

Telephone Inquiries:
MR L W ALLEN
File No:25-2008-6-1
Parcel No: 20649
Your Ref: MP 06_0183

2 November, 2010

The Director
Urban Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001.

Dear Sir/Madam,

Re: **Proposed: Commercial Premises - MP 06-0183 - Tourist Development**
Property: LOT: 31 DP: 529002
147 Soldiers Point Road SOLDIERS POINT

Reference is made to your correspondence dated 24 September 2010, in relation to the exhibition of the Environmental Assessment for a Mixed Use Development at the abovementioned address.

Council has considered the proposed development and considers the following factors need to be considered during assessment of the proposal.

Port Stephens Local Environmental Plan 2000

Assessment of the proposal will need to consider the provisions of the Port Stephens Local Environmental Plan 2000, specifically the following clauses;

- Clause 21 – Business Zones
- Clause 44 – Appearance of land and buildings.
- Clause 47 – Services
- Clause 50 – Tree Preservation
- Clause 51A – Acid Sulfate Soils

Port Stephens Development Control Plan 2007

Specific sections of Port Stephens Development Control Plan 2007 that apply to the development include,

- B2 – Environmental and Construction Management Plans
- B3 – Parking, Traffic and Transport
- B4 – Commercial and Mixed Use development
- B8 – Residential Flat buildings.

Key Issues

Following a preliminary review of the plans and documentation provided, Council consider that the following key points require particular attention in the assessment of the proposal.

Height

The development as proposed represents a significant departure from councils height controls contained in Development Control Plan 2007.

It is noted in preliminary discussions and advice with the Department of Planning and Council's that a height variation consistent with the height of the trees in the foreshore reserve may be acceptable.

The submitted detail survey (Harper Somers O'Sullivan, dated 2nd Sept 2008, ref: 25400) indicates trees in the foreshore reserve area have a canopy height in the range of 20m-25m AHD. The higher portions of the site appear to have canopy height in the order of 30m-35m AHD.

Further to this the submitted Site Analysis and Visual Impact Report (Daryl Jackson Robin Dyke Architects dated 14 July 2010) states the site is "*well screened by dense vegetation and open space with tree canopy up to 37m but generally 30m*"

Assessment of the proposal should ensure that the development height is consistent with the tree canopy.

Transport, Access and Parking

Parking requirements are not fully met to Councils standard (DCP B3) of 282 spaces; however Development Engineering agrees with the applicant that due to the 'mixed use' nature of the development, 275 spaces is adequate. Development engineering advises that onsite parking plan to be designed in accordance with AS2890 and the Port Stephens DCP (B3.6 & B4.13)

Access to the proposed development will comply with AS 2890.1 and 2, as stated In the Assessment of Traffic, Transport and Parking Implications report. This complies with council standards and requirements.

Visitor parking for the bar and café should be easily accessed in order to discourage parking in the adjoining road reserve.

Construction Management

Assessment of the proposal needs to consider the impacts of demolition and construction on the local community. A construction management plan should be submitted for consideration

Stormwater and Drainage

The proposed development is located within a 100 year detention/infiltration zone. However, due to site geology, close proximity to Salamander bay and existing site drainage conditions, infiltration/detention is considered inappropriate and excessive.

The Water Management, Flooding and Coastal Processes report details proposed stormwater and drainage for the development. Development Engineering considers the concept plan adequate with one exemption. Development Engineering would question the practice of pumping or draining intercepted groundwater into the sewer network, and authorisation from relevant authorities should be sought before proceeding further.

Conditions

Should the application be approved, suggested conditions of consent have been attached in "Attachment 1 – Suggested Conditions of consent.

Conditions should also be included around,

- Construction Management,
- Conditions reflecting the Draft statement of Commitments in the Environmental Assessment.

It should be noted that these are suggested conditions and are not an exhaustive list of conditions to be included as a full assessment of the proposal has not been undertaken.

Should you require any further information regarding this matter, please contact Leonard Allen of Council's Development and Building Section, on (02) 49 800 105.

Yours faithfully.

Leonard Allen

SENIOR DEVELOPMENT PLANNER

Phone: 49800105 (9.00am – 12.00 noon)

leonard.allen@portstephens.nsw.gov.au

DA TRACKER

Development & Building has been listening to your suggestions for improvement. Council has now launched its On-line Application Tracking System and a revised Website so you can access key information, forms and application updates anytime, 24 hours, 7 days a week.. Council welcomes your feedback on these new initiatives. Email council@portstephens.nsw.gov.au or write to The Manager Development & Building, Port Stephens Council, PO Box 42, Raymond Terrace NSW 2324

STANDARD CONDITIONS

- A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
- Works shall not commence until such time as a construction certificate, where necessary, has been issued for the works approved by this application.
- The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.
- Failure to comply with the conditions of consent constitutes a breach and on the spot fines may be issued under the Environmental Planning & Assessment Act 1979 and or the Protection of the Environment Operations Act 1997.
- The development application has not been assessed against the provisions of the Building Code of Australia. A Section 96 application under the Environmental Planning & Assessment Act 1979 will be required if design amendments are necessary to comply with the provisions of the Building Code of Australia.
- The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

PLANNING DRAFT CONDITIONS OF APPROVAL

- Certification is to be prepared by a registered surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
 - a. On completion of ground floor construction, confirmation that the floor levels are in accordance with the Reduced Levels indicated on the approved plan.
 - b. On completion of each subsequent floor level, confirming that the floor levels are in accordance with Reduce Levels indicated on the approved plan.
 - c. When the roof has been completed, confirmation that the building does not exceed the Reduced Levels as indicated on the approved plan.
- Landscaping shall be carried out in accordance # **with the details submitted # with an approved landscaping plan**. The landscaping must be completed prior to issue of Occupation Certificate.

- The tourist facility component of the development (34 Serviced apartments, Buildings A and B, and 84 Hotel Rooms, Buildings D, E, F and G) shall not be occupied by any proprietor or occupier for longer than forty two (42) consecutive days or an aggregate one hundred and fifty (150) days in any twelve (12) month period. Such periods are to be calculated from the date of the first occupation of the tourist facility.
- The occupancy restrictions shall be incorporated into a Management Agreement for the Tourist Facility. A copy of the Management Agreement shall be provided to Council **prior to the issue of the occupation certificate.**
- A register shall be kept by the owner or proprietors to record the occupancies and shall be available at any time for inspection by an authorised officer of Council.
- Building H, containing 44 dwellings, is approved for full residential occupancy.
- The development is to be carried out in accordance with the recommendations and conclusions of the Flora and Fauna Assessment (Eco Logical, August 2010, Ref: 161-002).

ENVIRONMENTAL HEALTH CONDITIONS

- The fit out of food preparation, storage and service areas are to be designed and constructed to comply with standard 3.2.3 of the Australia New Zealand Food Standards Code and Australian Standard AS 4674-2004 for the construction and fitout of food premises in particular with reference to the following:-

If Council is nominated as the Principal Certifying Authority, details of compliance are to be included in the plans and specifications for the construction certificate. The Food Surveillance Officer shall be given 48 hours notice to inspect the premises prior to commencement of the business.

Where Council is not nominated as the Principal Certifying Authority a certificate from an appropriately qualified person confirming compliance with the above legislation and guidelines is to be provided before the issue of the occupation certificate.

Prior to occupation the business is to be registered with Council.

Solid Walls

The walls including internal walls of the food premises to the food preparation areas, kitchens, sculleries, food displays, food serveries and food storage areas shall be of solid construction eg. Brick, concrete, concrete block, lightweight concrete block or other similar approved homogenous material.

Wall Finishes

Any kitchens, sculleries, food preparation areas, food serveries and the like shall be finished to a height of at least two (2) metres above the floor level with:-

- i. Glazed tiles fixed in accordance with the requirements of AS3958.1;
- ii. Stainless steel or other approved impervious material adhered directly to the wall.

Rendering Walls Above Two (2) Metres

Where wall tiling does not extend to the ceiling level the wall surface above the tiles shall be rendered to a smooth steel trowel finish flush with the face of the tiles and painted with a durable gloss paint of a light colour.

No Ledge On Wall Tiles

The face of the tiles fixed to the vertical wall surfaces shall be flush with the adjoining wall surfaces to reduce the likelihood of the collection of dust and other accumulations on the ledge formed.

Ceilings

Ceilings over food preparation, display and storage areas are to be constructed of rigid smooth faced material such as plasterboard or villaboard finished with set joints and a plaster cornice at the walls and is required to be painted in a washable gloss paint of a light colour.

Partition Walls Splayed

Any partition walls that do not extend to the ceiling shall be splayed on top at an angle of 60 degrees to prevent storage of articles and ensure ease of vision to detect dust build-up.

Floor Finishes

Floors are to be covered with approved floor coverings:-

- i. With the use of ceramic floor tiles coved with a 25mm ceramic cove tile at the intersection with the walls, or
- ii. With the use of a continuous sheet vinyl returned 150mm up the wall to form a cove and sealed to the wall and fillet with an approved fillet or backing piece to provide support, or
- iii. With the use of impervious trowelled epoxy over concrete, coved at the intersection of the walls and floor.

Floorwastes

Floors are to be adequately graded and drained to the required floor waste(s).

Light Fittings

Light fittings being recessed flush to the ceiling surface or be of a 'squareline' type attached to the underside and provided with approved diffuser covers.

Window Sills Splayed

All window-sills are to be splayed inwards at an angle of 45 degrees and finished with a material matching the wall finish, with all vertical and horizontal edges rounded or bullnosed to a smooth even finish.

Vermin Proofing

Windows, external doors and other external openings shall be provided with vermin and insect proofing.

Coolroom Construction

Any cool rooms and freezing rooms shall be constructed and drained in accordance with Standard 3.2.3 – Food Premises and Equipment, of the Australia New Zealand Food Standards Code, Australian Standard As 4674 and Council's local policies.

Coolroom Coving

Coving of the coolroom and/or freezer room shall be finished up to a 25mm aluminium "arrowhead" moulding installed 50mm above the finished floor surface to prevent damage to the coving and to allow ease of cleaning.

Coolroom Floor

The floor of the coolrooms / freezer rooms must be finished with a trowelled epoxy finish or tile with an epoxy grout or similar to ensure that the floor is impervious and easily cleaned. The concrete floor must be coved a minimum of 25mm and capped with an aluminium arrowhead.

Coolroom Shelving

Shelves to the coolroom / freezer rooms shall be constructed of galvanised pipe, angle iron, T iron, flat metal or other approved materials, all of which should be treated to prevent corrosion. The base of the shelves in the coolroom / freezer room must be at least 300mm above the floor surface.

Coolroom Top Infill

The coolroom being sealed and vermin proofed against the existing ceiling and wall surface.

Plumbing & Electrical

Services pipes, conduits, condensate drains and the like being concealed behind the finished floor and ceiling surfaces. Where such services are installed pre-fabricated panels provide 25mm clearance off panel surfaces

Fixed Thermometers

All hot and cold holding units used for storage of perishable foods eg; coolrooms / freezer rooms, fridges, pie warmers, bain maries, roller grills etc. must be fitted with permanent thermometers accurate to one (1) degree that are able to be read from outside the unit (ie. Without opening the unit) and must be fitted in a location that gives an accurate reading of the temperature of the food.

Refrigeration Drainage

The refrigeration condensation drainage shall be conveyed to the reticulated sewerage system where available and in other cases disposed of without causing a nuisance.

Equipment 150mm Off Floor

All cookers, ovens, vats, fridges, freezers, benches, cupboards, shelves or similar appliances or equipment are required to be fitted with legs so as the base of the unit is at least 150mm off the floor surface. Further consideration must be given to deep units so as to not hinder cleaning requirements.

Coffee Machine Waste

Waste drainage from the coffee machine shall be conveyed to the sewer by approved concealed means.

False Bases

False bottoms beneath counters, cupboards, fittings, fixtures and equipment are not permitted. The above shall be installed on approved metal legs not less than 150mm in height.

Shelves Over Food Preparation Areas

Shelves, storage racks and other projections shall not be located above food storage or food preparation benches in rooms used for food preparation, storage or display to ensure that foreign matter does not fall into or contaminate an article of food.

Roller Shutters

The roller shutter drum casings being concealed above the ceiling level or enclosed in a plasterboard bulkhead.

Mechanical Ventilation Application

Where any system of Mechanical Ventilation and/or air conditioning is proposed or installed within the premises such system shall be designed to comply with Australian Standard, 1668, Part 2 and AS 3666, and shall be subject to a separate application to be approved by the Principal Certifying Authority prior to installation.

Beer Plumbing

Ensure all beer plumbing and post mix equipment installations including provision for the piped service connections to be dispensing units are installed in concealed locations within the bar area.

Cleaners Sink

A cleaners sink shall be provided with hot and cold water connected thereto, through a common mixing spout.

Hands Free Basin

All hand washbasins shall be provided in sufficient number within a food premises and must be fitted with a "hands free" operation with a single spout to mix hot and cold water.

- The fit out of food preparation, storage and service areas are to comply with Australian Standard AS4674/2004
- Plans and specifications are to be submitted to Council **prior to issue of Construction Certificate** showing details of the food preparation and storage area layouts and design. Details are to be provided of all fixtures, fittings and equipment including mechanical ventilation together with construction details and finishes of floors, walls and ceiling and method of installation.

These are to be submitted for assessment and approval of Council's Food Surveillance / Environmental Health Officer. The assessment will incur a fee in accordance with Council's schedule of Fees and Charges.

- **Prior to the issue of a Construction Certificate** the applicant is to arrange for a final inspection and obtain an Approval to Operate for the food preparation and storage areas of the premises from the Council's Food Surveillance / Environmental Health Officer.
- Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Port Stephens Section 94A Development Contributions Plan, a contribution of 1% of the cost of the development, as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000, shall be paid to Council

The amount to be paid is to be determined in accordance with the provisions of the Port Stephens Section 94A Development Contributions Plan. The contribution is to be paid **#prior to issue of the Construction Certificate #prior to issue of the Subdivision Certificate.**

A Quantity Surveyor's Detailed Cost Report (**form attached**) setting out an estimate of the proposed cost of carrying out development in accordance with Schedule 2 of the Port Stephens Section 94A Development Contributions Plan must be approved by Council prior to issue of a Construction Certificate.

STANDARD BUILDING CONDITIONS

- All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
- Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
- Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

- It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
- The excavated and/or filled areas of the site are to be stabilised and drained to prevent scouring and the finished ground around the perimeter of the building is to be graded to prevent ponding of water and ensure the free flow of water away from the building.

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

- A colour scheme providing full details of the colours and character of all external building materials and finishes to be used shall be approved by Council **prior to the issue of the Construction Certificate.**