



northern
beaches
council

MEMORANDUM

DATE: 22.05.2024

TO: Development Determination Panel (DDP)

CC: Steven Findlay – Manager Development Assessment

Peter Robinson, Executive Manager Development Assessment

FROM: Simon Ferguson Tuor

The purpose of this memo is to advise the Panel that:

1. A late submission has been received from Vaughan Milligan on behalf of the applicant, which provides further information in relation to off street parking requirements.
2. A late submission has been received by Mario Benitez (objector), who was scheduled to speak at the DDP meeting.
3. A site visit was conducted by the assessing officer which confirmed that most of the works that the application seeks consent for have already been constructed.

1. Amended Parking Plan

The Applicant provided an updated parking plan for ‘the provision of 7 extra car spaces at the rear of the site, of which 4 spaces will be allocated to Unit 3 to replace the existing 4 car spaces which are to be reallocated to Units 1 & 2.’

A revised letter from the property owners was provided, confirming their agreement to the reallocation of the car spaces. The Applicant advised that they would *‘not oppose a condition of consent requiring the spaces to be retained in conjunction with the existing lease arrangements, to ensure parking is available for the lifetime of the current leases’*.

In addition to the requested 4 additional spaces that Council’s Traffic Engineering team had requested, the Applicant has provided 3 additional spaces *‘for use of the site’s occupants or as general visitor parking to the complex.’*

Comment

In response to the applicant’s submission, Council’s Traffic Engineer preliminary comments noted that the additional parking spaces may be acceptable but that there were some inconsistencies on the plans and requested swept paths for truck access to Unit 3.

The applicant provided the swept paths and further information at 4pm on Tuesday 21 May.

Council's Traffic Engineering have reviewed the information and have provided the following comments:

Although the swept path plot is noted and does demonstrate adequate access for a MRV, I am not comfortable with an arrangement for parking benefitting one unit located on another units land. This both compromises the future development potential of unit 3 in terms of meeting its future parking requirements and creates an uncertain long term arrangement in terms of the future parking supply to benefit the hardware and building supplies development. The 10 year lease referenced by the applicant is a relatively short term arrangement and does not guarantee the future parking needs of both lots. Parking for the hardware and building supplies development should be located on the subject developments property (i.e units 1 & 2).

There are too many unknowns associated with the current proposal and the development proposal remains unsupported by the traffic team.

2. Late Submission from Mario Benitez (objector)

Mario Benitez was scheduled to speak at the DDP meeting on 22 May 2024. However, he sent an email to inform the panel that he would be unable to participate in the meeting and requested that his comments be communicated to the panel.

Mr Benitez advised that:

- *The works commenced about 3 / 4 weeks ago without the CC being approved,*
- *The architectural drawings did not show any colour scheme for the external colour, which I find offensive and during the morning sun my house (I live across the building) is a "sea of RED". I'm sure that the Council MUST have some type of norm / codes for colour schemes as they have for roofs,*
- *For months there have been a huge banner indicating that a new shop is "coming soon" again at the time no DA or CC being approved,*
- *One thing that is not clear is trading hours. At the moment we have we have a fair of fair noise coming from next door (Mitre 10) with forklift loading their trucks after hours including Sundays. There must be some kind of control that does NOT allow before or after hours activities.*

Comment

The application, as lodged, involved only minor changes to the exterior of the building, which did not include changes to the colour of the building comprising Units 1 and 2. However, it is noted that painting may be carried out as Exempt Development under the Codes SEPP, or, if not, as the work has already been carried out, it cannot be retrospectively approved.

3. Site Inspection

A site inspection was conducted by the assessing officer on 21 May 2024. It appears that all of the internal and external works that the application was seeking consent for have been undertaken.

Comment

Retrospective approval cannot be granted to works already completed. Hence, the application, if approved, will only relate to the change of use and a Building Certificate will need to be lodged for works that require consent, otherwise works that are exempt development will be covered.

Conclusion

There is no change to the recommendation for refusal.

Recommendation

The Panel note the submissions, additional traffic comments and the issues regarding works undertaken and the change to the colour of the building.