

SUBMISSION TO THE **SUNSHINE COAST COUNCIL**

MCU10/2001

REDEVELOPMENT OF COOLUM HOTEL SITE

A SUBMISSION BY



DEVELOPMENT WATCH INC

PO BOX 1076

COOLUM BEACH QLD 4573

16 October 2012

www.developmentwatch.org.au

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The Chief Executive Officer
Sunshine Coast Council
PO Box 76
NAMBOUR QLD 4560

Dear Sir,

Notice of Submission
MCU10/2001 - Development Permit for Material Change of Use
(Hotel and Shopping Complex)
1 & 3 Margaret St and 2 Birtwill St, Coolum Beach

Development Watch supports redevelopment of the Coolum Hotel site and applauds the Applicant for responding positively to community concerns about its original proposal. However, we have significant objections to aspects of the Development Application that do not comply with Maroochy Plan 2000.

CONFLICT WITH THE PLANNING SCHEME

Development Watch accepts that, under certain circumstances, Council may approve an application that conflicts with MP2000. Any departure from the planning scheme must of course be justified by the applicant demonstrating to Council that there are sufficient grounds for that departure. The Sustainable Planning Act (SPA) requires that Council's decision on an impact assessable application must not "*conflict with [the planning scheme], unless ... there are sufficient grounds to justify the decision, despite the conflict.*"¹ "Grounds" are defined as "*matters of public interest*" but do not include "*the personal circumstances of an applicant, owner or interested party.*"² If Council does resolve to approve the application despite the conflict with MP2000, then it must publish in its Decision Notice "*the reasons for the decision, including a statement of the sufficient grounds ...*"³

¹ Sustainable Planning Act 2009 (SPA), s326 (1) (b).

² SPA Schedule 3, Dictionary.

³ See SPA s335 (1) (n).

COOLUM'S PERMITTED LAND USE

A comprehensive understanding of the permitted land use at the subject site is necessary if the Application is to be properly assessed. Council's Corporate Plan defines as a priority:

*"Develop and implement strategies to retain the unique character of our centres, villages and towns"*⁴

It is to this end that MP2000 defines a Retail and Commercial Centres Hierarchy for the region. In this hierarchy, the subject site is in an area designated a 'Village Centre'⁵. In addition, the subject site is in the 'Coolum Village Centre' precinct of Planning Area 11.⁶ However, because Coolum Beach is also a 'Major Tourist Node'⁷, it is required to *"... provide the level of service or perform the role of a Local centre."*⁸

These lower-order centres (Village and Local) in the Centres Hierarchy have defined limits on the permitted size of commercial premises. In Local Centres, these premises are limited to a gross floor area (GFA) of 1,000 square metres⁹. This limit ensures that the role of higher-order centres is not compromised and that the scale of the lower-order centres is preserved.

A permitted use must also advance the community's vision for Coolum. MP2000 contains the following vision statements that were endorsed by the Coolum community:

⁴ *Corporate Plan 2009-2014*, Sunshine Coast Regional Council, adopted 14 May 2009, Item 7.1.2, page 13

⁵ MP2000, Vol 2, Section 4.4.1 (23), page 21, states "The existing David Low Way based facilities at Coolum are the Village centre."

⁶ MP2000, Vol 3, Map, Planning Area No.11, Coolum Beach

⁷ MP2000, Vol 2, Strategic Plan Map 2.1

⁸ MP2000, Vol 2, Section 4.3.5, page 20

⁹ MP2000, Vol 2, Section 4.3.4, page 19. See also MP2000, Vol 4, Section 5, page 269, which states at Acceptable Measure A1.1, *"Any premises used for commercial purposes and having a gross floor area of over 1000m2 are located only in a Town Centre Core or Town Centre Frame precinct."*

"The township will have a compact village centre and will provide only a limited range of goods and services to meet the immediate needs of residents and visitors to the locality."¹⁰

and

*"Within this Planning Area, the scale of retail and commercial activities will be limited to serving the **immediate** catchment area of Coolum and will not serve a district or higher order function."¹¹*

and

"The residents of Coolum have indicated they are prepared to forgo the provision of higher order and larger scale retail and commercial services in order to maintain local character and identity. Infill development within the Village Centre is to be compatible with the small scale function of the centre and contributes to the casual beachside atmosphere of the locality."¹²

The Application, as it stands, conflicts with these requirements.

SPECIFIC COMMENTS

BULK LIQUOR WAREHOUSE

The Applicant proposes a "Dan Murphy's" bulk liquor warehouse on the site. As the application currently stands, it does not comply with MP2000.

FUNCTION

MP2000 states:

"Approval is only likely to be granted to development of retail, commercial and service uses which are to be located on a specific site

¹⁰ MP2000, vol 3, Section 3.11.2 (1), page 199

¹¹ MP2000, vol 3, Section 3.11.3 (1) (a), page 200

¹² MP2000, vol 3, Section 3.11.2 (2) (a), page 199

*(in a Centre Precinct or site specifically identified) and **which offer a service only to local communities** (other than in the Key Regional Centre of Maroochydore) **and are consistent with the intent for, and desired character of the Planning Area and Precinct in which it is to be situated.**"¹³ (emphasis added);*

and also identifies as a concern:

"excessive development of Local centres that provide services beyond convenience shopping levels and compete with higher order centres,"¹⁴

A bulk liquor warehouse of the size proposed (1,450m² GFA) will obviously have a catchment area well beyond Coolum. We believe it would draw customers from as far afield as Pacific Paradise, Yandina and Marcus Beach. The amended application itself acknowledges that there will be substantial usage by people from outside the township.

Despite proposing a retail outlet that is in obvious conflict with MP2000, the Applicant has not provided any argument that there are sufficient grounds to justify the siting of this higher-order facility in Coolum Beach. Such justification is particularly relevant given there are already five existing liquor outlets in Coolum. Additionally, there are two similar bulk liquor outlets owned by the Applicant within a 15-20 minute drive from Coolum. Need for the development of this bulk warehouse cannot be established.

Council should refuse the Application as no grounds have been demonstrated to justify a departure from these MP2000 requirements. Further MP2000 states, in relation to Local Centres:

" (27) Even if genuine public demand for additional or higher order retail or commercial facilities is demonstrated, it is intended that the Council should consider that matter in terms of whether it justifies a review of the relevant Planning Area provisions to accommodate that demand,

¹³ MP2000, Vol 2, Section 3.5.6 para1, page 14.

¹⁴ MP2000, Vol 2, Section 4.2, page 18.

*and it is not intended that such demand should be met by the ad hoc approval of new or expanded facilities contrary to the structure of the Retail and Commercial Centres Hierarchy as set out in section 4.3 above, and as reflected in the Planning Area provisions.”*¹⁵

SIZE

As mentioned earlier, MP2000 requires that commercial uses do not exceed 1,000m² GFA for a 'Village' or 'Local' Centre. The amended application shows the size of the proposed bulk liquor warehouse exceeds that limit by 45%.

In its revised application, the Applicant has changed the designation of the proposed bulk liquor warehouse from 'bottle shop' to 'shopping centre complex' in what we believe is a mistaken attempt to circumvent the planning scheme constraints on the size of commercial premises in a Local Centre (as Coolum is). Although MP2000 defines *shopping complex* as “premises, comprising one or more buildings in the form of an integrated development having a gross floor area of more than 1,000m², established in a coordinated manner, and used for one or more shops.....”¹⁶ the size constraints that apply in a Local Centre means that the GFA for a commercial use must not exceed 1000m² and thus cannot be a shopping complex.

Further MP2000 makes it clear that shopping complexes are not intended for either Local or Village Centres. MP2000 states categorically that:

*“Local centres are not intended to be established as, or to expand into, higher order centres comprising or containing a standard size or larger supermarket. Any such facilities are defined (in Volume 1) to be a **shopping complex**, and it is intended that such facilities be located only within District centres or higher order centres within the*

¹⁵ MP 2000 Volume 2 Section 4.4.1 para 27, p22

¹⁶ MP2000 Vol 1, S3 Interpretation p25

*hierarchy..... **Such development is not intended to be approved**¹⁷ (Emphasis added).*

The application should be refused on the grounds that the proposed size conflicts with MP 2000 and there are no public interest grounds that justify approving the application despite the conflict.

BULK/MASS

The bulk liquor warehouse design makes no concessions to the beachside location of the site. MP2000 contains many guidelines that have been ignored in this Application. For example:

The visual character of the building is important if it is to be reflective of the Sunshine Coast and respect the immediate amenity in which it is to be located.¹⁸

and

Buildings are to respect the street level scale of adjoining premises.¹⁹

The proposed boxed-shape building dictated by the standard 'business model' for Dan Murphy's bulk liquor warehouse certainly does not "*respect the street level scale of adjoining premises*". Nor is it reflective of the Sunshine Coast. The site is a key site along the Coolum esplanade and the proposed building does nothing to enhance the desired character of Coolum.

MP2000 also cautions:

Council in assessing applications will have regard to the visual character of a development to ensure that the character of the particular Planning Area, the immediate amenity and the historical and

¹⁷ MP2000, Vol 2, Section 4.3.4 p20

¹⁸ MP2000, Vol 2, Section 4.4.6, page 25

¹⁹ MP2000, Vol 2, Section 4.4.5 (2), page 24

cultural character of the area in which it is located, has been considered.²⁰

Guidelines of more direct relevance to this proposal are contained in MP2000's design intent for Coolum Beach:

"New premises in the Village Centre will reflect the relaxed character and seaside location of the area. In particular, the following design elements will be incorporated:

- *active street frontages which create a comfortable, attractive and interesting pedestrian environment and include features such as landscaping, outdoor dining areas and awnings;*
- *a building form, scale and character which successfully integrates with surrounding premises and the informal, low-key seaside character of the area. Setbacks should be consistent with adjacent buildings and awnings, paving and landscape themes should be designed to integrate effectively with works already completed in accordance with the Coolum Master Plan;*
- *modern interpretations of traditional beach house design which provide high quality but informal and relaxed commercial environments.²¹*

The architectural style of the proposed bulk liquor warehouse does not take any cues from these guidelines. Its design certainly doesn't successfully integrate with *"the informal, low-key character of the area."*

The siting of such a facility at Coolum Beach is contrary to the vision for the town, as described above.

²⁰ MP2000, Vol 2, Section 12.5.4, page 60

²¹ MP2000, vol 3, Section 3.11.3 (2) (b), page 200

PREVIOUS JUDGEMENT

This vision of limiting the size of retail and commercial activities in Coolum has been tested in court. In dismissing an appeal against Council's refusal of an application for a Bunnings store in Coolum Beach, Judge Dodds DCJ stated:

*"It may be concluded from the evidence that what is proposed, together with that already approved, would be accessed by persons from across a wide area. Consumers' choice no doubt would be enlarged. That, however, is a long way from showing existing facilities of the type proposed are inadequately provided for."*²²

In this same case, the Judge referenced the visual amenity of the proposed development as a deciding factor.

*"Visual amenity is relevant to a decision about proposed development. Provisions about it are contained in Section 7 of the Strategic Plan. Key issues include that visual amenity issues are intrinsic to the planning assessment of all development proposals. The basis of the visual amenity strategy includes "the effect of the visual quality, scale and character of built environment elements relative to natural elements --- the compatibility of new development to the scale, character and visual quality of the existing urban fabric and landscape with the potential impact on local character and identity --- the importance of major roads, particularly the Sunshine Motorway --- which offer ever changing experiences of the diverse range of landscapes evident in the Shire, in conveying a Shire image to residents and tourists. Objectives and implementation measures include managing development along and visible from roads such as the Sunshine Motorway. Issues of visual amenity are a part of the overall consideration of any development proposal."*²³

²² *Coolum Properties Pty Ltd v Maroochy Shire Council and Ors* [2007] QPEC 013, paragraph 57

²³ *Coolum Properties Pty Ltd v Maroochy Shire Council and Ors* [2007] QPEC 013, paragraph 45.

Council should refuse the Application as no grounds have been demonstrated to justify a departure from these MP2000 requirements.

ECONOMIC IMPACT

The Applicant proposes a bulk liquor warehouse that is part of a national network. It will compete with the existing five locally owned and operated businesses. The aggressive marketing practices of Dan Murphy's are likely to result in the closure of all independent liquor outlets in Coolum. The consequence would be a net loss of employment for the local community. For these reasons, Council's decision on the Application should be informed by knowledge of its effect on both job and payroll numbers.

We believe the Application, if approved, will have an adverse effect on the Coolum economy and consequently on the Coolum community. This is because local businesses distribute a much larger share of their sales revenue back into the local economy, while nation-wide chains transfer most of their income out of the community and back to corporate headquarters or to distant suppliers.

The added economic benefit of local businesses to a community has been quantified in several studies²⁴. One study²⁵ found that spending \$100 at one of the neighbourhood's independent businesses created \$68 in additional local economic activity, while spending \$100 at a chain produced only \$43 worth of local impact. The difference was due to four factors:

- **Local Payroll** - The locally owned businesses spent a larger share of their revenue on local labour (29 vs. 23 percent), because they carried

²⁴ See, for example, *Does Local Firm Ownership Matter?* Economic Development Quarterly, August 2011, pp 277-281. See also *The Economic Impact of Locally Owned Businesses vs. Chains: A Case Study in Midcoast Maine*, Institute for Local Self-Reliance, September 2003, viewed at <http://www.newrules.org/retail/midcoaststudy.pdf> on 2 November 2011

²⁵ *The Andersonville Study of Retail Economics*, October 2004, viewed at <http://www.civiceconomics.com/Andersonville/AndersonvilleStudy.pdf> on 2 November 2011. The findings of this study are summarized in *Locally Owned vs. Chain: The Local Premium*, a fact sheet from <http://www.bigboxtoolkit.com/> that is the basis for much of this section.

out all management functions on-site, rather than at corporate headquarters.

- **Purchasing** - The local retailers spent more than twice as much buying goods and services from other local businesses. They banked locally; hired local accountants, lawyers and other professionals; advertised in local media; and sourced inventory from local firms.
- **Profits** - Because their owners live in the area, a larger portion of the local retailers' profits stayed within the local economy.
- **Charitable giving** - The local retailers donated more on average to local charities and community organizations than the chains did.

MP2000's Strategic Plan includes a requirement to *"support small business enterprises ..."*²⁶ It also flags as a key issue *"economic and community advantages in recognising and supporting the Retail and Commercial Centres Hierarchy, particularly with respect to ... local centres which do not compromise higher order centres"*²⁷. To comply with these provisions, we submit Council must refuse the Application.

AVAILABILITY OF ALCOHOL

If Council approves the proposed bulk liquor outlet, it would give implicit agreement to increasing the availability of discount-priced alcohol in Coolum. The Sustainable Planning Act (SPA) requires Council to advance the purpose of SPA; namely, to seek to achieve ecological sustainability. In doing so, Council must take in to account the *"... social wellbeing of people and communities."*²⁸ Therefore, before making its decision, Council must make an assessment of whether or not this would be detrimental to, or detract from, the amenity of the area. It must also ensure a decision to approve would not be conducive to, nor encourage, the misuse or abuse of alcohol. Council should consider the large body of research available that links access to

²⁶ MP2000, Vol 2, Section 2.4 (2)(g)

²⁷ MP2000. Vol 2, Section 4.2, page 18

²⁸ Sustainable Planning Act 2009, (SPA), s.8(c)

discount alcohol with increases in domestic violence and socially inappropriate behaviour.²⁹

We note that the Shoalhaven City Council, on 17 May 2011, refused a development application for a Dan Murphy's bulk liquor outlet in Nowra, NSW. The Notice of Determination (see Attachment A to this submission) gave the reasons for refusal as:

- The proposed development will have an unacceptable social impact.
- The proposed development is of a form and character that is contrary to the objectives of the Shoalhaven Local Environmental Plan 1985.
- The proposed development is not in the public interest.

Similarly, the New South Wales Government's Independent Liquor and Gaming Authority recently rejected an application for a Dan Murphy's Bulk Liquor Warehouse for Byron Bay on the basis that the overall social impact would be detrimental to the well-being of the local and broader communities, decision applauded by the Police and the Mayor.³⁰

TAVERN

The Applicant proposes to replace the existing hotel on the site with a new tavern. Development Watch applauds such a move and agrees that the associated entertainment and function rooms would provide needed facilities for Coolum.

²⁹ For example: "A longitudinal analysis of alcohol outlet density and domestic violence" in *Alcoholism: Clinical and Experimental Research*, Vol. 32, No.6, June 2008. and the body of research available from the Foundation for Alcohol Research and Education and from every State Health Department.

³⁰ See article in the Northern Star on 4 October 2012

<http://www.northernstar.com.au/news/dan-murphys-ruled-out-byron/1569689/>

LAYOUT

Development Watch concedes that poker machines are an integral part of ALH hotels and taverns. Nevertheless, we believe that steps should be taken to ensure that they do minimum harm to the community. A large portion of the proposed tavern floor area is set aside as a gaming room that is closely integrated with the bar and bistro. We suggest a more socially responsible approach would be to alter the layout to ensure the glitz of the gaming area was not visible from any other part of the tavern. The Gaming Room may be more appropriately positioned closer to the Sports Bar.

Coolum is a family oriented holiday and residential town. The proposed layout should therefore be family, rather than gambling, oriented.

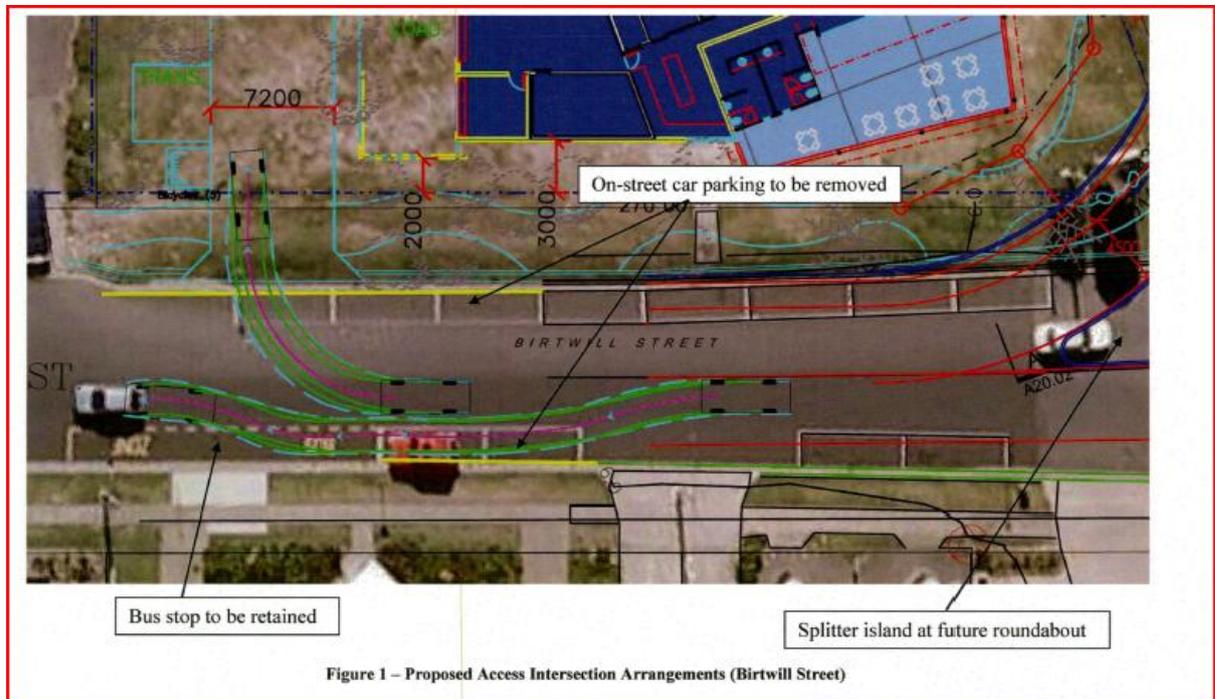
SETBACKS

The Applicant's town planning report states "*Hotel Ground Floor Setback to David Low Way 0 to 0.8 metres*". This hardly seems adequate to meet the desired outcomes for the village centre streetscape as outlined in the Coolum Village Centre Landscape Master Plan. That plan suggests a 4m wide "active Pedestrian zone" from the edge of the building and a further 2.5m "garden bed" to the road. The Applicant's proposal falls far short of that.

TRAFFIC

The application does not adequately deal with traffic safety issues. The 'Traffic Sketch Plans' supplied by CRG for the Applicant do not deal specifically with safety issues associated the proposed access point for the development in Birtwill Street being beside the exit from the existing shopping centre. The data used to justify the 'safety' of the access point is based on figures gathered in 2009, prior to the opening of the new shopping centre. No reference is made to the massive increase in traffic flows during public and school holidays and other peak tourist seasons, and the inherent increased safety risks.

The “Traffic Sketch Plans” supplied by CRG in Attachment A to its report propose the removal of Parking Bays on Birtwill Street as a means of solving the congestion issue. Figure 1 below is from their Attachment A.



One of the major issues on the Sunshine Coast is the lack of adequate parking, particularly at shopping facilities. It would therefore not seem prudent to remove parking bays, currently used by local shoppers to access the nearby shops, to satisfy the traffic management needs of the new development. It is suggested that alternatives be developed.

CAR PARKING SUPPLY

The applicant contends that 159 car parking spaces are sufficient, based on their analysis of their other sites. Those sites are not similar to the proposed development site in Coolum. The sites used are in highly urbanised areas or near industrial sites and do not provide appropriate comparisons. The Council policy direction is that “ *Parking requirements for new development progressively shift from minimum requirements to performance based*

*requirements, starting with reducing minimum requirements”*³¹ However, Coolum is a major tourist node. Ensuring that adequate parking is available is critical if Coolum is to remain an attractive tourist destination. While 159 spaces may be adequate for the sites used by the Applicant to compare requirements it will not be sufficient for the Coolum site during peak tourist season. It is at this time that local residents bear the brunt of increased traffic noise and inconvenience, as visitors trawl local streets searching for parking. This is contrary to the objective espoused in the Performance Criteria sited for development in Village Centres in that “*Development must enhance or not unacceptably reduce the amenity or environmental quality of its environs and especially any nearby residential accommodation.*”³²

Council should require the applicant to provide significantly more car parking spaces, more in line with the minimum 344 parking spaces outlined in the appropriate codes.³³

NO GROUNDS TO JUSTIFY APPROVAL

The Applicant has not provided any justification for the need for a bulk liquor warehouse in Coolum Beach. Nor has it provided any other valid argument that would give Council sufficient grounds for deciding in favour of this outlet despite the many conflicts with MP2000 and the Sustainable Planning Act.

There are no matters of public interest involved in the application for a bulk liquor warehouse outlet of the size and function proposed, merely the commercial interests of the Applicant.

³¹ Sunshine Coast Sustainable Transport Strategy 2011-2031, p34

³² MP2000 Vol4 S5.1 p278

³³ MP2000 Vol 4; Schedule 2 of Code 2.4 – Code for Traffic, Transport and Parking, p121 for Hotel Requirements and p122 for Shopping Complex Requirements.

CONCLUSION

In brief, Development Watch submits that Council must refuse the Application because it conflicts with many aspects of MP2000. In particular:

- The bulk liquor warehouse function is not compatible with MP2000's vision for Coolum Beach;
- the gross floor area of the bulk liquor warehouse is far in excess of that permitted;
- the monolithic design of the bulk liquor warehouse is contrary to the design appropriate for a key site in a beachside village;
- the bulk liquor warehouse would, if approved, adversely affect the economic viability of established small businesses in Coolum, with a consequent reduction in economic benefit to the community;
- the bulk liquor warehouse would increase the social problems associated with the availability of bulk discount liquor and is not consistent with the objectives of the SPA;
- the hotel redevelopment does not comply with the setback requirements and the layout is not appropriate for a family oriented village;
- the vehicle entry to the site from Birtwill Street is unsafe;
- it does not provide an adequate number of car parking spaces; and
- there are no sufficient grounds to enable the approval of the Application as there is no matter of public interest that would justify relaxation of the planning requirements of Maroochy Plan 2000.

Yours faithfully,

signed

Marian Kroon
President
Development Watch Inc

ATTACHMENT A – Shoalhaven Council - Notice of Determination

Ordinary Meeting 17 May 2011 - Item 6

Attachment A

NOTICE TO APPLICANT OF DETERMINATION OF DEVELOPMENT APPLICATION

BY REFUSAL

**Environmental Planning and Assessment Act, 1979
DA09/2325**

TO:

Martin Morris & Jones Pty Ltd
PO Box 1167
WOLLONGONG NSW 2500

being the applicant(s) for **DA09/2325** relating to:

Lot 1 DP 657491 (Kalandar Street), Lot 2 DP 212440 (Kalandar Street) and Lot 1 DP 32473,
(Hollands Road), Nowra

REFUSED USE AND/OR DEVELOPMENT:

Demolition of an existing motel building, construction of a new building (to contain a Dan Murphy's Retail Outlet), erection of associated signage and consolidation of existing lots.

DETERMINATION DATE:

REFUSAL DATE:

Pursuant to the Section 81 of the Act, notice is hereby given that the above application has been determined by **REFUSAL** for the following reasons:

1. Pursuant to Section 79C(1)(b) Environmental Planning and Assessment Act, 1979 the proposed development will have an unacceptable social impact; and
2. Pursuant to Section 79C(1)(a)(i) Environmental Planning and Assessment Act, 1979 the proposed development is of a form and character that is contrary to the objectives of the Shoalhaven Local Environmental Plan 1985.
3. Pursuant to Section 79C(1)(e) Environmental Planning and Assessment Act, 1979 the proposed development is not in the public interest .

RIGHTS OF REVIEW AND APPEAL

Development Determination under Environmental Planning and Assessment Act, 1979

*Under section 96AB of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a Complying Development Certificate, Designated Development, Integrated Development or deemed refusal. The request was made **within six (6) months** of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.*

*Section 97AA of the Environmental Planning and Assessment Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority in relation to this modification a right of appeal to the Land and Environmental Court which must be exercised **within six (6) months** of the date of this notice.*

PRIVACY NOTIFICATION

Personal information contained on this Development Consent Modification and any associated documents will be published on Council's website as required by the Government Information (Public Access) (GIPA) Act 2009.

SIGNED on behalf of Shoalhaven City Council:

Signature

Name **Robert Russell**
 Development Manager
 Development & Environmental Services Group