

26 November 2014

The General Manager
Warringah Council
Civic Centre
725 Pittwater Road
Dee Why NSW 2099

Attention: Nick England - Planner

Dear Sir,

**SECTION 96(1) APPLICATION TO CORRECT COUNCIL ERROR AND DELETE CONDITION NO. 6 OF DEVELOPMENT CONSENT NO. DA2014/0630 RELATING TO THE DELETION OF SIGNAGE ON THE SOUTHERN ELEVATION
277-283 CONDAMINE STREET, MANLY VALE (LOT 50 DP 1125295)**

We refer to the abovementioned site and submit a Section 96(1) Application to modify Development Consent No. DA2014/0630 issued by Warringah Council (Council) on 14 August 2014. This Application is required due to an error made during the assessment process. This Application has been prepared for the owner, Ryder Commercial Pty Ltd, by Milestone (AUST) Pty Limited (Milestone). Milestone submit this application to delete Condition No. 6 of the consent pursuant to Section 96(1) of the Environmental Planning and Assessment Act 1979 (the Act), as amended, and based on discussions with Council's Planner, Mr Nick England via telephone on Thursday 20 November 2014.

Please find enclosed with this Section 96(1) Application the following:

- Completed Development Consent Modification Application Form, including Land Owner's consent letter to lodge the S96(1) Application (1 copy);
- Cheque for Section 96(1) Application Fee of \$71.00;
- This Statement of Environmental Effects letter prepared by Milestone;
- Architectural plans with subject signs indicated (**Attachment A**);
- Copy of Development Consent No. DA2014/0630 issued for the site by Council on 14 August 2014 and plans (**Attachment B**);
- Copy of Development Consent No. DA 2006/0262 issued for the site by Council on 17 August 2006 and plans (**Attachment C**);
- 1x CD-ROM containing electronic copies of this Section 96(1) lodgement material.

STATEMENT OF ENVIRONMENTAL EFFECTS

1. BACKGROUND

Development Consent No. DA 2014/0630 (refer to **Attachment B**) was issued by Council on 14 August 2014 for signage.

Works on the site are in progress in accordance with the stamped approved plans.

Condition No. 6 of Development Consent No. DA2014/0630 states the following:

"6. Deletion of signage

The signage annotated on the architectural plans as "K", "L" and "M" are to be deleted from the approved plans.

Details demonstrating compliance with this condition is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure all that business identification signage relates to lawfully approved land uses (DACPLCPCC1)."

As discussed during the telephone conversation with Mr Nick England on Thursday 20 November 2014, the abovementioned condition was included in error as the office tenancies having the benefit of the proposed signage were lawfully approved. Further details are outlined below.

2. SECTION 96(1) MODIFICATIONS INVOLVING MINOR ERROR, MISDESCRIPTION OR MISCALCULATION

Section 96(1) of the Environmental Planning and Assessment Act 1979 states the following:

"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation."

Based on the information presented below, within Attachment C and as advised by Mr Nick England, the application is a Section 96(1) as Council made an error when imposing Condition 6.

3. LAWFUL APPROVAL OF OFFICE TENANCIES

The office tenancies on the site have lawful approval as a result of Development Consent No. 2006/0262 approved on 8 June 2007 as evidenced by the following:

- The description of the approved development is "construction of a retail and office building with basement parking".
- Office tenancies are shown on the first floor (plans attached).
- Pursuant to Condition 21 a Section 94 Contribution was paid for 417m² of office floor space.
- Condition 95 requires that ten basement car parking spaces be allocated to the office suites.
- Condition 103 states that "the exempt and complying fit-out and occupation of the Level 1 office area by any use other than an "office" use is not permitted with this consent".

As demonstrated above, the office tenancies referred to were lawfully approved and the deletion of signage by Condition No. 6 of Development Consent No. DA2014/0630 was included by Council in error. Council approval is therefore sought for the deletion of Condition No. 6.

Development Consent No. DA 2006/0262 and plans are attached in full at **Attachment C**.

4. SIGNAGE CONSIDERATION

Notwithstanding the error made by Council as discussed above, an assessment of the proposed signage is provided below.

4.1 WARRINGAH COUNCIL DEVELOPMENT CONTROL PLAN 2011 D23 SIGNS

The objectives of Warringah DCP D23 are:

- To encourage well designed and suitably located signs that allow for the identification of a land use, business or activity to which the sign relates.
- To achieve well designed and coordinated signage that uses high quality materials.
- To ensure that signs do not result in an adverse visual impact on the streetscape or the surrounding locality.
- To ensure the provision of signs does not adversely impact on the amenity of residential properties.
- To protect open space areas and heritage items or conservation areas from the adverse impacts of inappropriate signage.

The proposed signs are suitably located to identify the businesses to which they relate and the design is coordinated. The signs do not result in any adverse visual impact on the streetscape, surrounding locality, residential properties, heritage or open space. The objectives of Warringah DCP D23 are therefore satisfied.

The relevant controls are addressed below:

Control	Compliance
1. Signs are to be sited and designed so that they do not adversely impact on the amenity of the streetscape and the surrounding locality. In particular, signs are not to dominate or obscure other signs or result in visual clutter.	<p>The proposed signs will not adversely impact on the streetscape and the surrounding locality. Signs are in keeping with the character of the surrounding area.</p> <p>The proposed signs do not dominate other signs or result in visual clutter. They are located on an otherwise blank wall and higher than surrounding signs.</p>
2. Signs are to be compatible with the design, scale and architectural character of the building or site on which they are to be placed.	The proposed signage is compatible with the design and scale of the existing large commercial building on which they are to be located.
4. Signs are not to obscure views of vehicles, pedestrians or potentially hazardous road features or reduce the safety of all users of any public road (including pedestrians and cyclists).	The proposed signage is integrated into the design of the existing building and does not protrude beyond the building footprint. The proposed signage will not obscure views of vehicles, pedestrians or hazardous road features or reduce the safety of users of the public road.
5. Signs should not be capable of being confused with, or reduce the effectiveness of, traffic control devices.	The proposed signs cannot be confused with traffic control devices.
6. Signs are not to emit excessive glare or cause excessive reflection.	The signs are proposed to be illuminated. The signs are set back 10m from the road boundary and do not face toward any residential properties. No excessive glare or reflection will occur.
7. Signs should not obscure or compromise important views.	The proposed signs will not obscure any views.
10. No more than one sign is to be located above the awning level for business uses.	<p>The approved and proposed signs (three wall signs) comprise a total of seven signs located above the awning level for business uses including five on the southern elevation. This number is considered acceptable given the context of the site within an established commercial precinct on a main road.</p> <p>The location of the proposed signage on the existing building is required to ensure the signs are visible for passing vehicles and to ensure motorists are advised of the use of the site at an acceptable distance from the site to improve vehicle safety along both streetscapes and to enhance legibility. The character of the area is for large amounts of signage, being a main road with a 60km/h speed limit. The height of the proposed signage allows for good visibility for drivers approaching the site.</p> <p>The three subject signs have a total area of 21.6m² and the total of all wall signs on the southern elevation would be 35.6m² covering 10.7% of the elevation. The number of signs above awning level are appropriate considering the size of the building and mix of uses within the building.</p>
<p>12. Signs shall meet the following criteria:</p> <p>Wall sign Shall not extend within 200mm of the top and sides of the wall. Shall not cover any window or architectural projections; Must be of a size and shape that relates to the architectural design of the building to which it is attached; Where illuminated, shall not be less than 2.7 metres above the existing natural ground level; and Shall not project more than 300mm from the wall.</p>	<p>The subject Section 96(1) Application is for three (3) wall signs combining to a total of ten wall signs on three elevations including five on the southern elevation.</p> <p>The subject signs K, L and M are not within 200mm of the top and sides of the wall, do not cover any windows or architectural projections, the size relates to the large commercial building and the signs do not project more than 300mm from the wall.</p> <p>Signs K, L and M are illuminated and are between a minimum of 5.4-7.2m above natural ground level.</p>

4.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 64 – ADVERTISING AND SIGNAGE

The aims and objectives of State Environmental Planning Policy No 64 – Advertising and Signage (SEPP 64) are set out at Clause 3(1)(a) as follows:

“(1) This Policy aims:

- (a) to ensure that signage (including advertising):*
 - (i) is compatible with the desired amenity and visual character of an area, and*
 - (ii) provides effective communication in suitable locations, and*
 - (iii) is of high quality design and finish.”*

Clause 8 of SEPP 64 states that:

“A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- “(a) that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.”*

The proposed business identification signage meets the overall aims and objectives of SEPP 64 as set out at Clause 3(1)(a). The proposed business identification signage serves to communicate the business functions of the site and identify the office tenants located on the first floor level. The proposed signage is of high quality finish and has appropriate consideration to Condamine Street.

The proposed signage is for business identification purposes and relates directly to services offered in the premises, the name of the businesses and logos associated with those businesses. In this regard, we note the definition of Business Identification sign within SEPP 64, being a sign:

Business identification sign means a sign:

“(a) that indicates:

- (i) the name of the person, and*
- (ii) the business carried on by the person,*

at the premises or place at which the sign is displayed, and

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not include any advertising relating to a person who does not carry on business at the premises or place.”

A full assessment of the proposed signage against the assessment criteria listed in Schedule 1 to SEPP 64 was submitted to Council with DA2014/0630 and remains relevant. The assessment showed that there is no impediment under SEPP 64 to Council approving the proposed signs.

5. CONCLUSION

As the preceding assessment reveals, Condition No. 6 of Development Consent No. DA2014/0630 for signage was included in error by Council as the office tenancies have lawful approval. On this basis, it is requested that Condition No. 6 of DA2014/0630 is deleted as outlined above to allow the erection of the proposed signage. The proposed deletion of Condition No. 6 will have no significant adverse environmental or amenity impacts on the adjoining properties or the locality. The three proposed signs are acceptable for approval in context of the planning framework which as the assessment undertaken shows, the signage achieves a high level of compliance.

Should you require further clarification regarding this matter, please do not hesitate to contact the undersigned.

Yours sincerely

Milestone (AUST) Pty Limited



Melissah Osland
Senior Planner



Lisa Bella Esposito
Director