



20 June 2024

Karen Harragon
Director Social Infrastructure Assessments
Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

cc: Hon Paul Scully, NSW Minister for Planning and Public Spaces

Dear Karen

RE: Letter of Objection – Penrith Stadium Refurbishment (SSD – 68292713)

Major Environmental Impacts on SHMH4 Pty Ltd's Land at 164 Station Street, Penrith (Client's Land) immediately opposite Penrith Stadium

Conflict of Interest by Ethos Urban, being Authors of the EIS and Principal Planners for SHMH4 Pty Ltd, 164 Station Street, Penrith, Residential Development

1. INTRODUCTION

Tomasy Planning has been instructed by SHMH4 Pty Ltd, the owners of 164 Station Street, Penrith, who have received for the first time correspondence from the Department of Planning, Housing and Infrastructure that Infrastructure NSW has submitted a Development Application for State Significant Development (SSD) under Section 4.12 and 4.36 of the *Environmental Planning and Assessment Act 1979* for the Penrith Stadium Refurbishment (SSD-68292713), located at Station Street, Ransley Street and Mulgoa Road, Penrith. SHMH4 Pty Ltd (our client) owns a parcel of land comprising 78,000sqm directly opposite the Penrith Stadium. Our client has never, at any stage, been consulted by the applicants or their appointed consultants regarding the subject proposal.

One cannot dispute that they are indeed a key stakeholder in this whole exercise and the failure of the applicant and their appointed consultant team to consult with the main landowner directly opposite the site of redevelopment is despicable.

We also note with great concern that the Environmental Impact Statement (EIS) for the SSD has been prepared by Ethos Urban. The EIS was signed off by Ethos Urban on 15 May 2024. It is important for the Department of Planning, Housing and Infrastructure to appreciate that Ethos Urban was also responsible for the preparation of a number of expert reports which are supporting documentation to the EIS. These reports are listed in the 'appendix' as follows:

- a) SEARs Compliance Table
- c) Statutory Compliance
- d) Consolidated Mitigation Measures
- r) Visual impact Assessment
- x) Crime prevention through Environmental Design

All of the above are listed as Ethos Urban being the author of the specialist reports.

We draw the `applicant’s attention to the fact that the same planning company, Ethos Urban, is the principal planner for our client’s site, being 164 Station Street, Penrith. To complicate the situation further, Ethos Urban prepared a pre-lodgement planning summary to Penrith Council for changes to be made to a revised master plan for the site, dated 22 November 2023. We are prepared to submit to you documentation which will confirm that Ethos Urban was engaged in September 2023 by our clients to become the principal planner for their overall development. To demonstrate the relationship of our client’s land and the land, the subject of Penrith Stadium Refurbishment, please see the diagram below:

Penrith Stadium



Figure 1 Site Context Map

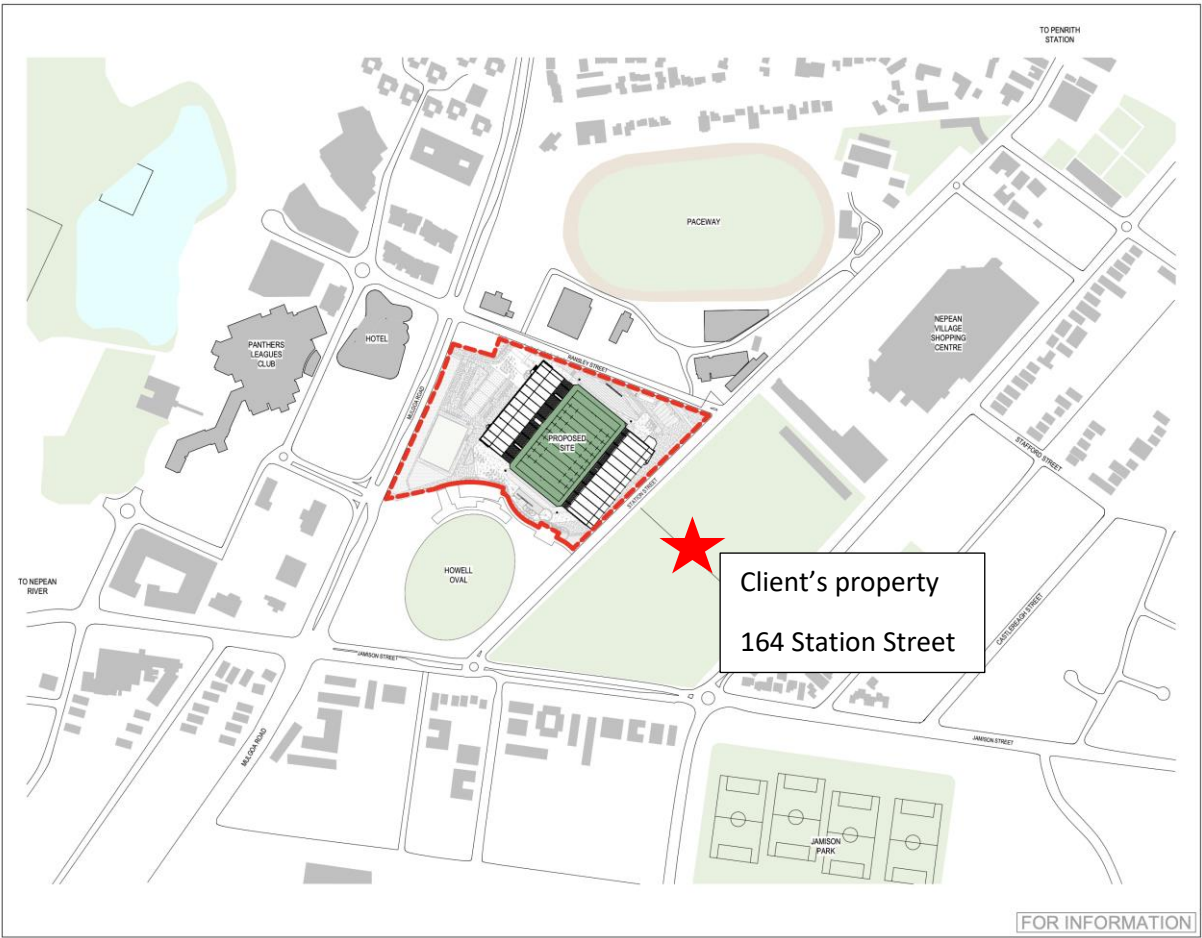
Source: Nearmap / Ethos Urban

Client’s Land (SHMH4 Pty Ltd) 164 Station Street Penrith (Lot 12 DP 23458) outlined in blue

Source: Pre-lodgement Planning Summary prepared by Ethos Urban dated 22 November 2023

In the Ethos Urban Submission to Penrith Council on 22 November 2023 our client’s land is described as follows: **“The site is situated adjacent to Blue Bet Stadium and directly north west is Howell Park.”** It is evident that there is a direct conflict of interest between Ethos Urban who are the principal planners for our client’s property at 164 Station Street Penrith and the EIS that has been prepared by Ethos Urban dated 21 May 2024 for the State Significant Development Application.

This opinion is further reinforced with Ethos Urban preparing five specialist reports as part of the EIS process.



Source: Architectural drawing AD-01-0000 – Location and Context Plan

It is evident that Ethos Urban was clearly aware that 164 Station Street had been identified by Council and the Government as a key site for redevelopment for a major high rise housing development.

In the section under Community Consultation, there is no reference to anyone consulting the owners of 164 Station Street, notwithstanding they are the largest landholder immediately opposite the stadium site. They consulted everyone else. Our client's representatives and office are based in Waterloo, and they have no records of any discussions with Ethos Urban on the Penrith Stadium project.

It is absurd that you could have the same consultant for our client's property being Ethos Urban and the same consultant (Ethos Urban) to have prepared the EIS for the Penrith Stadium refurbishment.

As previously advised, Ethos Urban was also responsible for the preparation of five specialist documents as supporting reports to the EIS. What a blatant conflict of interest between Ethos Urban who represent both the State Government's proposal and SHMH4 for a major residential development opposite at 164 Station Street. Surely a practice such as Ethos Urban would have the knowledge that there is a conflict of interest between the two land owners employing the same planning practice.

Please see excerpt below from the EIS which refers to neighbours and key stakeholders. Surely, the owners of 164 Station Street would be considered as both a neighbour and key stakeholder. It is clear, based upon the EIS, that community consultation with stakeholders commenced in December 2023 and continued through the months of January 2024 to end-April 2024. Since January 2024, a project email address was established and made available to stakeholders and the community.

Under Section 5.1.1. 2 Consultation Methods table 12 of the EIS states *"stakeholders meetings commenced December 2023- Current – the project carried out engagement with key stakeholders to inform them about the project and gather their feedback."*

At no stage has our client been invited to a stakeholder's forum or consulted throughout this comprehensive consultation process and this has been confirmed by SHMH4 Pty Ltd staff who are based in the Sydney office. The question must be asked, why have the applicants failed to engage with their closest neighbour? This alone contravenes the approach that MUST be followed under the document titled *"undertaking engagement guidelines for State Significant projects 2021"*. These guidelines specifically reference the need to engage with their closest neighbours.

This requirement has never been achieved or even attempted by the applicants throughout the community consultation process. Surely, the applicants must be held responsible for failing to comply with the engagement by way of consultation with their closest neighbour being SHMH4 Pty Ltd at 164 Station Street, Penrith.

Based upon our review of the EIS and supporting documentation it is evident that this development will have adverse impacts upon the development of our client's site by way of overshadowing, noise impacts, construction management and lighting.

3. THE REDEVELOPMENT OF 164 STATION STREET, PENRITH

The redevelopment of 164 Station Street, Penrith, has been ongoing for the last 7 years during which time the entire site has been rehabilitated to ensure that it is fit for urban residential development. Masterplans have been prepared and submitted to Penrith Council and a planning proposal for an uplift in the FSR for this site has been granted by the Department of Planning to allow for an FSR of 2.5:1 over the entire site which results in a development potential of over 2,000 residential apartments.

Our client's land is the subject of a separate DCP known as Penrith DCP 2014 – 164 Station Street, Penrith, which came into force in 2015. This document comprises a master landscaped plan together with a building height, massing and siting of residential buildings within the total site. Extracts of the DCP as they relate to landscaping and building heights are set out below:

Figure 21: Indicative Building Heights



Source: Penrith Development Control Plan 2014 – 164 Station Street, Penrith

Comment: This plan demonstrates that the proposed residential development immediately opposite the proposed eastern grandstand has been defined in the DCP as medium/high building heights ranging from 8-14 storeys and higher building heights on key corner sites. This is a public document and was available to Ethos Urban at the time the EIS was prepared and at the time that they prepared the Visual Impact Statement in which they also referenced the Landscape Masterplan as it related to our client's land.

Clearly, there is knowledge of the development in the specific Penrith DCP 2014 – 164 Station Street, Penrith. As the plan over the page is an extract from that document.



Figure 7 164 Station Street – Landscape Masterplan

Source: Penrith City Council

Source: Figure 7 – 164 Station Street – Landscape Masterplan – Penrith City Council DCP 2014 – 164 Station Street Penrith (Visual Impact Assessment Page 22)

Comment: It is evident that Ethos Urban was fully aware of the proposed redevelopment of our client's land for a major high rise housing complex as they have referenced the master landscape plan which is part of a public document being a DCP that relates specifically to 164 Station Street, Penrith.

Council has already granted a development approval for the construction of Stage 1 earthworks and roadworks which also create two development lots for Stage 1 residential development. The site has the benefit of Design Excellence Approval by the NSW Government Architect for Stage 1 Residential which comprises two separate lots known as Sites 1A and 1B. Site 1A consists of two residential towers at 14 and 12 storeys in height and the building block to the north-east (Site 1b) will consist of two residential towers at 14 and 10 storeys in height. The proposal also comprises ground level retail and a childcare centre which is part of Site 1B.

To demonstrate to the Department that there has been a major oversight by your consultants in preparing the EIS as it relates to the development of our client's land, please see excerpts of the proposed development that has already achieved design excellence and signed off by the NSW Government Architect.



PTW

Source: Architectural Drawings prepared by PTW

Comment: This perspective represents the development that achieved design excellence and was approved by the NSW Government Architect. Our client, in conjunction with their principal planner from Ethos Urban, is finalising all relevant documentation for DA submission for the Stage 1 development. It is not only mis-leading, but it is deceptive for the authors of the EIS for the Penrith Stadium refurbishment to fail to consult our client and their principal planner, who is employed by the same company that has prepared the EIS. Ethos Urban is fully aware of the status of the redevelopment of 164 Station Street, Penrith. On Council's website for 164 Station Street Penrith, there is a notice of determination approving Stage 1 Earthworks and road works to accommodate the buildings that are shown on the architectural drawings prepared by PTW. This is public information together with the Penrith DCP 2014 – 164 Station Street, Penrith.

It is important for Infrastructure NSW and the NSW Department of Planning to acknowledge that SHMH4 Pty Ltd for their 164 Station Street project have already reached design excellence for Stage 1 residential Development.

Set out below is the content of a letter dated 1 July 2020 from the Government Architect NSW confirming that the following was issued:

On 1 July 2020 a letter from GA NSW was received confirming the following was issued:

"Since the winning team was selected, the Design Integrity Panel has met on the following dates including the 17 April 2019, 28 October 2019 and 19 March 2020 to review the design development of the project. Meeting notes attached.

"The DIP notes that the design team has responded to the comments raised throughout the process and the DIP endorses the detailed response to the recommendations raised by the panel in March 2020.

"The Panel confirms the proposal continues to exhibit design excellence consistent with the competition winning scheme and we support the commencement of DA documentation".

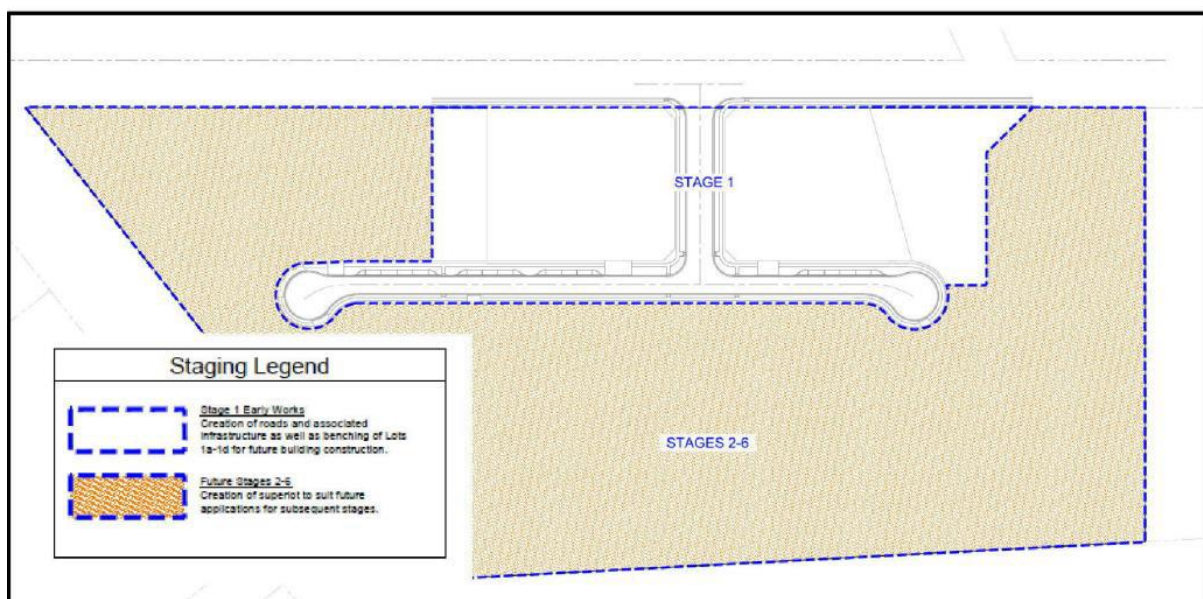
These elements of the scheme included in the Design Excellence process will be maintained and form part of the combined concept and detailed DA for the site.

In terms of the remainder of the proposal included under the concept DA, the approval pathway is to be discussed at the Prelodgment Meeting.

Comment: The architectural drawing prepared by PTW (over the previous page) is part of the Design Excellence package that was approved by the Government Architect on 1 July 2020. This architectural drawing depicts the development that will take place immediately opposite the proposed eastern grandstand and will now be adversely impacted upon from a lack of solar access as a result of the proposed eastern grandstand.

Stage 1 DA – 164 Station Street, Penrith

A Stage 1 Development Application (DA19/0574) was approved by Penrith City Council on 11 September 2020 which granted development consent for a Torrens Title subdivision for five super lots, public roads, including related civil engineering and utility servicing works. Several deferred commencement conditions were included as part of this development consent which were satisfied by Penrith City Council on 22 February 2021.



DA19/0574

A Deferred Development Consent was issued to the proponent on 11 September 2020 for a Torrens Title subdivision for four lots and one super lot, public roads, including related civil engineering, and utility servicing works.

Correspondence was provided by Penrith City Council on 22 February 2021 which confirms that the deferred commencement conditions have been satisfied.

Further evidence that our client's development proposals have been ignored are reflected below:

“Site Context: East

The site is bound by Station Street at its eastern boundary. Immediately opposite the site across Station Street is a large, consolidated landholding which is largely vacant except for a light industrial use located within the northern portion of the site. This land is zoned R4 High Density Residential with planning controls that allow development up to 6-7 storeys.”

Comment: What Ethos Urban fails to acknowledge in the EIS is that our client's land is defined as a key site on Council's Key Site Map which identifies the subject land as Key Site 6. The document prepared by Ethos Urban dated 22 November 2023 on behalf of SHMH4 Pty Ltd titled Pre-lodgement Planning Summary to Penrith Council, acknowledges that our client's land is a key site for future medium to high rise residential development and also references the approval that was granted by the Government Architect on 1 July 2020 for Design Excellence for Stage 1 Residential Development on our client's property at 164 Station Street, Penrith. Again, this clearly demonstrates the conflict of interest that exists with Ethos Urban acting on behalf of two parties and determining the impact of the proposed development on our client's land when they are also the principal planners for SHMH4 Pty Ltd on the 164 Station Street, Penrith property.

Clause 8.7(3) of PLEP 2010 provides that 'despite Clause 4.4 of PLEP2010, the consent authority may consent to development to which this clause applies that exceeds the maximum height shown for land on the Height of Buildings Map for the FSR ratio for land shown on the FSR Map or both if the proposed development includes community infrastructure.† The proposal can achieve an FSR of up to 2.5:1 under the provisions of this clause.

The development proposals previously submitted to Council are on the basis of an FSR of up to 2.5:1 and a variation to the maximum height to buildings as defined under Clause 4.4 of PLEP 2010.

4 OVERSHADOWING



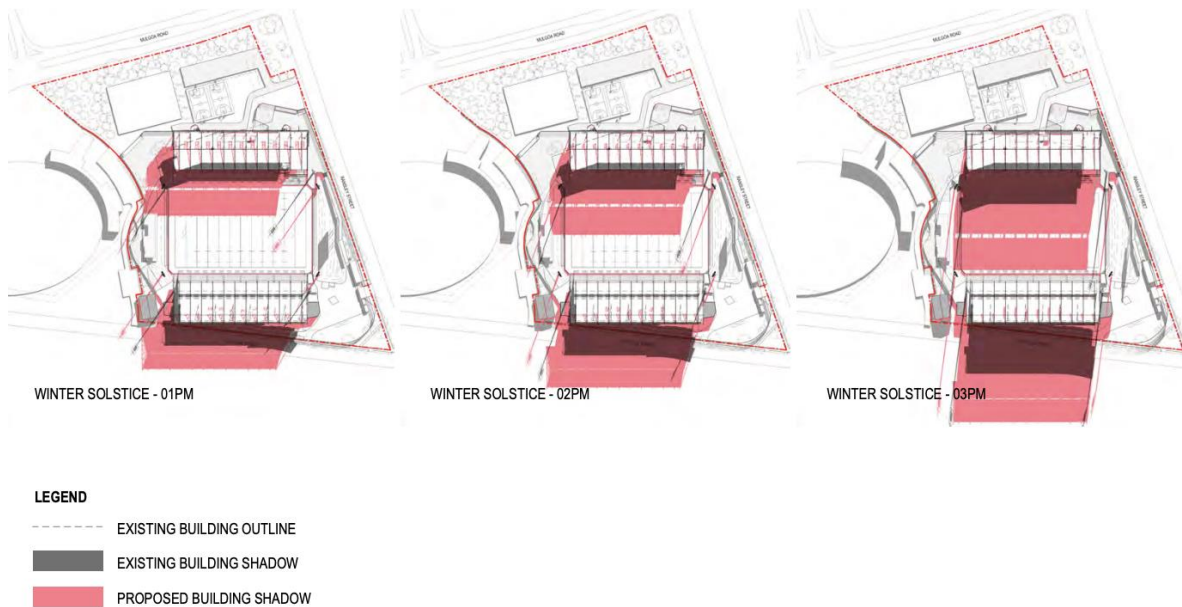
Figure 8 Station Street to the east



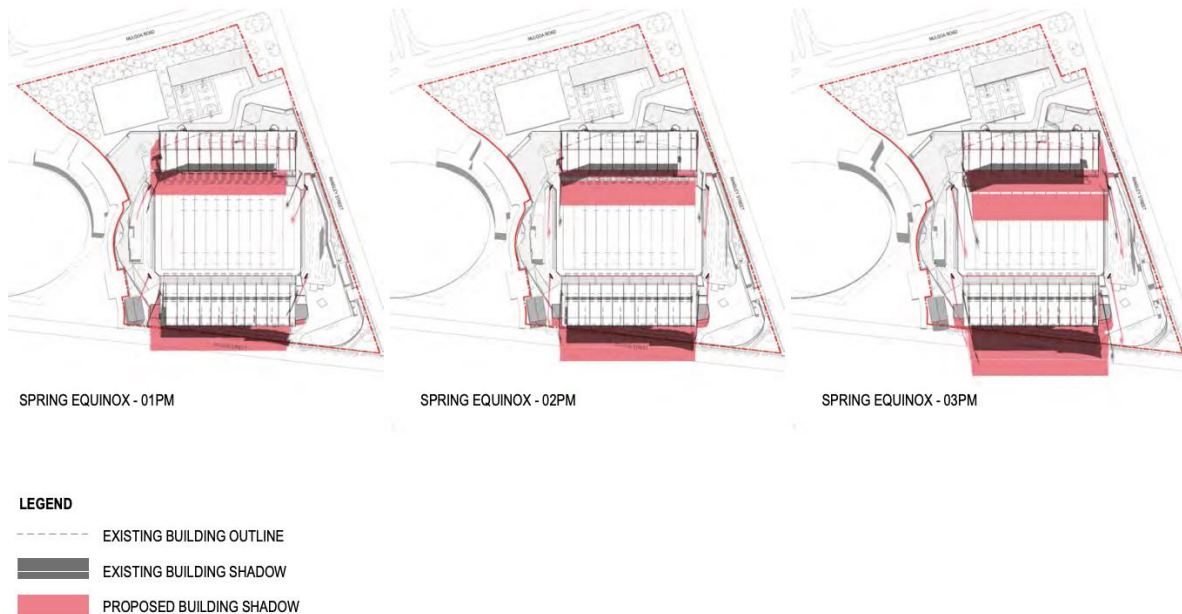
Figure 9 164 Station Street, immediately opposite the site

Overshadowing

The shadows from the eastern stand also fall largely within the site, including partially on the public domain to the south. Some shadow falls on Station Street and the large vacant lot to the east of the site, being 164 Station Street. Given that the site is currently vacant and there **are no public plans to redevelop the site**, it is considered that the impacts from the shadows are limited.”



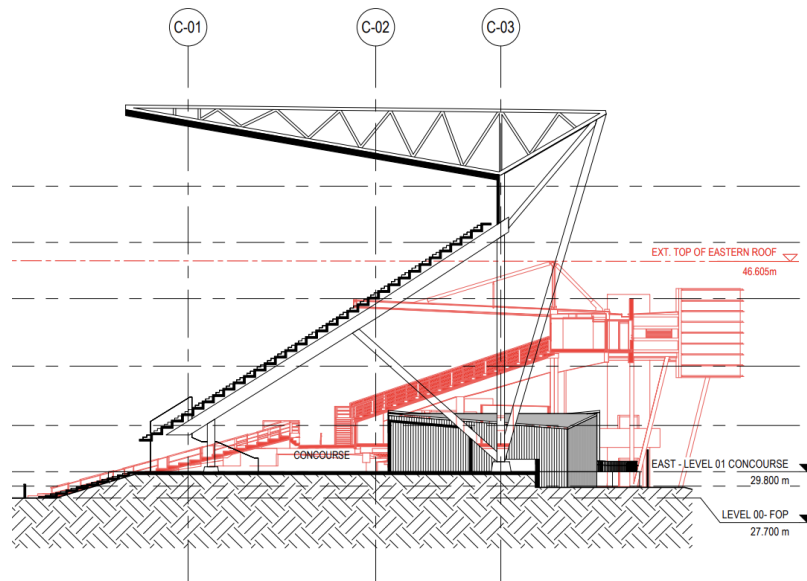
Source: Architectural drawing AD-01-0401 – Shadow Comparison Winter Solstice



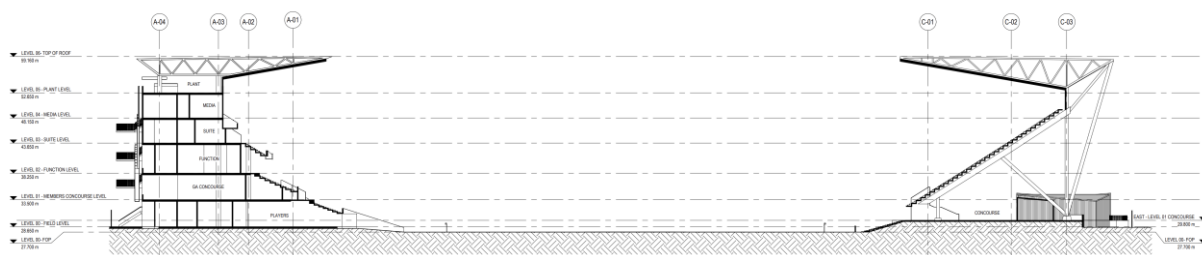
Source: Architectural drawing AD-01-0403 – Shadow Comparison Spring Equinox

Comment: This statement on overshadowing by Ethos Urban is clearly misleading as the architectural drawings above prepared by Populous Architects demonstrate that a substantial proportion of our client’s Stage 1 residential development will be totally in shadow from 2-3pm on a daily basis. It is blatantly evident, from the above solar access diagrams, that during the Winter Solstice the additional shadow impacts are 100% increased over and above what prevails with the existing grandstand. It is also noted that the shadow impacts are increased by 100% during the Spring Equinox at 2:00pm and 3:00pm.

The architectural drawings below demonstrate that the proposed eastern grandstand is approximately double the height of the existing grandstand.



Source: Architectural drawing AD-02-0003 – Overall Existing Comparison



Source: Architectural drawing AD-03-0001 – GA Sections - Overall

The SHMH site is adversely impacted upon by the proposed eastern grandstand which is equivalent to a 9-10 storey residential flat building. In the EIS prepared by Ethos Urban, it is misleading for them to state that there are “no public plans to develop the site”. As explained previously in this report, there are public records on Council’s website that clearly depict approvals that have been granted by Council to create a new public roads system and related civil engineering plan for 164 Station Street. In the document prepared on behalf of our client by Ethos Urban on 23 November 2023, their document references the approval granted by

Council for the public roads and related civil engineering works to permit the Stage 1 residential development to proceed. Therefore, there is a direct conflict in the EIS prepared by the same company stating that there “are no public plans to redevelop the site”.

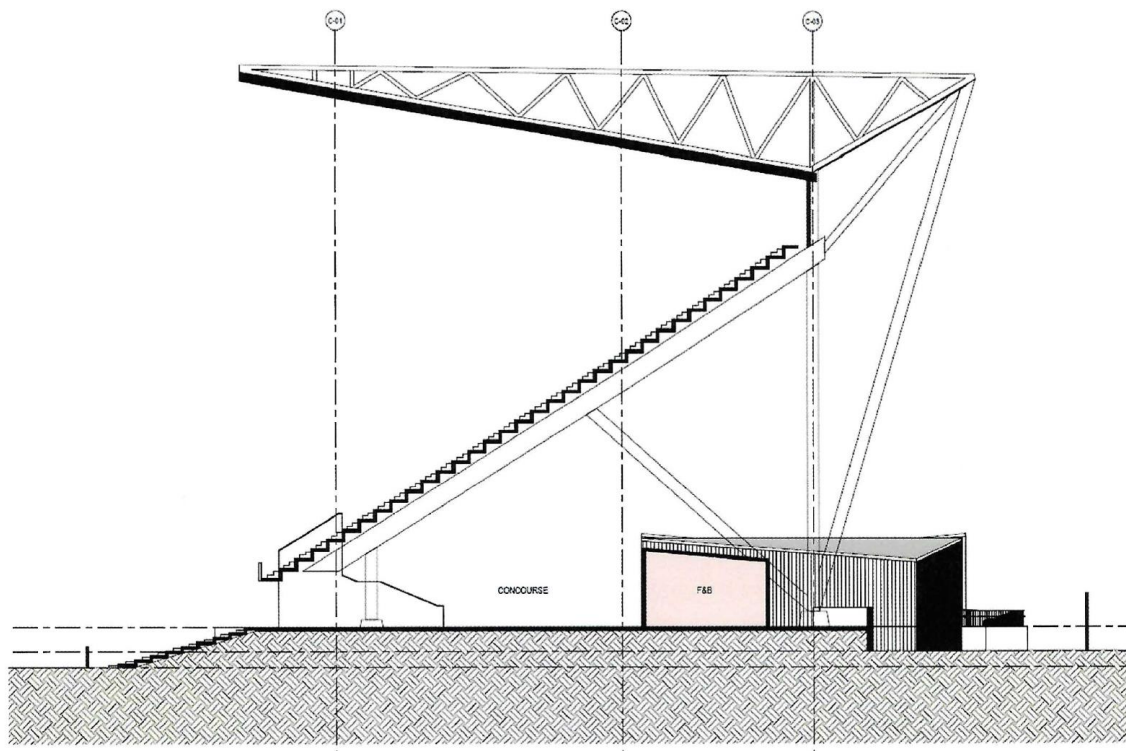


Figure 18 Section of the Eastern Stand

Source: Populous

The EIS states that the maximum height of the new Eastern Stand has increased by over 14m above the maximum height of the existing top of the eastern roof. The overall height of the eastern grand stand equates to a 9 to 10-storey residential flat building. The redevelopment of 164 Station Street for Stage 1 residential development comprises buildings ranging from 10-14 Storeys in height. Therefore, a substantial component of the residential apartments which face to the west will be overshadowed by the eastern grandstand after 2:00 to 3:00pm on a daily basis. This is considered to be an adverse impact on the solar access to a substantial number of residential apartments and is totally unacceptable and could lead to a significant devaluation of the properties which will be deprived of the western sun which is a valuable source of solar access to the future occupants of this development. This adverse impact should have been given serious consideration by the authors of the EIS and not dismissed in a trivial way by saying that **‘given the site is currently vacant and there are no public plans to redevelop the site, it is considered that the impacts for the shadows are limited’**. This conclusion is flawed and misleading and once again demonstrates the lack of the relationship this proposal will have on the largest site immediately opposite the eastern grandstand.

Our clients have already engaged the services of Mott MacDonald Engineers to finalise construction drawings for the new approved public road and associated civil engineering works within our client’s property. Our client intends to go to tender for the construction of the new road in the near future in accordance with the approval granted by Council.

Ethos Urban is fully aware of the staging of the development of 164 Station Street and the masterplan that currently forms part of a Development Control Plan for this key site which permits development of the land to achieve an FSR of up to 2.5:1 under the provisions of

Clause 8.7(2) of Penrith LEP2010 which permits the Consent Authority to grant consent to development to which this clause applies including the erection of new buildings or external alterations to an existing building that exceeds the maximum height shown on the height of buildings map or the FSR for the land shown on the Floor Space Ratio Map or both. If the proposal includes community infrastructure. In this regard, there have been numerous discussions and draft Voluntary Planning Agreements prepared by our client and submitted to Council which include community infrastructure by way of land being dedicated for public reserve and associated improvements. For the EIS to state that there are no public documents or approvals that relate to our client's land is totally misleading.

In respect to the Landscape Master Plan, this has already been signed off by the NSW Government Architect following a design competition where Tract Landscape Architects were appointed the winners and were responsible for the preparation of the landscape masterplan and the landscaped works that are associated with the Stage 1 approved road works, earthworks and associated infrastructure for Stage 1 development. It is submitted that the Public Domain area for Stage 1 residential development will be adversely affected by the overshadowing.

5. ACOUSTIC/NOISE IMPACTS

A noise and vibration study has been undertaken by Arup Consulting. The consultants have produced a plan which identifies the location of noise sensitive receiving locations and NCAs. A report prepared by Ethos Urban under the heading of 'Combined Impacts Assessment' titled '*Design and Operation – Noise and Vibration*' sets out a series of findings and measures to be undertaken.

Noise and Vibration	
DO-NV-1	Stages for concert events are to be configured to located in the south, facing north.
DO-NV-2	A separate approval would be required for any pyrotechnics that are proposed to be ignited at or above the highest seating tier.
DO-NV-3	A Noise Management Plant (NMP) will be developed and implemented to manage noise emissions during the operation of the stadium.
DO-NV-4	An Event Representative(s) will be appointed for each concert event with the responsibility and appointed authority to exercise control of noise emissions from the stadium.
DO-NV-5	Written notification of upcoming concerts will be distributed by a letterbox drop to noise sensitive receivers prior to the event.
DO-NV-6	Compliance noise monitoring and direct noise monitoring will be undertaken during concert events.
DO-NV-7	Bump-in, bump out, deliveries and clean up activities will implement noise controls including traffic control around the stadium perimeter, minimise set up and pack down duration and contractor management for the minimise of noise emissions during set-up and pack down.
DO-NV-8	An information Hot Line will be available at all times during a concert event and staffed by the Event Representative(s).
DO-NV-9	The following measures are to be investigated in regard to building service equipment: <ul style="list-style-type: none"> • Specification of maximum sound power levels for all items of plant as part of the project documentation. • Enclosures for the substations in the western driveway • Acoustic screens to the west of rooftop plant of adequate height to shield receivers to the west, including those on upper floors overlooking the rooftop plant • Use of attenuators to control fan noise • Acoustic louvres to control noise from plantroom ventilation openings • Vibration isolators to reduce vibration input to the building structure • Incorporation of sound absorptive treatments in plantroom spaces.

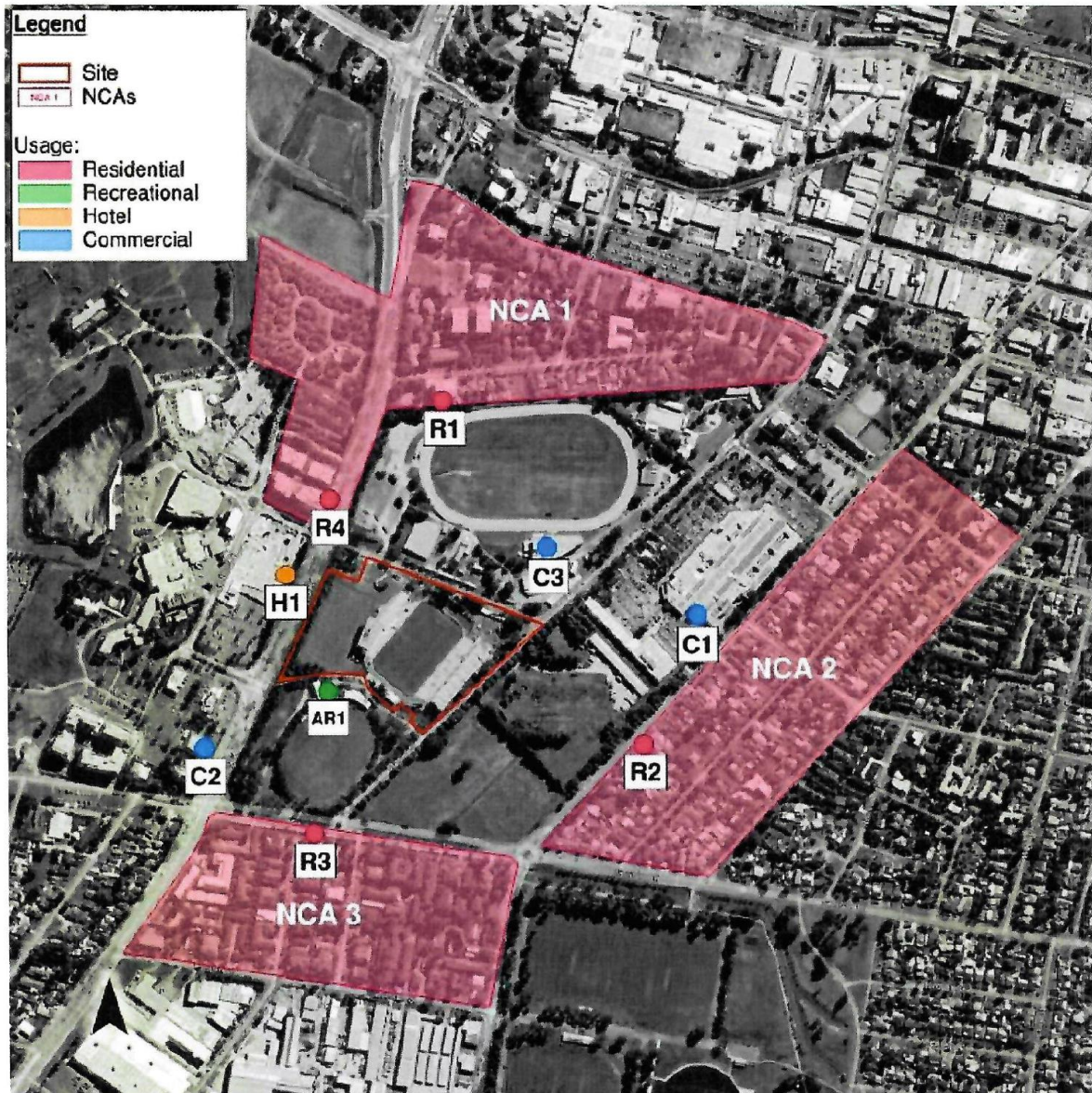


Figure 49 Noise Sensitive Receiver locations and NCAs.

Source: Arup

Comment: Our clients are genuinely concerned that the future occupants of their residential apartments could be adversely impacted upon by way of excessive noise generated by events that are held at the new stadium complex. It is evident from figure 49 above, that our client's site was not even considered when determining future noise impacts on the residential development of their property at 164 Station Street, Penrith. It is also evident that whoever briefed the consultants in the undertaking of the noise and vibration assessment report made no reference to the proposed development at 164 Station Street to accommodate up to 2000 residential apartments, in particular the Stage 1 development of 283 apartments which has been the subject of a Design Excellence Competition and was given approval by the NSW Government Architect for Design Excellence and will be the subject of a DA for Stage 1 Development to be submitted in 2024. Once again, we draw your attention to the conflict of interest on the part of Ethos Urban whereby the principal planner has already prepared and submitted to Penrith Council a summary report in December 2023 for a revised masterplan for our client's site which sets out a staging plan to accommodate 2000 residential apartments on a land holding of some 78,000sqm which is located immediately east of the Penrith Stadium

site. In our opinion this places the entire process relating to the preparation of the EIS in jeopardy and could be subject to a challenge due to the conflict of interest that Ethos Urban definitely has as a result of being the authors of the EIS and the principal planners of our client's site immediately opposite the subject stadium development.

In this regard, it is essential that the recommendations and measures to be investigated involving building service equipment are given serious consideration as they relate to the construction phase and also that the plan of management for noise control is stringently implemented to protect the future amenity of occupants for the residential complex to be developed directly opposite the Penrith Stadium.

Under the conclusion of the Noise and Vibration Impact Assessment, Clause 7.2, states that *"Noise management measures have been recommended to minimise concert noise impacts, including the preparation of a Noise Management Plan which would outline proactive, reactive and review mechanisms to control concert noise emissions. An optimal setup of sound amplification systems should be sought in consultation with suitably qualified acoustic consultants to minimise noise impacts at potential worst affected receivers. Noting that the proposed limits are higher than other stadiums, all endeavours should be made to reduce potential noise emission rather than maximise the concert sound level within the stadium. Details of each sound system setup adopted by each event operator should be recorded to inform future event sound system setup"*.

6 CONSTRUCTION TRAFFIC – MANAGEMENT

Under Section 3.13 of the EIS, Construction Management, states a preliminary construction management plan has been prepared which outlines over-reaching principles and practices for the management of construction activities on the site and will be used in the preparation of a detailed construction environmental management plan. In this regard, our client is concerned that the EIS fails to acknowledge that approval has been granted by Penrith City Council for Stage 1 roadworks, earthworks and associated infrastructure directly off Station Street which is immediately opposite the eastern grandstand. At no stage does the EIS assess the impacts that would be associated with construction activities on our site, particularly construction vehicles entering and leaving the site during the time when the redevelopment of the Penrith Stadium site is being undertaken. This is an important matter to be considered by Infrastructure NSW as our client's development of 164 Station Street should not be prejudiced in any way by the Government's proposed works to the Penrith Stadium.

The EIS states hours of work under point 4, the following:

"Unless otherwise approved in writing by the NSW Department of Planning, Housing and Infrastructure or Transport for NSW due to extenuating circumstances (e.g. erecting and dismantling tower cranes, services connections and other works that would unduly interfere with the surrounding area or road network during normal daytime hours and should therefore be completed out of hours)."

Comment: The proposed refurbishment of Penrith Stadium could take many years to complete and therefore our client is concerned that if their development for Stage 1 Residential is constructed and completed, works that are expressed in the point above being carried out 'out of hours' would have a detrimental impact on future occupants within SHMH's development and in our opinion, have an adverse impact upon the amenity of the surrounding residential development to the east and south. Nowhere in the EIS can we see that this has been adequately addressed.

7 CONCLUSION

- It is submitted that there is a clear and demonstrated conflict of interest with Ethos Urban being the authors of the EIS along with five other specialist reports and being the principal planner for our client (SHMH4 Pty Ltd) and their major residential development at 164 Station Street, Penrith, which is a 78,000sqm parcel of land directly opposite the proposed eastern grandstand.
- Ethos Urban, in September 2023, was appointed as the principal planner for our client's major residential development and is the author of a document titled 'Pre-lodgement Planning Summary' submitted to Penrith City Council on behalf of SHMH4 on 22 November 2023. This document, prepared by Ethos Urban, was in existence at the same time that the EIS was commenced by Ethos Urban in December 2023.
- The community consultation process failed, at every stage, to consult our client, being the largest neighbour directly opposite the Penrith Stadium refurbishment project, notwithstanding that Ethos Urban was simultaneously acting as the principal planner for our client's land and the development of their site for 2,000 residential apartments. The failure to consult with SHMH4 Pty Ltd is considered to be a major flaw in the whole process and could result in a legal challenge if the proposal were granted approval by the relevant delegate from the Department of Planning, Housing and Infrastructure.
- The EIS has conflicting statements in respect to our client's property in that the EIS states that "stakeholder meetings commenced in December 2023 to the current time. The project carried out engagement with key stakeholders to inform them about the project and gather their feedback". At no stage have our clients been invited to a stakeholder forum or have been consulted throughout the consultation process. Our clients are the closest neighbour and the fact that they have never been consulted contravenes the approach that MUST BE FOLLOWED under the document titled "Undertaking Engagement Guidelines for State Significant Projects 2021". The EIS fails to reveal that there is a site specific DCP for SHMH4 property being Penrith DCP 2014 – 164 Station Street, notwithstanding the visual impact assessment carried out by Ethos Urban which contained a copy of the master landscape plan which forms part of the site specific DCP.
- As detailed in this submission, SHMH4's property has achieved Design Excellence for both the landscape master plan for the entire site and the Government Architect's confirmation that Design Excellence has been reached for the Stage 1 Residential Development of 283 apartments directly opposite the eastern grandstand. This important confirmation is reflected in the Ethos Urban's report titled 'Pre-lodgement Planning Summary' on the 164 Station Street site dated 22 November 2023. If this knowledge was readily available to Ethos Urban in November 2023, why wasn't it referenced and reviewed as part of the EIS process. This alone shows a lack of transparency that has been exercised by Ethos Urban in being employed as the principal planners for both sites. One cannot deny that there is a direct conflict of interest.
- The proposed development, which involves an increase in the height of the existing grandstand by 14m, will result in adverse impacts on our client's future residential development by way of overshadowing and this is based upon the solar access drawings

that are part of the documentation that supports the EIS. It is evident that the authors of the solar access assessment have failed to be briefed on the existing approved proposal for the major redevelopment on 164 Station Street, Penrith.

- In respect to the acoustic assessment report, there is no reference in any part of the documentation prepared by the consultant regarding the future development of the site that they have taken into consideration future noise impacts on the occupants of the residential development that is planned for 164 Station Street, Penrith and, in particular, the Stage 1 Residential Development that has already received NSW Government Architect's approval for Design Excellence.
- Another adverse impact that could be directly associated with the Stadium redevelopment is traffic and construction management. That is, if SHMH4 commences roadworks and earthworks that have been approved by Penrith Council for their Stage 1 development, this could result in direct conflict with traffic and construction management for the stadium redevelopment. There is no evidence in the EIS or in supporting reports that this matter has been considered and assessed accordingly.

It is imperative that NSW Infrastructure, in conjunction with the Department of Planning, Housing and Infrastructure acknowledges that there is a direct conflict of interest with Ethos Urban being the authors of the EIS together with the five other specialist reports that support the EIS while simultaneously being the principal planners for SHMH4's site at 164 Station Street, Penrith. SHMH4 proposes a residential development of over 2,000 apartments and has already obtained Design Excellence from the NSW Government Architect for Stage 1 Residential.

NSW Infrastructure, together with the Department of Planning, Housing and Infrastructure must acknowledge that the community consultation process has failed abysmally to consult the applicant's nearest neighbour which comprises a landholding of 78,000sqm and the subject of a major proposed residential development over their entire site. And this action alone contravenes the Government document titled 'Undertaking Engagement Guidelines for State Significant Projects 2021'. These guidelines specifically reference the need to engage with their closest neighbours.

It is our opinion, having reviewed the EIS and relevant supporting documents, that a new EIS should be prepared by an independent planning practice together with associated expert reports that take into consideration the matters raised in this submission. A new EIS would give serious consideration to the residential development proposed for our client's land and assess any adverse impacts that could be generated as a direct result of the proposed Penrith Stadium refurbishment. We have forwarded a copy of this submission to the NSW Minister for Planning and Public Spaces so that the Hon Paul Scully is aware of the conflict of interest that is detailed throughout this document.

Please do not hesitate to contact me should you have any queries.

Yours faithfully



DENIS SMITH
Principal