

**Section 79C Evaluation
Development Application No. 574/11**

a. the provisions of,

i) Any environmental planning instrument, and

- ***Mid North Coast Regional Strategy***

The Mid North Coast Regional Strategy identifies Coffs Harbour as a major regional centre. The proposed retail development is one which will reinforce this role.

- ***North Coast Regional Environmental Plan***

Most provisions of the North Coast Regional Environmental Plan relate to plan preparation.

Clause 32B Development Control-Coastal Lands requires consideration of the following documents due to the location of the site within the Coastal Zone:

- a) the NSW Coastal Policy 1997;
- b) the Coastline Management Manual, and
- c) the North Coast: Design Guidelines.

The proposal satisfies the relevant provisions of these documents in terms of natural environment, natural processes, aesthetic qualities, cultural heritage and design.

- ***State Environmental Planning Policy (SEPP) No. 55 – Remediation of Land***

As part of the evaluation of the application Council requested the applicant to provide information concerning the site's history to inform if the site is contaminated, in terms of the provisions of State Environmental Planning Policy 55 – Remediation of Land (SEPP 55).

A Stage 1 report under SEPP 55 was then submitted to Council in July 2011. This report confirmed that the site of the proposed development had only been used as a carpark since its initial development in 1979. Its prior use was vacant land occasionally used for grazing.

The development will involve the removal of an estimated 11,000 m³ of spoil. The spoil will be required to be certified as to its status of virgin natural excavated material or inert fill prior to disposal.

The Stage 1 report also advised that a monitoring investigation by OTEK acting for Woolworths Petrol had detailed and reported hydrocarbon and benzene contamination in the groundwater in proximity to the service station. This particular contamination issue required further investigation.

In response a Groundwater Investigation was completed by Cavvanba Consulting in September 2011. This investigation confirmed that the groundwater underlying the investigation area (the area adjacent to the service station) had been impacted by hydrocarbons.

The groundwater concentrations are above potential vapor intrusion indicators for commercial land use, and given the lack of source control there is a potential that the groundwater and likely soil gas could lead to a potential for vapor intrusion into the proposed building.

As the site is contaminated in the immediate area of the proposed building footprint Council must be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose (Clause 7 of SEPP 55).

Consequently the application is recommended for a deferred commencement conditional approval, with the deferred matter requiring the submission and endorsement by Council of a Remedial Action Plan to address the hydrocarbon impacted groundwater and to have the remediation works validated prior to the issue of any Occupation Certificate for the development proposal.

The consent has been conditioned accordingly.

- ***State Environmental Planning Policy (SEPP) No. 64 – Advertising and Signage***

The development proposes a number of new building identification signs and the modification of two existing “shopping centre” pylon signs.

One new “shopping centre” pylon sign is to be installed at the Arthur Street entry.

All 3 “shopping centre” pylon signs are proposed at a height of 17m and are 7.5m wide.

Wall signage indicating primary tenancies and the shopping centre name is proposed on the elevations of the extensions.

The proposed advertising and signage is consistent with the aims and objectives of this Policy. The pylon signs, whilst tall and large are viewed as acceptable having regard to the scale and use of the development, the large site area and the entry points to the shopping centre subject to pylon signage rationalisation by the removal of the “target” sign that is situated on the Highway frontage. Building wall signage is endorsed on the basis that retail tenancy signage is restricted to certain façade elements only.

- ***State Environmental Planning Policy (SEPP) No. 71 – Coastal Development***

The proposed development is considered to be consistent with the aims of the policy and satisfies the relevant matters for consideration and development control provisions. Clauses of particular relevance are discussed further below:

Clause 7 – Application of Clause 8 Matters

Clause 7 of the SEPP requires Council to take matters as listed in Clause 8 into consideration when determining development applications. Clause 8 matters have been taken into consideration in the assessment of the proposed development.

- The proposal is considered to meet the aims of the Policy.
- The proposal will not impede or diminish public access to and along the coastal foreshore.
- Matters pertaining to Aboriginal cultural heritage significance have been conditioned in the recommended consent.
- The site does not contain any known items of heritage, archaeological or historic significance.
- The proposed development will not adversely impact upon the scenic quality of the coast.
- The development is unaffected by issues of coastal hazards.
- The proposed development, in terms of type, location and design, is considered to be compatible with its business lands zoning and its relationship to adjoining and nearby developments.
- The proposal will not result in significant impacts to native flora and fauna.

Clause 16 – Stormwater

Clause 16 specifies that Council must not grant consent to development where stormwater will, or is likely to, be discharged untreated into the sea, a beach, an estuary, a coastal lake, a coastal creek or other similar body of water.

Stormwater will be directed to Council's reticulated stormwater system and the proposed development is considered satisfactory on the grounds that all stormwater will be *"managed"* by harvesting for reuse / garden watering and toilet flushing, by in line water quality systems to trap litter, sediment, grease and oils.

- ***State Environmental Planning Policy - Major Development***

The development has a capital investment value exceeding \$10 million.

The application comprises a building (other than minor alterations or minor additions to existing buildings or structures) that is greater than 13 metres in height for a site that is within the NSW Coastal Zone. Consequently the application is Regional Development pursuant to Clauses 13B(1)(a) and 13C(b) of this policy and the Joint Regional Planning Panel is the determining body.

- ***Coffs Harbour City Local Environmental Plan (LEP) 2000***

Zoning

Park Beach Plaza is situated in the Business 3B City Support Zone and is included in Schedule 3 to LEP 2000. The proposal – Shops – is a permissible use in this zone.

The aim of the City Support Zone is *"to encourage development that supports the growth of the City Centre"*.

This aim, or mission statement, seeks to reinforce the business zone hierarchy in Coffs Harbour.

The objectives of the City Centre Zone and the City Support Zone are the same. The objectives of these zones are:

- *"to enable development that contributes to the retail or commercial or housing or social needs of the community.*
- *to enable development that is compatible with the City Centre environment."*

That is, developments in either of these zones should be able to co-exist.

Clause 12 – Koala Habitat

The site adjoins land mapped as Primary Koala Habitat (on the public reserve located to the southeast of the site). The proposal accords with the Management Actions of the Council's Koala Plan of Management, the shopping centre expansion is located some 250m from the habitat area.

Clause 14 – Services

Satisfactory water supply, sewerage and drainage will be available for the proposed development.

Clause 23 (1) to (8) – Potential Acid Sulfate Soils

The subject land is mapped as Class 3 acid sulfate soils. Testing for acid sulfate soils has been carried out and an Acid Sulfate Soils Management Plan has been prepared and endorsed for the project.

ii) **The provision of any draft environmental planning Instrument.**

- ***Coffs Harbour City Centre Local Environmental Plan 2011 (Draft)***

Coffs Harbour City Centre Local Environmental Plan 2011 is currently a draft plan. The weight to be given to the controls under this draft plan is less than must be given to an existing and in force planning instrument. Relevant controls include:

Clause 2.3 – Zone Objectives and Land Use Table.

The proposed development is a permitted use within the B2 Local Centre Zone. The proposed development is also consistent with the objectives of this zone, noting that the proposal is for the expansion of an already existing regional shopping centre.

Clause 4.3 – Height of Buildings.

The height of buildings map specifies a height of 15.5 metres for this site. The proposal is up to 18.2m in height. The departure from this provision is considered acceptable given the building's design response, the sheer size of the site and the location of the building extensions. The upper level (the carpark deck) is approximately 12.5m above existing ground level. Parts of the building that exceed the 15.5m control include plant rooms, architectural façade treatments, lift and traveller enclosures. Note, there is no height control under Council's current Local Environmental Plan or Business Lands Development Control Plan.

Clause 4.4 – Floor Space Ratio.

The floor space ratio for this site as specified in the Floor Space Ratio Map is 1:1 and the development is within the maximum ratio.

Clause 6.1 – Acid Sulfate Soils.

The provisions of this plan relating to acid sulfate soils mirror the requirements in Council's current Local Environmental Plan. There are no further matters to consider under this issue.

Clause 6.3 – Central Business District (local).

The objective of this Clause is to maintain the primacy of the Coffs Harbour Central Business District (CBD) as the principal business, office and retail hub of the City Centre and to ensure that development does not conflict with the hierarchy of commercial centres.

The Park Beach Plaza Shopping Centre is a long term established and recognised major retail facility. It is a major retail drawcard in the region. It is a large employer and provider of retail services to the local and broader community. The Shopping Centre's proposed expansion will reinforce this role and function. This outcome will not reduce or adversely impact the distinct role and function of the CBD as the principal business, office and retail hub for the City Centre. It is accepted that there will be some retail impacts by this proposal but not such as to put the future of the CBD in jeopardy. The CBD offers different and specialised retail facilities to that of the big box shopping centre (Park Beach Plaza).

Clause 6.4 – Design Excellence.

This Clause requires consideration of a number of matters specified in Clause 6.4(3)(a) to (f) that the proposed development addresses design excellence. On consideration of all these issues the proposed development is considered to satisfactorily provide design excellence.

iii) Any Development Control Plan (DCP).

- *Business Lands DCP*

The proposal satisfies all the requirements of this Plan.

- *Off Street Car Parking DCP*

The proposal satisfies the car parking requirements of this Plan in that the required number of car parks, based on the proposed use, will be provided with the development. The consent will be conditioned in relation to carparking provisions, and in particular to address parking arrangements during construction. Note, 2,865 (approximate) spaces are proposed when the controls require 2,333 spaces.

- *Access and Mobility DCP*

The proposal satisfies the requirements of this Plan.

- *Waste Management DCP*

The proposal satisfies the requirements of this Plan. A condition of development consent also addresses relevant controls of this Plan.

- *Notification DCP*

The development application was advertised and notified in accordance with the provisions of this Plan. Issues raised in submissions are addressed in other parts of this report.

- *Signs DCP*

The proposal satisfies the objectives and controls of this Plan.

However the height of the proposed pylon signs – 17m is in non-compliance. The proposed pylon signs are supported having regard to the scale of the development. See previous comments under SEPP No. 64 – Advertising and Signage in this report.

- *Coffs Harbour City Centre Development Control Plan 2010 (Draft)*

The proposal generally accords with the principles of this DCP that will come into force once the Coffs Harbour City Centre LEP 2011 is gazetted. Again, the weight to be given to these controls is less than must be given to an existing and in force DCP. A number of the controls do not apply to the proposal simply due to the specialist nature of the development eg. zero street setbacks are inappropriate for this type of proposal. The development is considered suitable in terms of building design, pedestrian, public transport, access, loading and unloading, parking, landscape, environmental management, reflectivity, waste management, and stormwater controls.

iv) The regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates.

Clause 92 of the Environmental Planning and Assessment Regulation

This Clause requires Council to take into account the provisions of the NSW Coastal Policy 1997 and the Australian Standard 2601 – 1991 – The Demolition of Structures.

In terms of the Coastal Policy 1997 the development satisfies the relevant controls in terms of natural environment, natural processes, aesthetic qualities, cultural heritage and design.

Suitable controls have been applied to the development during the construction phase and in particular to sediment and erosion controls, acid sulfate soils management, stormwater quality and cultural heritage.

The proposed development involves demolition. The recommended conditions of development consent reflect the requirements of Australian Standard AS 2601-1991.

Clause 94 of the Environmental Planning and Assessment Regulation

This Clause provides that where development involving the rebuilding, alteration, enlargement or extension of an existing building where:

- the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls; or

- the measures contained in the building are inadequate: to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or to restrict the spread of fire from the building to other buildings nearby;

fire safety upgrading must be evaluated.

A condition has been applied to the consent to require the existing Shopping Centre to address fire safety considerations.

b. the likely impacts of that development, including environmental impacts, on both the natural and built environment, and social and economic impacts in the locality,

1. The natural and built environment.

The development constitutes a significant change to the built form of the existing shopping centre. It will be a much more dominant building due to its scale, height and footprint however it is considered suitable in terms of the context of its setting in the Park Beach Business Zone.

The development has the potential to impact on the natural and built environment during construction and operation. A number of conditions of development consent are proposed to address potential “*during construction*” and “*operational*” impacts.

There are proposed conditions that address:

- Sediment and erosion;
- Groundwater impacts;
- Waste Management;
- Stormwater Drainage;
- Appropriate disposal of excavated material;
- Appropriate procedures in the event aboriginal objects are found during construction;
- Treatment for acid sulfate soils;
- Operational noise;
- Hours of construction work;
- Access;
- Carparking, including interim parking arrangements;
- On-site sewerage management;
- Site contamination;
- Landscaping.

It is considered that with the imposition of these conditions the proposed development will not result in unacceptable impacts on the natural or built environment.

2. Social Impacts.

There are a number of proposed conditions that will address issues relating to potential social impacts:

- Construction noise;
- Requirements for site notification and construction contact persons;
- Dust control;
- Car parking, including interim parking arrangements;
- Crime risk;
- Operational noise;
- Accessibility, including parking;
- Pedestrian amenity.

The physical construction footprint is reasonably “removed” from immediate residential neighbours. It is noted that the centre, on completion, will provide a positive social impact from improved and expanded shopping facilities, covered parking areas, employment creation and public transport provisions.

3. Economic Impacts.

An Economic Impact Assessment, prepared by Pitney Bowes Business Insight accompanies the development application. The Assessment relies on the inclusion of Myer in the development.

The Assessment references 3 trade sectors (primary – the Coffs Harbour local sector; secondary – the area 55 km to the south and 65 km to the north of Coffs Harbour and tertiary – the area 150 km north and south of Coffs Harbour). The Shopping Centre serves a broad trade area. The proposed additions, including the Myer component, is likely to increase penetration into each trade sector – particularly the tertiary sector (which currently accounts for a limited amount of the Centre’s business).

The expanded Shopping Centre will provide for improved shopping choice and range, being a drawcard for consumers both within and outside the local government area; it will result in less leakage of retail spending from the local area to other centres; it will improve the local amenity for customers and it will be an employment contributor. The Assessment shows a net employment increase of 497 jobs in the expanded Centre and a further 199 jobs created indirectly from the project.

The Assessment also shows that Coffs Harbour (CBD) retailers and other primary trade retailers will be impacted, however, the degree of impact is considered in the Assessment as not likely to threaten the viability of these existing retailers. The Assessment concludes that a significant net community benefit will result from the proposed Centre’s expansion and further that the inclusion of Myer in the Centre will elevate the regional role of Coffs Harbour.

This Assessment has been reviewed by Council’s Economic Development Unit and its findings are in the main endorsed. It is acknowledged that there will be some negative impact on the Coffs CBD however that impact is not so significant as to affect the primacy of the CBD.

c. *the suitability of the site for the development,*

The site is considered well suited to the proposed development.

There are no prohibitive natural or technological constraints to the proposal – the site is provided with adequate transport, utilities and services arrangements and the development is unlikely to impact to the detriment of adjoining or nearby properties.

d. *any submissions made in accordance with this Act or the Regulations,*

The application has been reviewed by the following parties and recommended conditions / actions have been incorporated into the evaluation process and consent conditions.

- City Services (access, parking, services, trade waste, pedestrian, public transport and landscaping).

- Land Use Management (Building Code of Australia, accessibility and fire safety).
- Health (waste management, acoustic impacts, ASS and site contamination).
- Corporate Business (developer contributions).
- Economic Development (economic impact).

The application was referred to NSW Police for their comments with respect to safer by design, crime risk assessment considerations; to the NSW Office of Water with respect to an aquifer interference approval; to the Roads and Traffic Authority in terms of Sections 101 and 104 of the Infrastructure SEPP 2007 (development with frontage to a classified road and traffic – generating development).

Each Agency has advised conditional support and/or approval terms to the proposal.

The application was also considered by Council's Access Advisory Committee and workshopped with representatives of the local bus and taxi services. This Committee and the bus and taxi representatives provided conditional support to the proposal.

The consent has been conditioned accordingly.

As advised there were 185 submissions received by Council, of which 179 were letters in support and 6 submissions raised a number of concerns with respect to the development.

A summary of the concerns, with comments is as follows:

- Development is inconsistent with the Draft Coffs Harbour City Centre Local Environmental Plan and will further undermine the viability and vitality of the Core Precinct of the City Centre.

Comment: The growth of conventional retailing in the CBD will be affected by this development. This in itself does not mean that the development will undermine the viability and vitality of the Core Precinct of the City Centre, or the CBD "*primacy*". The CBD retains its focus on commerce, civic administration, entertainment, recreation and retail activity. The CBD retains its role as a primary "*main street*" retailer as opposed to the "*big-box*" retail role of Park Beach Plaza.

- The development needs to consider the potential risk of harm to human health and the environment in terms of State Environmental Planning Policy No. 55 – contaminated land.

Comment: This consideration has been satisfactorily addressed in the evaluation of the application and the recommended deferred commencement consent.

- Inadequate security measures included in the design.

Comment: NSW Police has provided advice to Council on this aspect and the consent has been conditioned accordingly.

- The application is not supported by a detailed traffic and parking management plan.

Comment: The application is accompanied by a detailed traffic and parking assessment that has been endorsed by the RTA and Council's City Services Section.

- The application is not supported by a Construction Management Plan.
Comment: The consent has been conditioned to cover this consideration.
- The application is not supported by a Disabled Access Report.
Comment: The application has been considered by Council's Access Advisory Committee and Council's Land Use Management Section, the consent has been conditioned accordingly.
- The design in its current form needs to be improved.
Comment: The design of the project is considered to be acceptable.
- The development should allow for scooter hire for those who can only walk around for short periods.
Comment: The Centre will allow for "scooter" access.
- 24 hour deliveries should be rejected.
Comment: 24 hour delivery to the loading dock has been supported by an acoustic report and has been endorsed by Council's Health Section.
- Hours of construction need to be limited.
Comment: The consent has been conditioned to address construction hours.
- Review the location of the bus stop to reduce congestion and bus travel distance.
Comment: This aspect was workshopped with the bus company and the proposed arrangements have been supported.
- The large Myer store will have an adverse impact on small business, hence a loss of jobs and income in the community.
Comment: It is agreed that the proposal will have some impact on existing and proposed retailers however such impact does not warrant rejection of the application. The market influences the supply and location of retail space. The "Myer" component will reinforce the regional retail role of Coffs Harbour and this outcome may act as a positive on existing and new small business's by stemming leakage of retail spending from the area and by increasing local employment.

e. the public interest,

The development application has been processed in accordance with relevant statutory provisions. The proposed development does not present any issues that are contrary to the public interest.