



6 May 2015

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment & Public Affairs
Parliament House
PERTH WA 6000

Dear Hon Simon O'Brien MLC

Petition No. 79 – High Road Hotel at 353-361 High Road (Lot 2), Parkwood

I refer to your letter of 23 April 2015 regarding a petition referred to the Standing Committee on Environment & Public Affairs, which raises concerns at the closure of the High Road Hotel in Parkwood.

I understand the Committee is undertaking preliminary inquiries into the petition and I thank you for the opportunity to assist the Committee in this regard. The following comments are provided to inform your consideration of the issues raised;

- The site was rezoned from 'Residential R17.5' with additional uses to 'Shopping' through Scheme Amendment No. 191 to Town Planning Scheme No. 40 which was approved by the Minister for Planning and formally gazetted on 9 August 2013. Extensive consultation took place in September 2012 with over 200 letters sent to adjacent/nearby landowners, through advertisements in the West Australian and Canning Community newspapers and on the City's website and the placement of signs on site. The City listed all the submissions received and provided a response to all points raised during the consultation via a detailed Schedule of Submissions.

The amendment documentation placed on exhibition included a detailed economic impact statement (identifying that the additional retail floor space contemplated was appropriate based on the analysis of the trading catchment) and made it clear that the rezoning proposal would facilitate a new supermarket and liquor store on the site. This zoning change provided the legal ability for the applicant to develop a range of retail uses on the site.

- On 2 August 2013, a subsequent development application (City's ref: 15/15577.1) was lodged with the City. The application proposed a Coles supermarket with a liquor outlet as foreshadowed in the rezoning proposal, with the existing motel to be removed, and the existing hotel and TAB being retained in a modified form. Due to the cost of the development the application was subject to determination by a Joint Development Assessment Panel (JDAP) as per the *Planning and Development Act 2005*.

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This application had an 80 day statutory timeframe within which the City was required to complete the assessment and provide a report to the JDAP for determination within a total 90 day statutory timeframe.

- It's important to note that given the zoning of the land which is "Shopping", the land uses proposed were permitted ('P') uses under the Scheme that did not require advertising. The acceptability of these uses had been established through the rezoning process.

Notwithstanding this, on 12 September 2013 the City did consult through correspondence with thirty-nine (39) adjoining/adjacent landowners seeking comment on a proposed variation to the City's Local Planning Policy SRS214 (C2) – "Non Residential Development Adjacent to Residential Property." A letter was also sent to the Stockland Shopping Centre management (adjacent landowner) for comment on the development given the proposed internal access arrangements between the two land parcels. The City received 11 submissions on the proposal during the 21 day consultation period which were included and analysed in the City's Responsible Authority Report to the JDAP.

- At the meeting held on 19 November 2013, after consideration of the City's Responsible Authority Report, the JDAP approved the application with conditions.
- On 4 August 2014, a Form 2 'Application for Amendment under Regulation 17' of the *Planning and Development (Development Assessment Panels) Regulations 2011* was submitted to the City by the applicant. The revised plans proposed minor changes to the main façade and elevations of the shopping centre, demolition of the existing hotel and minor modifications to the car parking layout. The TAB was to be retained in its current location.
- On 10 September 2014 a consultation letter was sent to the same thirty nine (39) adjoining/adjacent neighbours again seeking comment on the setback variation and building elevations along their shared boundary, which had varied marginally from the original application. The City received eight (8) submissions on the proposal during the 21 day consultation period.
- A responsible authority report was submitted by the City to the JDAP, which was considered at the JDAP meeting held on 23 October 2014. The application was approved subject to conditions.

As identified above, the rezoning of the land undertaken in 2013 involved extensive consultation and set the parameters for future development of the site. The proposed development application, following the rezoning of the land, identified permitted uses (as of right uses) allowable under the Shopping Zone. Although the Scheme did not require the advertising of the proposal, given there was a minor setback variation adjacent landowners were duly consulted and invited to make comments on this aspect of the proposal.

The submitters raised valid issues relating to noise, loading areas, building bulk (overshadowing) and uniform fencing which resulted in amendments to the plans and the placement of conditions to resolve these matters.

The petition and associated correspondence is most concerned that the demolition of the hotel wasn't referred to the wider Riverton community for comment. In this regard the hotel is not identified as a 'Place worthy of Conservation or Preservation' as identified in Appendix 4 of the City's Town Planning Scheme No. 40 or within the City's Municipal Heritage Inventory. Such places have a level of protection and their demolition is subject to considerable scrutiny and referral to bodies such as the Heritage Council of WA and the National Trust. In these situations there may be planning grounds to refuse a proposal to demolish a building.

In the case of the demolition of the Riverton Hotel there are no planning grounds that would allow the City or the JDAP (which is bound by the City's Town Planning Scheme) to refuse the demolition of this structure. Requesting comments on the demolition where there is no discretion to refuse and no established precedent to consult on such matters would create confusion and unreasonably raise expectations in the community.

It is understandable that the petitioners consider the hotel a valuable community asset and meeting place however this building is located on private land and its continued use as a hotel is dependent on the wishes of the landowner. The City is unaware of any legislation that would require a private landowner to continue to operate a business they no longer wished to run (factors such economic viability and sustainability or changing market trends are common reasons that influence such decisions which are outside the control of local governments).

It is noted that the petitioners have liaised with the landowner and requested they continue to operate a hotel in some configuration on the site. It is understood that the landowner has provided reasons to the petitioners why they do not wish to retain the hotel.

The City believes that appropriate consultation was undertaken through the initial rezoning process and the subsequent development application process.

In regard to the request to require adequate consultation through the DAP process, it is the City's Planning Scheme, and in the case of residential development, the Residential Design Codes (prepared by the State Government) that identifies when and how proposals should be advertised. The City has submitted more than 30 reports to the JDAP since Development Assessment Panels were introduced in 2011 and have undertaken detailed consultation in line with these legislative requirements.

The request for third party appeal rights associated with planning decisions is an issue that would require consideration by the State Government.

For further information, please contact the City's Director Development and Regulation, Graeme Bride

Yours sincerely


Lyn Russell
Chief Executive Officer PSM