



5 May 2015

Department of Planning and Environment
Major Project Assessments
Attention – Natasha Harris

Dear Natasha,

Re: 330 Church St, Parramatta – MP10_0171 MOD 6

I write on behalf of Two-Dad Pty Limited who are the owners of No.328 Church St, Parramatta and Jag Points Group Pty Limited who are the owners of the El-Phoenician Restaurant operating on the same land.

It is noted that my clients property is immediately adjacent the southern boundary of 330 Church St, Parramatta. A successful and long established restaurant operates at No.328 Church St, which has a minimum of 500 people entering and exiting the premises from the rear per week. The site benefits from direct frontage to Church Street, however the rear of the restaurant is accessible to patrons from David Fraser Reserve, where there is existing public parking. A minimum of 25 staff per day access the restaurant from the rear. The rear access point, also provides an important point for delivery and services to the restaurant, comprising up to 10 deliveries per day. Accordingly, any short term disruption or long term impact on the workability and functionality of the rear access to the site is of significant commercial interest and concern to the owners of the site. Equally, the site is identified as a future pedestrian laneway by Parramatta City Council and therefore irrespective of whether the restaurant remains, an alternative development emerges or the area is acquired by Council for pedestrian purposes, the management of traffic and pedestrian movements in this area is critical.

We write to express our objection to the modification. The modification proposes a further amplification of the development proposal (additional 6 storeys and additional 4,453sq m of floor space) without any resulting public benefit or compelling reason, and has failed to address key safety issues identified by the Planning Assessment Commission. We consider the current modification to be contrary to the intentions of the previous determinations by the Planning Assessment Commission.

328 Church Street – Development Proposal and Pedestrian Connection

Operating on No.328 Church St is a successful fine dining family restaurant, that has enjoyed access and consistent use of the rear entrance to the restaurant for many years. The restaurant offers parking to its guests at the rear and is as important and busy an entry point as the Church St frontage.

In addition to the restaurant use, the owner of No.328 Church Street Parramatta have engaged architects to prepare a development proposal for a Boutique Hotel on the subject site. This was discussed with Senior Council officers over a number of meetings held in 2013 and 2014. The key aspects of the proposal comprise –

- provision of ground floor pedestrian connection through the site consistent with Council's laneways policy and intentions for improved pedestrian permeability on this site. The connection will provide an activated retail sleeve and through site link;
- provision of a 3-4 level building over the full site area providing street activation, retail and restaurant space; and
- the erection of a slender tower with a Boutique Hotel use.

It is noted that early support for further design development has been received.

It is clear that the pedestrian functionality at the rear of No.328 Church St is not only a key issue for the safety of patrons to the existing restaurant, but deserves careful resolution for the future through site link that is to be provided as part of the redevelopment of the site.

In addition Council has for many years identified the site as a desirable through site link that will provide a public benefit for pedestrian movements throughout this part of the CBD.

Early design development has led to the below images, illustrating the through site link, activated street and pedestrian thoroughfare and notional tower element, in accordance with the potential boutique hotel scheme.



View of 328 Church St (Meriton development on left).



Indicative Footprint (through site link noted) Please note that the subsequent Modifications have amended the layout at No.330.



View of through site link / retail looking west toward Church Street.



Indicative built form looking east from Church Street

Having regard to the above images, irrespective of the use of No.328 Church St as an ongoing restaurant, an acquired pedestrian laneway (as identified by Council in the Parramatta City Centre DCP 2007), or a redeveloped Boutique Hotel with through site link, the concerns expressed in relation to the pedestrian and traffic safety for this site are equally valid and relevant.

Planning Assessment Commission Decision to Provide Safety – Modification 3

Modification 3 to the proposal was considered by the Planning Assessment Commission (PAC) in late 2013. The El Phoenician Restaurant presented to the PAC at the Public Meeting held 12 December 2013, raising concern with the lack of activation in the amended scheme along the southern boundary of the site, and critically, the potential for conflict between pedestrians and vehicles in the rear laneway. The PAC Determination Report specifically notes –

The Commission noted the existing access arrangements and the potential for conflict between pedestrians and vehicles accessing the development site. In response to this issue the proponent has indicated a willingness to extend the southern wall of the building adjacent to the loading dock further to the east to provide a buffer for pedestrians exiting the rear of the restaurant as shown in Figure 1 below.

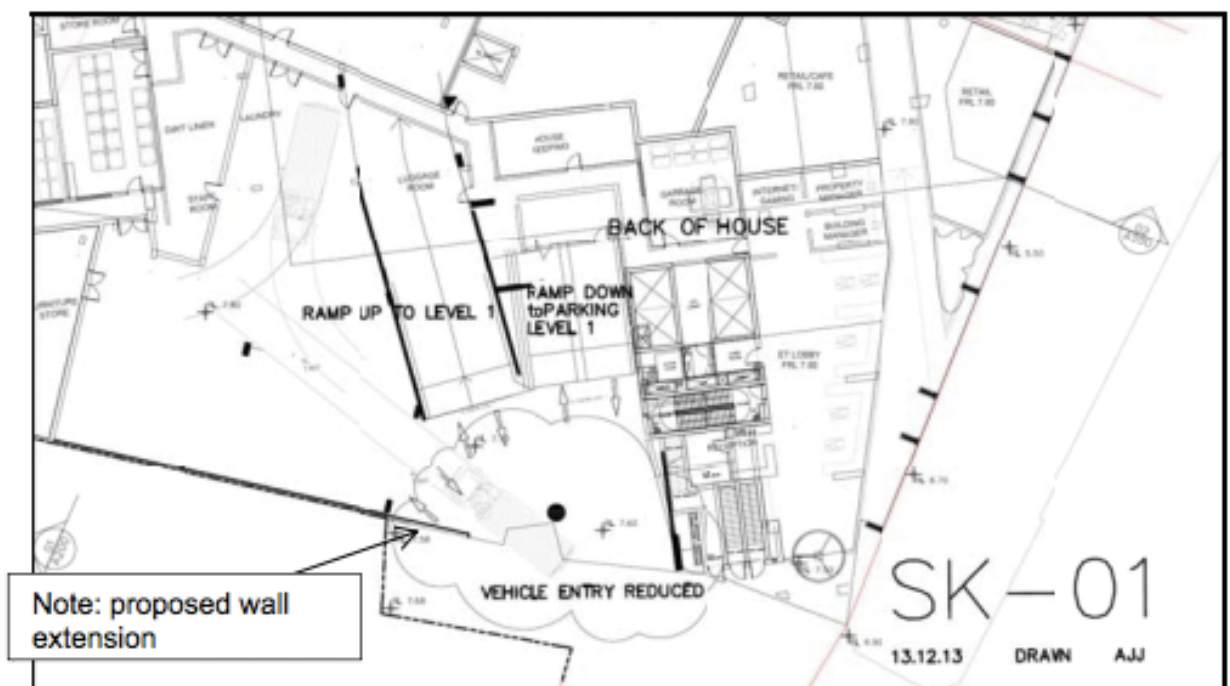


Figure 1: Proposed modification to loading dock

The Commission considers that it is appropriate to include an additional condition of consent requiring that an amended plan of the loading dock, vehicle car park entry and shared zone be prepared and submitted for the approval of Parramatta City Council prior to issue of a construction certificate for above ground works. The plan is to ensure appropriate and safe loading and pedestrian access is provided to the rear of the El Phoenician Restaurant.

Consistent with the above discussion, a new condition was added to the consent as follows –

B41 LOADING DOCK, VEHICLE CAR PARK ENTRY AND SHARED ZONE

Prior to the issue of a construction certificate for above ground works, an amended plan of the loading dock, vehicle car park entry and shared zone is to be submitted for the approval of Parramatta City Council. The plan is to ensure appropriate and safe loading and vehicular and pedestrian access is provided to the building and the rear of the El Phoenician Restaurant.

This condition was acceptable to my client as it served to ensure –

- safety to patrons of the restaurant;
- clear separation of vehicular and pedestrian movements; and
- the provision of safe loading areas at the rear of the restaurant.

Modification 4 Improper Assessment

Modification 4 was lodged in April 2014. The description of the modification provided by the applicant and advertised by the Department of Planning and Environment was:

“Internal and external changes to the podium and towers including reduced retail floor space, increased number of serviced apartments, reduced number of parking spaces, building name signage, new external swimming pool on podium and other minor changes.”

It is clear that the description significantly failed to capture the changes in relation to the rear access. As can be seen in the approved Mod 4 plan below, the amendments that immediately impact upon the safety of the laneway included –

- the relocation of the ‘down ramp’ in the basement to the west ensuring that numerous car movements now occur in closer proximity to the rear of the restaurant; and
- a reduction in the truck loading area and introduction of potential traffic conflict between loading vehicles and resident / visitor vehicles.

Notably, the opportunity to address condition B41 and consider the safety of pedestrian and vehicular movements in the laneway at the southern boundary of the site was not pursued by the applicant, nor insisted upon in the assessment by the Department of Planning and Environment. The further reduction in safety and further is a significant oversight. It is our view that the intentions of the PAC in preparing condition B41 during its assessment of Mod 3 have been overlooked or ignored in the subsequent assessment of Mod 4. It is our view that any amplification of the proposal in terms of floor space, height, traffic movements, and purpose of accessing the site gives rise to the need to once again carefully consider the safety of pedestrians and vehicles in the laneway at the rear of the site.

Finally, a consequence of this amendment my clients ability to effectively and efficiently undertake construction works on their land is compromised by the inability to provide effective construction loading, unloading and similar facilities at the rear of the site.

Think Planners Pty Ltd have been instructed to investigate whether the lack of clear articulation of the Modification falls short of the statutory requirements for advertising and whether the consent has been lawfully granted.



Modification 4 Result

The negative impacts that have arisen from the decision in relation to modification 4 is now self evident in the construction phase. The photos below illustrate the rear of the El Phoenician restaurant; the entry point for loading and parking, and the 'blue wall' represents the reduced wall length adjacent the rear exit to the restaurant. There appears to be no provision made for the approximate 6m long wall as required in modification 3 and shown in modification 4, which was required by the PAC to protect pedestrian safety.



Community Benefit

The modification seeks additional height (127.6m on land with an underlying height of 80m) and 4,453sq m of additional floor space (8.55:1 on land with an underlying fsr of 6:1). However, the application fails to clearly justify why the proposal has any merit or why it is in the public's interest. On the contrary, the Statement of Environmental Effects simply advocates the significant amendments largely on the basis of there being no negative impacts.

It is our submission that minimising impacts does not justify significant amendments to the approved scheme that substantially break the underlying height and FSR controls. In such circumstances a clear public benefit is to be identified.

It is acknowledged that the current approved scheme did provide public benefit in the form of activating the Parramatta River front and dedication of land to Council. However, the current Modification seeks to provide no further public benefit notwithstanding the significant uplift proposed.

It is unconscionable that vast additions in height and floor space could simply be leveraged over a series of modifications, without any new additional public benefit being proposed.

It is clear to Think Planners Pty Ltd that the acquisition of 328 Church St and its dedication to a pedestrian through site link would be one option available to the proponents to provide public benefit, particularly given the clear strategic intention of Council for such a pedestrian link to be provided in the future. However, my clients are principally concerned with the safe functioning and operation of their restaurant business and/or future hotel.

Conclusion

We trust that the objections raised in this letter will be fully considered and that the scheme will not be approved and that all construction work cease until such time as –

- a) that the wall required in Modification 3 be reinstated, to its full length, to provide improved safety during construction and at the time of completion;
- b) that the current pedestrian and traffic conflict arising from the construction of the site be urgently resolved;
- c) the pedestrian and traffic conflict at the rear laneway is resolved (consistent with the intent of condition B41);
- d) loading facilities for the El Phoenician restaurant are provided; and
- e) the significant uplift in height and floor space be justified on the basis of a new public benefit provided by the proponent.

Please do not hesitate to contact me to discuss any of the matters in this letter on
adam@thinkplanners.com.au.

Regards,
Adam Byrnes- Director
Think Planners Pty Ltd