

## **SUPPLEMENTARY REPORT 10 OCTOBER 2011**

**2010NTH036 Coffs Harbour City Council 574/11 – Extensions to existing shopping centre, service vehicle access, infrastructure, signage and demolition works, No. 253 Pacific Highway North, Coffs Harbour**

### **RESPONSE FROM COUNCIL TO COMMENTS ON DEVELOPMENT CONSENT DRAFT CONDITIONS BY THE PROPONENT.**

In accordance with Planning Circular PS10-009 the proponent has provided feedback on the workability of the recommended conditions. The proponents submission is appended to this report as Appendix (i).

The following comments are provided on this submission:

#### **Deferred Matter:**

The proponent seeks deletion of the deferred matter that requires the approval of a Remedial Action Plan before the consent becomes operational on the grounds that the contaminated area is limited to a portion of the site and that development (ie physical construction) may proceed beyond this affected portion, the deferred matter effectively sterilizing the development.

#### **Comment:**

*The proponent has provided evidence to Council that the site is contaminated, and requires remediation. The evidence shows that the development footprint is impacted. Council must be satisfied that remediation of the site can be effected. This is the purpose of the deferred matter condition. The deferred matter has been conditioned to address the statutory requirements of State Environmental Planning Policy No. 55 – Remediation of Land. It has been conditioned for a planning purpose and its requirements are reasonable in the circumstances.*

#### **Recommendation:**

No Change.

#### **Condition 9, Construction Certificate – (Existing Building – Fire Safety Upgrading):**

The proponent requests change to the Construction Certificate trigger for this aspect of the development, seeking consideration of the existing building's fire safety upgrading requirements to the first Construction Certificate application comprising retail space.

It is the proponent's intention to stage the project with the first stage comprising a detached carpark structure.

#### **Comment:**

*This request has been reviewed by Council's Land Use Management Section and is supported. The condition has been amended accordingly.*

#### **Recommendation:**

That Condition 9 be substituted as per Appendix (ii) of this report.

**Condition 11, Landscape Plan:**

The proponent raises concern with the term “all un-built on areas of the site” in this condition.

**Comment:**

*The condition should be amended to relate the landscape requirements to the curtilage of the actual development and to address the staging of the development.*

**Recommendation:**

That Condition 11 be substituted as per Appendix (ii) of this report.

**Condition 13, Stormwater Management Plan:**

The proponent enquires why the Stormwater Management Plan, listed in condition 3 requires resubmission.

**Comment:**

*The submitted plan does not prescribe the stormwater management arrangements that are responsive to the proposed staging of the project. Hence the requirement for further stormwater documentation.*

**Recommendation:**

No Change.

**Condition 14, Road Design and Services (footpath works):**

The proponent seeks clarification of the extent of footpath works nominated in sub condition (d).

**Comment:**

*The footpath works are adequately described in this condition.*

**Recommendation:**

No Change.

**Condition 15, Boundary Fencing:**

The proponent seeks clarification of the intent and extent of boundary fencing imposed under this condition.

The site will be excavated and retained adjacent to the western circulation road. Dependent on the type and height of retaining wall along this road a fence / balustrade may be required. This condition requires approval of this work, which is subject to detailed design.

**Recommendation:**

No Change.

**Condition 27, Construction – Engineering (Piling Noise and Vibration Management Plan):**

This condition requires the approval of a “piling” noise and vibration management plan prior to issue of the relevant Construction Certificate. The proponent seeks amendment to allow this plan to be prepared by the selected piling contractor in conjunction with an acoustic consultant.

**Comment:**

*This request is reasonable, with the trigger for this plan preparation to be amended to “prior to commencement of piling works” as opposed to prior to issue of the relevant Construction Certificate”.*

**Recommendation:**

That Condition 27 be substituted as per Appendix (ii) of this report.

**Condition 28, Safer by Design:**

The first dot point condition requires the securing of the deck carpark and the loading dock when the development is closed, when the consent (Condition 68) permits 24/7 deliveries. The proponent has advised that the conditions conflict.

**Comment:**

*It is agreed that the conditions conflict and that Condition 28 dot point 1 requires rewording to ensure the safe functioning of the Centre.*

**Recommendation:**

That Condition 28 be substituted as per Appendix (ii) of this report.

**Condition 49 – Height of Development:**

The proponent “strongly objects to imposition of height constraints on this site. At the time of lodging this development application there were no height constraints”.

**Comment:**

*The purpose of this condition is to ensure that the development, as constructed, conforms to the approval. It has nil to do with the broader planning consideration of height controls for the site which is an evaluation matter.*

**Recommendation:**

No Change.

**Condition 51, Road Design and Services (footpath works):**

The proponent seeks clarification of footpath works and to which is the relevant Occupation Certificate under this condition.

**Comment:**

*The footpath works are adequately described in this condition. The works are required to be completed prior to issue of the final Occupation Certificate.*

**Recommendation:**

That Condition 51 be substituted as per Appendix (ii) of this report.

**Condition 52, Landscape Works:**

The proponent seeks that landscaping be incrementally provided, commensurate with the staging of the development.

**Comment:**

*This is a reasonable request and the terms of this condition have been amended accordingly.*

**Recommendation:**

That Condition 52 be substituted as per Appendix (ii) of this report.

**Condition 59, Road Damage:**

This condition requires the proponent to liaise with Council's City Services Section to address Council's recovery of costs of repair to Council's assets in the vicinity of the site damaged as a result of the project. The proponent has stated that it will be difficult to assign responsibility for cause due to staging of the construction and normal wear and tear considerations.

**Comment:**

*The condition requires the proponent to consult with Council's City Services Section to resolve the "responsibility for damage issue". This is a reasonable way of addressing the terms of this condition. The consultation should occur prior to issue of the first Construction Certificate and the condition has been amended accordingly.*

**Recommendation:**

That Condition 59 be substituted as per Appendix (ii) of this report.

**Condition 72, Safer by Design:**

This condition requires the loading dock and deck carpark to be secured when the Shopping Centre is closed when Condition 68 permits 24/7 deliveries.

**Comment:**

*The conditions conflict and condition 72 requires rewording to ensure the safe functioning of the centre.*

**Recommendation:**

That Condition 72 be substituted as per Appendix (ii) of this report.

**Condition 86, Sanitary Plumbing and Drainage:**

This condition allows for individual uses to be separately water metered. The proponent requests clarification of the term “individual uses”.

**Comment:**

*Metering of “individual uses” (or individual retail tenancies) may be desired by the proponent. This condition allows for this arrangement.*

**Recommendation:**

No Change.

**Condition 87, Car Parking Assessment:**

The proponent requests that the consent recognises parking provision in excess of 2,235 spaces be a parking credit.

**Comment:**

*This request that a parking credit be recognised is not a development consent consideration, it is a matter of fact. The final carparking credit number for this development will only be known when the development is completed and a works as executed plan is prepared, as per Condition 55, that details the number of car spaces provided on the site for the entire Shopping Centre.*

**Recommendation:**

No Change.

**AMENDMENT TO RECOMMENDATION**

2010NTH036 Coffs Harbour City Council 574/11 – Extensions to existing shopping centre, service vehicle access, infrastructure, signage and demolition works, No. 253 Pacific Highway North, Coffs Harbour.

Having regard to the terms of the Supplementary Report of 10 October 2011 on this matter the following amendment to the recommendation is made:

**RECOMMENDATION:**

1. That Development Application No. 574/11 for “Alterations and additions to Shopping Centre – Park Beach Plaza – comprising shops (additional 14,447 m<sup>2</sup> GLFA), carparking (additional 1050 approximate car spaces), advertising signage, demolition works, hours of operation (retail 7am – 10pm, deliveries 24 hours, 7 days per week)” at Lot 4, DP 883838 and Lot 1, DP 731016, No. 253 Pacific Highway North, Coffs Harbour be approved subject to conditions in Appendix B and where substituted by conditions 9, 11, 27, 28, 51, 52, 59, and 72 in Appendix (ii) of the Supplementary Report dated 10 October 2011.
2. That persons who have made submissions on the application be informed of the determination.

08001CHCC draft conditionsresponse.doc



Ref: 08001

29 September 2011

**de Groot &  
Benson Pty Ltd**

The General Manager  
Coffs Harbour City Council  
Locked Bag 155  
COFFS HARBOUR NSW 2450

Consulting  
Engineers &  
Planners

Att: Mr Mark Hannon

Dear Sir

**DEVELOPMENT APPLICATION: 574/11 PARK BEACH PLAZA RETAIL EXPANSION**  
**COMMENTS ON DEVELOPMENT CONSENT DRAFT CONDITIONS**

Thank you for the opportunity to comment on the draft conditions of consent for the above Development Application. We have downloaded the conditions from the JRPP website and offer the following comments:

**Deferred Matters:**

Deferred commencement has the impact of sterilizing development of the entire 14.25HA site as a consequence of contamination to a localised area around the petrol station. We seek "deferred commencement" be deleted. Development in the contaminated area can be sterilized until the contaminated area has been remediated, however development beyond 20 metres from the contaminated area should be permitted to proceed without restriction, as it is not impacted by contamination. Consequently this matter should be dealt with by conditions of consent rather than deferred commencement.

**Condition 9 Existing building services fire compliance**

Request change "Issue of first CC." to "Issue of first CC for retail areas" since fire services compliance for an isolated car parking structure has no impact or influence of performance of existing retail development. The car parking structure is a separate building until it is connected to the retail development by the new retail area.

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**Condition 11 Landscaping Plan**

We are concerned at the term "all un-built on areas of the site". This could be interpreted to mean unbuilt areas across the entire 14.25HA site rather than the development site. We submit that unbuilt areas on the 14.25 Ha site are landscaped and do not need to be re-landscaped. We ask that the condition be reflected to reflect un-built areas of the development site.

We seek clarification of the note regarding the concept plan being not approved. Is the concept acceptable with more detail required to be submitted, or is the concept not approved?

**Condition 13 Stormwater Management Plan**

The Stormwater Management Plan DA01-P1- is on the list of approved DA plans under condition 3, hence we enquire why it is required to be re submitted.

**Condition 14 Footpath works**

Extent of footpath works nominated by Council to be clarified.

**Condition 22 Boundary Fencing**

Given the size and density of the existing landscaping garden bed along the Pacific Highway, and proposed bed extension under Condition 14e, we understood from the on-site landscaping meeting (Council /Developer) that it was agreed that fencing was not warranted other than on the tops of retaining walls where there may be fall risk. We seek clarification of the intent and extent of boundary fencing imposed under this condition.

**Condition 27 Piling Noise and Vibration Management Plan**

We request the timing of the submission of this plan be amended to "commencement of piling works" rather than "issue of Construction certificate". This is to allow preparation of the plan by the selected piling contractor in conjunction with an acoustic consultant. The piling contractor will not be known until selected by the builder. Hence this condition wording imposes a difficulty on project delivery by delaying construction of elements other than piling unnecessarily.

**Condition 28 Safer by Design.**

This condition requires locking of the delivery dock when the centre is closed. However consent condition 68 permits for 24/7 deliveries hence the condition requiring locking is operationally impractical.

**Condition 49 Height Limits.**

The proponent strongly objects to imposition of height constraints on this site. At the time of lodging this DA there were no height constraints.

**Condition 51 Footpath Works**

Extent of Footpath works to be clarified. Which is the relevant OC?

**Condition 52 Landscaping works.**

We request that the condition be amended such that landscaping can be incrementally constructed commensurate with each construction stage. This is requested on the basis that construction of the development is staged and it is unreasonable to require all landscaping where some may be demolished by construction of subsequent stages. We understand that the site needs to be in a tidy and landscaped condition and are prepared to landscape each stage appropriately.

**Condition 59 Road Damage**

Given the nature of staged construction road damage due to construction and normal wear and tear will become blurred. It will be difficult to assign responsibility for cause



**Condition 72 Safer by design**

This condition requires locking of the delivery dock when the centre is closed. However consent condition 68 permits for 24/7 deliveries hence the condition requiring locking is operationally impractical.

**Condition 86 Water Reticulation Plan**

Request clarification of meaning of "individual uses"

**Condition 87 Car Parking Requirement**

The condition nominates a requirement for 2,333 car parking spaces in the development. The SEE clause 3.13 indicated 2,235 spaces were required for the site. We request that the consent recognises parking provision in excess of 2,235 spaces be a parking credit.

Yours faithfully,

G Benson



## AMENDED CONDITIONS

### Construction Certificate:

9. The following fire services serving the existing building and identified in Clarence Consultants Building Code of Australia Compliance Assessment dated 22 July 2011 as being "Not Fully Compliant" are to be upgraded to comply with the relevant provisions of the Building Code of Australia 2011:

- Fire hydrants;
- Fire hose reels;
- Sprinklers;
- Fire control centre.

A Certificate of Compliance prepared by a suitably qualified and experienced consultant to the effect that the design of the above fire services conform to the relevant provisions of the Building Code of Australia 2011 shall accompany the first Construction Certificate application comprising retail space, with a copy of this certificate of compliance being provided to Council **prior to the issue of this Construction Certificate**.

Details of proposed fire safety upgrading works of the building's smoke hazard management system, prepared by a suitably qualified and experienced consultant, being submitted with the first Construction Certificate application comprising retail space, with a copy of this report being submitted to Council for approval **prior to issue of this Construction Certificate**.

### Landscape Plan:

11. A detailed landscaping plan for that part of the site shown on plans 1256/001 and 002A prepared by Geolink Environmental Management and Design being submitted to and approved by Council **prior to issue of the first Construction Certificate**.

The Plan must be prepared and certified by a qualified architect, landscape architect or professional landscape consultant. The Plan is to comply with Council's Landscaping Guidelines, and is to incorporate measures to ensure the maintenance and survival of the landscaping.

### Note:

- The submitted concept landscape plan has not been approved for the purposes of this condition.
- The detailed landscaping plan is to reflect landscaping arrangements according to the staging of the development.

## **AMENDED CONDITIONS**

### **Construction – Engineering:**

27. Where driven piles are adopted in the engineering design for the development the proponent is to prepare a Noise and Vibration Management Plan, to be submitted and approved by Council **prior to commencement of piling works**.

The Plan shall address, but not be limited to:

- 1) Identification of the specific activities that will be carried out and associated noise sources.
2. Identification of all potentially affected sensitive receivers.
- 3) The construction noise objectives.
- 4) The construction vibration criteria.
- 5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver.
- 6) Noise and vibration monitoring, reporting and response procedures.
- 7) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.
- 8) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency.
- 9) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration; and
- 10) Contingency plans to be implemented in the event of non-compliance and/or noise complaints.

### **Safer by Design:**

28. The development incorporating the following safer by design provisions:

- The deck carpark and the loading dock are to be designed so as to be secured by lockable gates or other measures when these parts of the development are not in use. A suitable management plan shall be prepared for this arrangement.
- Lighting in and around the development being designed to Australian Standard – Lighting AS 1158. Particular attention is to address remote areas, eg plant and loading docks.
- Mechanical surveillance via a CCTV coverage of the carpark, lifts, plant, travelators, Centre entries, toilet entries, loading dock, bus stop, taxi rank and other risk areas.
- Extension of the security system.
- Warning signs.

Details of the above provisions are to accompany the relevant application for Construction Certificate.

## AMENDED CONDITIONS

### Road Design and Services:

51. The following works:

- a) Private Sewer Pump Station;
- b) Line marking in Arthur Street;
- c) Indented bus bay in Arthur Street east of the Wongala entrance (this work is to include relocation of the bus shelter to the new bus bay and making the shelter accessibility compliant);
- d) 1.2m wide footpaths in the following locations:
  - From San Francisco Avenue to the internal pedestrian network of the Shopping Centre.
  - Continuation of the existing footpath in Arthur Street west then southward on the northern and western frontages respectively to No. 14 Arthur Street and connecting with the proposed internal pathway system.
  - From the north side of Arthur Street, opposite the opening in the concrete median (approximately 34m west of the Wongala access intersection) through to the shareway within the Wongala Village.
- e) Closure of the gap in the landscaped garden bed adjacent to the highway approximately 170m north of the Highway / Park Beach Road intersection with compatible landscaping.
- f) Bicycle racks at all entries to the Shopping Centre.
- g) Loading dock drainage.
- h) Trade waste works.
- i) Taxi rank (7 taxi capacity) and storage lanes for vehicles using the Service Station.

being provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications, relevant policies and conditions of this consent.

These works are to be completed **prior to the issue of the Final Occupation Certificate**.

All work is to be at the developer's cost.

### Landscaping Works:

52. **Prior to the issue of each Occupation Certificate** a works as executed plan is to be submitted to the Principal Certifying Authority certifying that all landscape works for that relevant stage of the development have been carried out in accordance with the approved plan. This plan shall also cover the fencing / balustrade works adjacent to the Pacific Highway, where applicable to that particular stage of the project.

## AMENDED CONDITIONS

### Road Damage:

59. The cost of repairing any damage caused to Council assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be met in full by the proponent **prior to the issue of the Final Occupation Certificate**. The proponent is to consult with Council's City Services Section concerning the requirements of this condition and to agree to a cost recovery arrangement **prior to issue of the first Construction Certificate**.

### Safer by Design:

72. The loading dock and deck carpark being secured when these parts of the development are not in use, in accordance with the Management Plan for security of these areas.

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