following reasons:

- The proposal does limit the height of the race tower to 13.2m which is existing and will not be altered by the proposed modifications;
- The habitable area of the tower has a height of approximately 11.2m and it is only the pitched roof element that exceeds the height limit which could be considered an architectural roof feature under Clause 5.6 of MLEP 2009
- The MRC is unique within the visual catchment and the height of the race tower is compatible with other buildings at the race club and does not appear visually jarring or out of context;
- The retention of the existing tower will not have any adverse impact on any views;
- The retention of the existing tower will not have any adverse impact on any solar access; and
- The retention of the existing tower will not have any adverse impact on any visual or acoustic privacy.

As discussed above, clause 5.6 - Architectural roof features allows for the exceedance of the imposed height control for architectural roof features. The proposed exceedance is permissible in accordance with Clause 5.6 as the architectural roof feature contains a decorative element on the uppermost portion of the building, being a high pitched roof to the racing tower, the architectural roof feature does not contain an advertising structure, the area of the architectural roof feature does not contain any floor space and is not capable of being modified to include floor space area, and will cause minimal overshadowing to neighboring properties.

There are no other provisions of the MLEP that require consideration as part of this modification application. Accordingly, the proposal does seek to change compliance with any of the provisions of the MLEP and Council can rely on its previous assessment.

4.2.2 Muswellbrook Development Control Plan 2009

The *Muswellbrook Development Control Plan 2009* (MDCP) applies to the subject site. Of the MDCP. Section 8 – Rural Development applies to the site. The modifications to the approved development do not significantly alter the assessment and conclusions from the original development application assessment report, which are still valid. In this regard, the original development application assessment report for DA 76/2017 states the following:

The proposed development was considered against the requirements of the Muswellbrook Development Control Plan (DCP). The proposed development was considered to be in accordance with the DCP provisions with the exception of the following DCP controls:

- *Muswellbrook DCP Control 8.2.1(i) – development control relating to rooflines in rural areas,*

- *Muswellbrook DCP Control 8.2.3 – development control relating to restrictions on material colours and building features in rural areas.*

Despite the proposals inconsistency with the Development Controls specified above it was considered that the proposed development would remain consistent with the DCP objectives informing those controls and thereby may still be supported by Council.

The proposed modifications will retain the existing race tower and roof element and therefore continue to provide a roofline that is compatible with the existing buildings on the site and also, as concluded above, remains consistent with the objectives informing the controls. As such, the proposed modifications are worthy of Council's support.

In terms of car parking, the proposed modifications seeks to increase the formal car parking area to the west of the function centre from 75 spaces (as approved) to 82 spaces (as proposed). The increase of 7 spaces is accompanied by an increase in the landscaped area which will have positive implications for the design, landscape character and heat island effect. The original development application assessment report for DA 76/2017 states the following:

The Muswellbrook DCP prescribes that parking for a recreation facility (major) should be considered through a merit assessment and parking for a function centre to be provided at a rate of 1 space per 10m² or 1 space per 10 fixed seats. A Traffic and Parking Impact Assessment was submitted by the applicant to consider the availability of car parking at the site and the rate of off-street car parking required. This report concluded that a total of 64 car parking spaces would be adequate to service the function centre component of the development for non-race day functions and 94 for race day functions. To ensure the availability of adequate off-street car parking the applicant submitted design plans for two car parking areas with a combined capacity of 130 car parking spaces. The rate of car parking proposed was considered to be adequate to support the proposed development and in line with the merit based assessment provisions prescribed by the DCP for recreation facilities (major).

The proposal will continue to maintain the temporary parking to the east of the grandstand and function centre in the event of a large scale event. The additional temporary parking is not sealed and will continue to be used for "overflow" parking on an informal basis. There is no need to seal this parking area and this is not required in the conditions of consent given it will only be used during race days. As such, the proposed increase in parking to the sealed area to the west of the function centre will improve the parking situation with the "overflow" parking remaining as approved which will well and truly cater for the demand generated by the use of the MRC and function centre. As such, the proposed modifications are worthy of Council's support.

4.3 IMPACT OF PROPOSED MODIFICATION

4.3.1 Natural Environment

The proposal does not give rise to any significant additional environmental impacts beyond those considered and approved as part of the original application. The proposal will maintain compliance with the approved conditions of consent that are imposed to minimise all environmental impacts during construction and upon completion of the development.

4.3.1 Built Environment

The proposed modifications to the approved development will not have any adverse impact on the amenity of adjoining properties. The proposal will not detract from the streetscape given its location and approved use as a racecourse. In this regard, Council reached a level of satisfaction that the approved club building was compatible with the character of the locality under DA 76/2017, and the proposed amendments will not significantly alter this conclusion. 3D views of the proposed modifications are provided in Figures 19-20 below.



Figure 19 North-eastern perspective of the proposed function centre modifications



Figure 20 South-eastern perspective of the proposed function centre modifications

Accordingly, the modifications to the approved development will have no further adverse impact on the built and natural environment as outlined above.

4.3.2 Amenity

The proposal does not give rise to any additional impacts on the amenity of adjacent sites. Given the fact that the building envelope has not significantly changed, it follows that there will be no new adverse overshadowing or any new obstructions to views. The proposal does not introduce any new openings or open spaces which could derogate the aural or visual privacy of adjacent sites greater than those already approved. Accordingly, the proposal is satisfactory in terms of amenity for adjoining properties.

Whilst the proposed modifications seek to rationalise the approved works, the proposed modifications will significantly enhance the amenity and functionality of the MRC when compared to the existing situation. .



4.3.3 Economic & Social Impacts

The subject site has good access to services, facilities, open spaces, and public transport routes but is a destination event where it is expected most people will drive in a regional town.

The proposed development will utilise existing infrastructure including electricity, sewer, water, and telecommunication services.

Undertaking the construction works will have some short-term positive economic impacts through employment generation, both direct employment and multiplier effects. Accordingly, it is considered that the proposed development is likely to have only positive social and economic impacts in the locality.

4.5 THE PUBLIC INTEREST

The proposed modifications will have no unreasonable or detrimental impacts to neighbouring properties, the public domain, or the streetscape. The proposal meets the objectives and/or controls within the MLEP and MDCP. The development does not give rise to any deleterious impacts on the natural or built environment. Accordingly, the proposed development is considered to be in the public interest.





5. Conclusion

This Statement of Environmental Effects accompanies an application pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which seeks modifications to DA 76/2017.

As discussed above, the proposed modifications to the function centre and racecourse are a direct result of the club moving in a different direction and seeking to rationalise the extent of changes to the originally approved development. In this regard, the Muswellbrook Race Club (MRC) have engaged a new team of consultants, including new architects to modify the approved development and accommodate desired changes by the club. One of the main drivers for this modification is that the MRC seek to retain the finishing post in situ rather than moving it approximately 35m east to align with the approved tower and grandstand. Given MRC now intend to retain the finishing post in situ, the approved tower would be located well before the finishing post, limiting its utility while the grandstand element is cost prohibitive relative to the number of seats provided. Therefore, the grandstand element is to be deleted and the existing tower (which aligns with the existing finishing post) retained as part of this modification application.

In addition, the proposed modifications seek various internal changes to the ground floor level of the approved building to enhance facilities for jockeys, staff and media during race days while also modifying various elements of the first floor level function area/bar to improve facilities for patrons, either on race days or for functions. Finally, the club seeks to undertake reasonable alternative solutions to the conditions imposed by Council in relation to car parking whilst ensuring the new needs for the club are met without having any adverse impacts on neighbouring properties and the streetscape.

The proposal is substantially the same as that approved under DA 76/2017. Whilst the proposed modifications alter the built form and rationalise the extent of works, the essence of the building and its associated areas will remain the same. That is, a function centre for patrons ancillary to the MRC.

As discussed throughout this SEE, the proposed modifications maintain compliance with the standards in the MLEP 2009 and MDCP 2009 and where there is a variation, this has been adequately justified in accordance with the relevant objectives. The modifications do not generate any additional adverse impacts on the natural or built environment. The modifications will not alter amenity relationships with adjacent sites.

Accordingly, for the reasons outlined in this SEE, we respectfully request that Council modify the development consent DA 76/2017.