

INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

URBAN ASSESSMENTS

Action required: for determination: Development Application

File No:	S04/00736/1
Application Number:	DA 71-03-2004
Date of lodgement:	25 March 2004
On land comprising:	59-61 Shoal Bay Road, Shoal Bay
Application made by:	Harry Hamor (Gibbon Hamor & Associates) 233 Johnston Street, Annandale, 2038
Application made to:	Minister for Infrastructure and Planning
Local government area:	Port Stephens Shire Council
State electorate:	Port Stephens The views of the Member are not known.
Notification:	Advertised in Port Stephens Examiner on 13 May 2004
Public Exhibition	Start: 14/05/04. End: 11/06/04.
For the carrying out of:	Mixed retail, residential & tourist development
Estimated cost of works:	\$5.3 million
FTE Jobs created:	18 full time equivalent jobs
Type of development:	State Significant Development
Was a public inquiry held?	An inquiry under s.119 of the Act was not held.
Main Issues:	Refer to attached page.
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. The application was notified in accordance with the Regulations and all submissions received in the period have been considered. On balance, it is considered that the proposed development is acceptable and that development consent be granted.
Applicant views on draft conditions:	Applicant expressed general support for proposed draft conditions.

Recommendation

It is recommended that the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of State Environmental Planning Policy No. 71:

- (A) grant **consent** to the application subject to conditions (Tagged "A"), and
- (B) authorise the Department to carry out post-determination notification.

Approved:

Robert Black
Director, Urban Assessments

Craig Knowles
Minister for Infrastructure and Planning
Minister for Natural Resources

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Approved:

Robert Black
Director, Urban Assessments

Diane Beamer
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

Development Application: Supplementary Information

Proposed Development in detail

The proposed development seeks consent for:

- Demolition of an existing motel and construction of a mixed retail, residential and tourist development with basement car parking.

Summary of Significant Issues

Amenity Impacts on locality

The proposed development is of a height and design so as to be compatible with the existing Shoal Bay Road streetscape and multi-storey mixed-use development currently under construction nearby in Shoal Bay Road and Bullecourt Street. In this regard, the proposed height, boundary setbacks, site coverage, floor space ratio, landscaping and on-site car parking for the development will generally comply with the relevant Port Stephens Council planning controls and Hunter REP 1989. The proposed development will also cause minimal overshadowing of adjoining residential properties throughout the day, at all times of the year.

There will be minimal overlooking of adjoining properties due to the extensive use of planter boxes and privacy screens on balconies above ground level and proposed landscaping. This particularly applies to the existing units located to the west of the subject site.

From an inspection carried out of the locality it was concluded that the potential view loss to surrounding residential properties would be minimal, particularly considering that DCP PS4 permits development directly to the rear of the subject site, on the southern side of Bullecourt Street, to be constructed to a maximum height of 15m.



Planning Assessment Report Development Application

DA 71-03-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 71-03-2004.

The application seeks consent for demolition of an existing circa 1960s motel and construction of a 3 storey mixed commercial, residential and tourist accommodation development comprising four shops, 9 residential apartments, 4 tourist units and basement car parking.

The Minister for Infrastructure and Planning is consent authority under clause 10 of State Environmental Planning Policy No. 71 (SEPP 71).

It is recommended that the development application be granted **consent**.

2 BACKGROUND

2.1 Site Context

The site comprises 2 lots located at 59-61 Shoal Bay Road, Shoal Bay in the Port Stephens Shire local Government area (refer **Tag "B"** for locality photos). The site is within the Shoal Bay commercial centre.

The development application was lodged with the Department on 25 March 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

When amalgamated the site will form an allotment with a total area of 1,470.8m², with a frontage of 30.48m and an average depth of approximately 48m. The site is situated on the southern side of Shoal Bay Road facing the public reserve and beach at Shoal Bay, and extends through to Bullecourt Street to the rear. Currently operating on the site is the "Shoal Bay Motel", a development built in the late 1950s to early 1960s which is of masonry construction with an iron roof.

Situated directly to the east of the subject site is the two storey "Gamefish Club" building, while to the "PRD Realty" building is located to the west, a 3 storey building containing ground floor commercial uses with residential above.

A site visit was conducted on 11 June 2004.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for demolition of the existing motel and construction of a 3 storey mixed commercial, residential and tourist development comprising:

- Four (4) ground floor shops fronting Shoal Bay Road;
- 4 x 3 bedroom units;
- 5 x 2 bedroom units;
- 4 x 2 bedroom tourist accommodation units; and
- 54 basement car parking spaces accessed off Bullecourt Street.

Refer Tag “C” for development plans.

3.1 Amended Plans

On 30 November 2004 the applicant submitted amended plans, at the request of the Department, for the subject application incorporating the following changes: -

- The overall building height was dropped by 1 storey in order to comply with the 14m building height plane contained in clause 58 of Hunter REP 1989 and the objectives of Port Stephens DCP PS4 – Commercial and Industrial Development Guidelines, as it applies to the Shoal Bay commercial centre.
- Front, rear and side boundary setbacks have been increased for the upper two levels in an attempt to reduce amenity impacts on adjoining and surrounding properties.
- The design of the building as it presents to Shoal Bay Road has been amended to better suit the identified character of the Shoal Bay centre.

These amendments differ only in minor respects from the development application submitted and do not give rise to any additional impacts. Accordingly, these amendments were accepted as a replacement application in accordance with clauses 55 and 90 of the *Environmental Planning & Assessment Regulation 2000* (the Regulations). In accordance with clause 90 of the Regulations further notification of the application was not undertaken.

4 STATUTORY FRAMEWORK

State Environmental Planning Policy No 71 – Coastal Protection (SEPP71) applies to the site, and under clause 10 of this policy, the Minister is the consent authority. The site is not within a sensitive coastal zone, and a Master Plan will not be required for the site.

The land is zoned 3(a) – Business General “A” Zone under Port Stephens Local Environmental Plan (PSLEP) 2000. The proposed uses are permissible within the 3(a) zone. Port Stephens Council Development Control Plan (DCP) – PS2 Car Parking Code and PS4 Commercial & Industrial Development Guidelines also apply to the site.

Hunter Regional Environmental Plan (REP) 1989, The Coastal Protection Act 1979, and the Coastal Policy 1997 are also relevant to the subject site.

5 CONSULTATION

5.1 Public consultation

The development application was advertised in the Port Stephens Examiner on 13 May 2004, a site notice erected and adjoining owners/occupiers notified by mail and invited to comment from 14 May 2004 to 11 June 2004. A summary of submissions is at **Tag "D"**.

Issues raised in the submissions are considered in Section 6 of this report, however it should be noted that the objection related to the original plans, which proposed a 4 storey building. The amended plans reflect a 3 storey building, which addresses the majority of concerns raised in public submissions.

5.2 Referrals

5.2.1 Council

The application was referred to the Port Stephens Council for comment on 11 May 2004. Council responded on 9 June 2004, outlining that *"no detailed assessment has been undertaken by Port Stephens Council"*. Council outlined a number of policy documents under which the application should be assessed. Council also provided general terms of approval for the proposed driveway crossing into Bullecourt Street.

5.3 Internal consultations

The Hunter Region planning team has been consulted regarding the application and has raised no objections.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act, 1979

6.1.1 Section 79C

The application and the likely impacts of the proposed development, as amended, have been considered in accordance with s.79C of the Act. Significant issues are discussed below in Section 6.2, and, where relevant, a detailed assessment is provided as noted in the table below.

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance the proposed development, as amended, is considered to be in the public interest.

Instrument / Policy	
EP & A Act 1979 - S79C	TAG "E"
State Environmental Planning Policy No 71 - Coastal Protection	TAG "F"

Port Stephens Council LEP 2000	TAG "G"
Hunter REP 1989	TAG "G"
NSW Coastal Policy 1997	TAG "H"
Port Stephens Council DCP – PS2 Car parking Code & PS4 Commercial & Industrial Development Guidelines	TAG "G"

6.2 Issues

Amenity Impacts on locality

The proposed development, as amended, is of a height, scale and design so as to be compatible with the Shoal Bay commercial centre. In this regard the proposed floor space ratio, site occupation, setbacks and on-site car parking for the development will fully comply with the relevant Port Stephens Council planning controls and Hunter REP 1989 (refer **Tag "G"**).

While the overall height (**10.6m** to the roof pool deck/ 12m to the top of the fire stairs) of the building fails to comply with the numerical controls contained in DCP PS4 (**8m**), the proposed development will comply with the objectives of the DCP in that the integrity of the existing Shoal Bay Road streetscape will be maintained in terms of both height and design. In this regard, the average overall building height for buildings along Shoal Bay Road in the Shoal Bay commercial centre is approximately 9.5-10m, with the adjoining "*Gamefishing Club*" reaching a maximum height of 10m and the "*Shoal Bay Resort & Spa*" resort building further to the east extending to a height of 12.5m.

The proposed development will cause minimal overshadowing of adjoining residential properties throughout the day, at all times of the year. Due to the north-south orientation of the subject site, the residential units located in the building to the west will only be shadowed in the morning. By midday and for the rest of the afternoon the shadow cast by the proposed building will not affect these adjoining units.

There will be minimal overlooking of adjoining properties due to the existence of planter boxes around the perimeter of the proposed balconies and terraces, which serve as private open space for the first and second floor units.

By reducing the proposed building to 3 storeys potential water views to properties located on the southern side of Bullecourt Street will also be preserved, where DCP PS4 allows construction up to 15m high (refer **Tag "I"**).

Traffic & Infrastructure

The site has frontages to both Shoal Bay Road and Bullecourt Street. Shoal Bay Road is a major link road from the Shoal Bay commercial centre to the Nelson Bay commercial centre and the public foreshore/marina. Accordingly, vehicular access to the site is proposed to be solely off Bullecourt Street so as to reduce any likely traffic conflict on the more heavily trafficked Shoal Bay Road.

It is envisaged that the increase in traffic generated by the proposed development, in addition to that already occurring on the local road network, will have no significant adverse effect on the efficiency and safety of the local road network. This position is supported by a Traffic Impact Study, which has been submitted in support of the proposed development. The report also concludes that a sufficient number of on-site

basement car parking spaces have been provided for the proposed development (54 spaces, which equates to 4 spaces in excess of the requirements of Council's DCP) and that the driveway specifications comply with the relevant RTA and Council standards.

7 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in s79C of the Act and Port Stephens Council who were consulted and provided general terms of approval under the Integrated Development Provisions within the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be approved.

8 RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of State Environmental Planning Policy No. 71:

- (A) grant **consent** to the application subject to conditions (Tagged "**A**"), and
- (B) authorise the Department to carry out post-determination notification.

Prepared by

Endorsed:

David Gibson
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