



Minutes

Hearing of Submissions Committee
Tuesday, 5 September 2017

Held in the
Council Chambers
1 Merrijig Drive, Torquay
Commencing at 5.00pm

Council:

Cr Brian McKiterick (Mayor)
Cr David Bell
Cr Libby Coker
Cr Martin Duke
Cr Clive Goldsworthy
Cr Rose Hodge
Cr Carol McGregor
Cr Margot Smith
Cr Heather Wellington

MINUTES FOR THE HEARING OF SUBMISSIONS MEETING OF SURF COAST SHIRE COUNCIL
HELD IN THE COUNCIL CHAMBERS, 1 MERRIJIG DRIVE, TORQUAY
ON TUESDAY 5 SEPTEMBER 2017 COMMENCING AT 5.00PM

PRESENT:

Cr Brian McKitterick (Mayor)
Cr David Bell
Cr Martin Duke
Cr Clive Goldsworthy
Cr Rose Hodge
Cr Carol McGregor

In Attendance:

Chief Executive Officer – Keith Baillie
General Manager Governance & Infrastructure – Anne Howard
General Manager Environment & Development – Ransce Salan
General Manager Culture & Community – Chris Pike
Manager Planning – Bill Cathcart
Senior Planner – Ben Schmied
Coordinator Environment – Kate Smallwood

4 members of the public

APOLOGIES:

Cr Libby Coker
Cr Margot Smith
Cr Heather Wellington

Committee Resolution

MOVED Cr Rose Hodge, Seconded Cr Carol McGregor

That an apology be received from Cr Libby Coker, Cr Margot Smith and Cr Heather Wellington.

CARRIED 6:0

CONFLICTS OF INTEREST:

Nil

SUBMITTERS HEARD

1. Kirsty Metcalf with Lyn Denison of DLA Environment Services (objector)
2. Tim Metcalf with Lyn Denison of DLA Environment Services (objector)
3. Ann Cutts (objector)

BUSINESS:

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1. ENVIRONMENT & DEVELOPMENT

1.1 Planning Permit Amendment Application 12/0317G - 40 The Esplanade, Torquay

Author's Title: Statutory Planner

General Manager: Ransce Salan

Department: Planning & Development

File No: 12/0317G

Division: Environment & Development

Trim No: IC17/962

Appendix:

1. List of Speakers - 40 The Esplanade Torquay (D17/99915)

Officer Direct or Indirect Conflict of Interest:

Status:

In accordance with Local Government Act 1989 –
Section 80C:

Information classified confidential in accordance with
Local Government Act 1989 – Section 77(2)(c):

Yes

No

Yes

No

Reason: Nil

Reason: Nil

Purpose

The purpose of this report is to hear submissions from the applicant and objectors in relation to the application to amend Planning Permit 12/0317 for 40 The Esplanade, Torquay.

Summary

An application has been made to amend Planning Permit 12/0317 by making changing to the plans and documents endorsed under the permit. The application has been made retrospectively to address alterations made during the construction of the building. The key changes relate to mechanical plant and exhaust ducting associated with the restaurant and basement car park. Three objections have been received following public notice citing impacts on residential amenity from noise, vibration and odour and grease build-up in the kitchen exhaust ducting and associated fire risk. Additionally, it has been submitted that the proposed development does not have permission from the applicable owner's corporation.

Recommendation

That Council receive and note the submissions to Planning Permit Amendment Application 12/0317G for 40 The Esplanade, Torquay.

Committee Resolution

MOVED Cr Clive Goldsworthy, Seconded Cr Martin Duke

That Council receive and note the submissions to Planning Permit Amendment Application 12/0317G for 40 The Esplanade, Torquay.

CARRIED6:0

1.1 Planning Permit Amendment Application 12/0317G - 40 The Esplanade, Torquay

Report

Background

An application has been made to amend Planning Permit 12/0317 by making changing to the plans and documents endorsed under the permit. The application has been made retrospectively to address alterations made during the construction of the building.

Discussion

Planning Permit 12/0317 approved the use and development of 40 The Esplanade, Torquay with *“Development of buildings and associated works; use of land for dwelling (4) and shop (2), display of internally illuminated and floodlit business identification signs and reduction of standard car parking requirements associated with the use of land for shop and restaurant in accordance with the endorsed plan/s”* under the provisions of Schedule 5 to the Special Use Zone (SUZ5), Schedule 6 to the Design and Development Overlay (DDO6) and Clauses 52.05 and 52.06 of the Surf Coast Planning Scheme.

The permit was acted upon with the development complete. The ground floor commercial premises are occupied by the restaurant Whyte’s on The Esplanade. Restaurant is an as-of-right use in the SUZ5.

The land has been subsequently subdivided into six lots and common property (Planning Permit 13/0494). Additionally a permit has been issued for the sale and consumption of liquor within the restaurant (Planning Permit 14/0188). Planning Permit 14/0259 was issued to use the smaller commercial premises as a coffee shop/café (Food and Drink Premises) on the basis that the premises would operate separately from the restaurant and provide take away food and drink in addition those served on the premises. It is understood that this permit is not relied upon and that the two premises operate together as a restaurant.

Investigations in response to noise complaints identified that the building was constructed with a number of variations from the endorsed plans. This has led to the current application being made to regularise those modifications. There is also one prospective element of the application for the relocation of two retail air conditioner condenser units to the basement.

The proposed amendments are in summary:

1. Central exhaust duct (adjacent Residence 2) and termination point 10mm to 260mm above approved height and 2020mm closer to western roof edge discharging horizontally rather than vertically.
2. Southern exhaust duct at ground floor level moved south by 400mm.
3. Southern exhaust duct (adjacent Residence 1) above first floor roof level angled 45° towards the south to run up second floor wall at 1450mm south of party wall (between Residence 1 and Residence 2).
4. Southern exhaust duct use changed from car park exhaust to kitchen exhaust.
5. Exhaust duct work external colour changed from matching Alucobond Solid Grey Brown to Dulux Limed White to match the adjacent wall colour.
6. Northern car park exhaust duct (adjacent Residence 3) deleted.
7. New car park exhaust extending up east wall and terminating over basement stairwell (2.9m above ground level).
8. Replacement of acoustic requirements on plans.
9. Relocation of restaurant air conditioner condenser units to basement, increasing total number in basement to four, all wall mounted above car space 7.
10. Deletion of bollards at end of car space 7 to allow car to nose in under condenser units.
11. Redesignation of area marked as K.P to ‘Dish Wash’.

Financial Implications

There are no direct financial impacts to Council for the processing of the application which occurs via operational budgets.

Council Plan

Theme	5 High Performing Council
Objective	5.2 Ensure that Council decision-making is balanced and transparent and the community is involved and informed
Strategy	Nil

1.1 Planning Permit Amendment Application 12/0317G - 40 The Esplanade, Torquay

Policy/Legal Implications

The application has been assessed against relevant provisions of the Surf Coast Planning Scheme in accordance with the requirements of the *Planning & Environment Act 1987*.

Officer Direct or Indirect Interest

No officer involved in the preparation of this report has any conflicts of interest.

Risk Assessment

The merits of the proposal will be considered against the relevant provisions of the Surf Coast Planning Scheme and *Planning & Environment Act 1987*.

Social Considerations

The submissions received raise a number of matters which may be classed as social impacts including the impact on the residential amenity of accommodation units on the land and adjoining land. These social impacts will be assessed in the context of relevant planning policies and decision guidelines.

Community Engagement

Public notice of the application has been carried out in accordance with the requirements of the *Planning & Environment Act 1987*. Three objections have been received which submit the following concerns with the proposed amendments:

- impacts on residential amenity from:
 - noise
 - odour
 - vibration
- emission from, and build-up in, kitchen exhaust ducting of fats, oil and grease
- fire risk from the above
- development of common property without owners corporation permission.

Environmental Implications

Environmental implications will be assessed in the context of relevant planning policies and decision guidelines.

Communication

A detailed assessment of the application, including consideration of the matters raised by objectors, will be included in the agenda for the 26 September 2017 meeting. The decision of Council will be sent to the applicant and objectors in accordance with the requirements of the *Planning and Environment Act 1987*.

Conclusion

The objections received detail a number of matters that must be considered by Council before deciding on Planning Permit Amendment Application 12/0317G – 40 The Esplanade, Torquay.

1.1 Planning Permit Amendment Application 12/0317G - 40 The Esplanade, Torquay

APPENDIX 1 LIST OF SPEAKERS - 40 THE ESPLANADE TORQUAY



Hearing of Submissions
Tuesday 5 September 2017, 5pm
Council Chambers
1 Merrijig Drive, Torquay

LIST OF SPEAKERS

Department of Planning and Development

12/0317G – 40 The Esplanade, Torquay

1. Kirsty Metcalf with Lyn Denison of DLA Environmental Services (Objector)
2. Tim Metcalf with Lyn Denison of DLA Environmental Services (Objector)
3. Ann Cutts (Objector)

Close: There being no further items of business the meeting closed at 5.39pm.