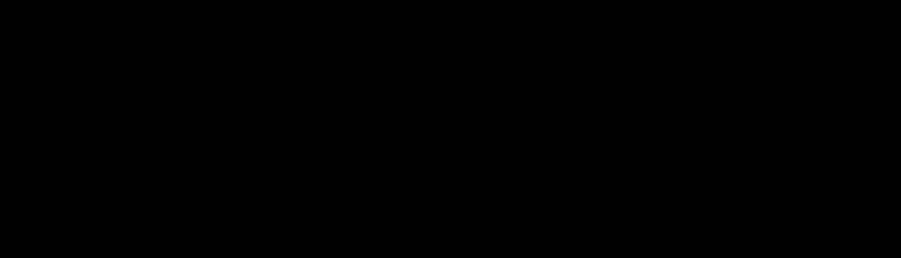


Sent: Friday, 18 September 2020 3:29 PM
To: Central Coast Council
Subject: CM: Planning panel submission regarding the proposal for shop top housing in North Gosford (Ref: DA49565/2016 - PPS-2016HCC020)
Attachments: PlanningPanelSubmission_PPS-2016HCC020_18092020.pdf



Dear madam chair and panel members,


Further to the planning panel hearing on Wednesday 16/09/2020, please find attached submission regarding the proposal for shop top housing in North Gosford for your attention (Ref: DA49565/2016 - PPS-2016HCC020).

See attached: PlanningPanelSubmission_PPS-2016HCC020_18092020.pdf.

I note that the planning panel secretariat Lisa Foley has confirmed the attached submission should be directed to this email (ask@centralcoast.nsw.gov.au), and that the planning panel is accepting supporting submissions following the hearing until the close of business Monday 21/09/2020.

Please kindly confirm receipt of the attached submission.

Thank you for your consideration of the points I have highlighted in this letter, and your ongoing service to the community regarding this matter.



18th September 2020

For the consideration of the Joint Regional Planning Panel (Hunter & Central Coast);

Dear Madam Chair and Panel Members,

Further to my recent verbal submission 16th September 2020, I note the applicant has requested a review pursuant to Section 8.2 of the *Environmental Planning and Assessment Act 1979* (the Act).

As the panel would be aware, Section 8.2 of the Act states the following (**emphasis added**):

- (1) The following determinations or decisions of a consent authority under Part 4 are subject to review under this Division—
 - (a) the **determination** of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
 - (b) the **determination** of an application for the modification of a development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary),
 - (c) the decision of a council to reject and not determine an application for development consent.

As there has been no relevant 'determination', it is not open to the applicant to request any review, or for the Panel to grant such a request. Any action to the contrary would be an administrative error.

Notwithstanding the above, the applicant arguing its appropriateness given the protracted assessment process and citing causes including council staff turnover and the amalgamation of Gosford and Wyong Councils into Central Coast Council is a deflection. Whilst these factors may have had an impact to some degree, the proposed gateway development has been wildly non-compliant from the outset (in contravention of, and despite, the generous bonus provisions that have since been repealed) and each subsequent proposal has shown persistent blatant disregard for the planning controls – which is realistically the primary reason why the proposal has become so protracted. Had the applicant proposed a development that was compliant (or reasonably exceeded) the relevant planning controls and met the SEPP 65 design principles demonstrating sustainable outcomes and design excellence (among other considerations) there wouldn't have been a requirement for so many amendments.

To date, Council have extended to the applicant the opportunity of amending their original proposal a further three times, equating to approximately one year for each submission, which is hardly a protracted period of time for a development proposal of this scale. Now being faced with a recommendation by Council for refusal, given the proposal is not in the public interest, and is not supported by the community (a sentiment that has not changed since the proposal was first lodged in 2016), the applicant seeks a Section 8.2, which is effectively providing them with a fourth review totalling five separate submissions to date. The applicant cannot genuinely claim they had a lack of opportunity to design the proposed in a manner that would be acceptable.

Clause 55 of the Environmental Planning and Assessment Regulation (2000) enables council to refuse the application on the grounds that it is no longer the same development, and should be deemed to be a new application similar to the finding of Commissioner Dixon in *RAMM Investments Pty Limited v Campbelltown City Council* [2015] NSW LEC 1305. However, despite the enormity of the variations following each amendment, Council has continually extended to the applicant the opportunity to submit a variation, whereas should have enforced that they lodge a new application given the development is substantially different.

However, despite being extended the opportunity to amend their proposal numerous times already, the applicant has continuously failed to address neither Council's feedback nor community's. Given the applicants demonstrated track record, why would the outcome of a Section 8.2 be any different? For the applicant to now point the finger at a process which has ultimately favoured them whilst claiming they have been "sitting ducks" is a stretch of the imagination. I find it impossible to believe that Council has ever advised or promoted the remote possibility of such non-compliances that (citing NSW Town Planning Submission 6th May 2016):

- *Exceeds the maximum height limit by (128% over and above 30% bonus provisions),*
- *Exceeds the incentive floor space ratio (over and above 30% bonus provisions),*
- *Ignores setback requirements,*
- *Results in significant overshadowing,*
- *Does not adequately address privacy and acoustic impacts,*
- *Lacks required deep soil zone,*
- *Is not compatible with the draft heritage item,*
- *Provides poor internal amenity to the new occupants,*
- *Inadequately takes into account the flood planning requirements,*
- *Fails to provide suitable on-side parking,*
- *Is not compatible to other sites in the City Centre,*
- *Is a direct result of poor design rather responding to any site constraint,*
- *Fails to satisfy the objective of the Environmental Planning and Assessment Act 1979 as well as the Gosford Local Environmental Plan 2014 and Gosford Development Control Plan,*
- *Fails all relevant planning principles established by the NSW Land and Environment Court, and*
- *Is not in the public interest.*

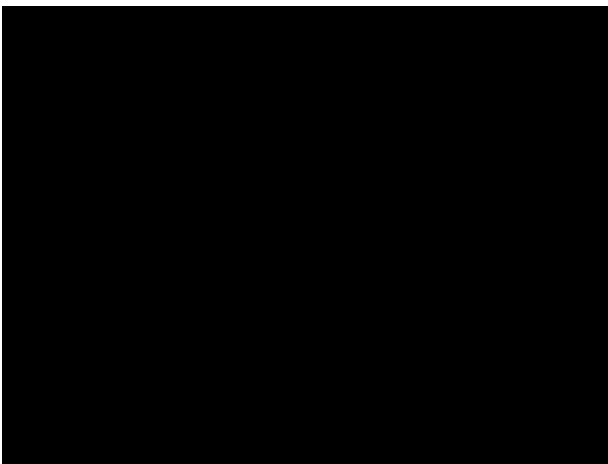
In taking this approach, the applicant set-up this process to be long-winded and unsuccessful from the outset. This has evolved into a continued strategy on the part of the applicant that should render their recent request for a Section 8.2 be denied.


The consultants addressing the panel claimed that the owner is not greedy, and while this may be the case, it is obvious that every iteration of the proposal (including original submission and those thereafter) has been designed solely for the maximum financial return to the various stakeholders involved in the project at the expense of the community and future development prospects of Gosford City Centre and North Gosford (especially those surrounding the subject site).

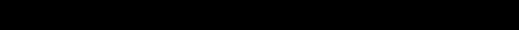
Upon reviewing each iteration of the proposal, I trust it will become clear to the planning panel that the applicant has already been afforded every opportunity to put forward a well-designed development that addresses the policy requirements. Not once (April 2016). Not twice (March 2018). Not three times (January 2019). But four times (February 2020). It is therefore completely unreasonable to grant their request for a Section 8.2, which has not been raised at any stage throughout the assessment process to date.

Whilst I am supportive of development in principle, failure to refuse this application after each iteration has enabled the applicant to continue leveraging a strategy of community fatigue (favouring the applicant), while placing undue strain on the community, and wasting public resources. This is precisely the reason the proposal has been as drawn out as it has, and I would argue if anyone has been disadvantaged it is the surrounding properties and the wider community. The applicant is invited to lodge a new compliant application that aligns with today's planning controls, which best reflect the desired current and future planning outcomes of Gosford's city centre, the adjoining properties and suburbs surrounding the site, and the wider community.

Thank you for your consideration of the points I have highlighted in this letter, and your ongoing service to the community regarding this matter.





Sent: Monday, 21 September 2020 10:38 AM
To: Central Coast Council
Subject: CM: Further Submission RE: DA 49565/2016 and PPS-2016HCC020
 Further Submission to Council RE_ DA 49565.2016 and PPS.2016HCC020.pdf



Dear Council

Please find attached my further submission for consideration in relation to the Joint Regional Planning Panel meeting held Wednesday 16 September (PPS-2016HCC020 and DA 49565/2016)

It was noted in the meeting that speakers were able to provide Council with a further submission if they felt prejudice in their comments to the panel by not receiving the Council report in a timely manner.

Kind regards



To whom it may concern

Reference: DA 49565/2016 and PPS-2016HCC020

I felt that not having access to the report created was prejudicial to my presentation to the panel.

If I were aware of the Council that were recommending to refuse this proposal I would have paid further attention to the unspoken negative impacts that this development would have on the adjacent Campbell Street.

I understand that my comments below may not be considered further by the panel or Council, however being that I have been given the opportunity for comment on the fact that I did not receive the Council report within the designated time frame

As a resident of Campbell Street I was very much concerned with the Council approving the building itself. However once I realized that the report was available I felt prejudicial in my prepared comment to the JRPP and regret not focusing my public comment on the impacts of Campbell Street itself in relation to any development on this site, which has not been adequately addressed by the applicant or highlighted within the later received Council report.

The impact on any developments in this area is very difficult to understand the degree of variation in relation to development. There is a clear evolving planning situation within the area of the proposed development and Campbell Street will be impacted adversely, regardless of the outcome.

Irrespective of any developments within the area, the impacts of Campbell St need to be considered and have been underrepresented within the current application. Campbell Street carriageway is 4.4m wide, this is not enough for 2 vehicles to travel safely in opposite directions. Once factored in that there is no footpath or curb and guttering, as a resident of the street any increased to pedestrian or vehicle movement is a daunting thought.

The water table on the Campbell Street Side is high and flooding already occurs when it rains on the corner of Campbell and Dwyer Street. The railway is accessed at either the Western end of Dwyer Street or the Northern end of Campbell Street. During times of rail work, there are heavy vehicles that travel along Campbell Street.

The development application in it's first consideration of a traffic assessment highlighted Campbell Street as an alternate traffic movement to exit Dwyer Street, this was later reassessed and not considered in the most recent traffic assessment for the development. I feel that Campbell Street needs to be addressed as any development approvals will impact residents exiting this street. The Northern end of Campbell Street has access to Mann St opposite Glennie Street, however the quality of the road surface does not lend itself to being an official road exit.

Again, I would like to state that not having access to the Council report created a prejudicial to my presentation to the JRPP panel.

