



Ref: #054/2023
15th October 2024

The General Manager
Central Coast Council
P.O. Box 21
GOSFORD 2250 NSW

Dear Sir,

**DA/126/2014 – Demolition of Existing Building and Clearing of Site
Lot 5 in DP6774 #24-28 The Boulevard at Woy Woy
S8.2 REVIEW SUBMISSION**

I refer to the Council's Notice of Determination dated the 9th September 2024 which formally refused the above development application.

This office has been instructed to lodge an application under Division 8.2 – Reviews Clause 8.2 – *Determinations and decisions subject to review* of the Environmental Planning & Assessment Act. Clause 8.2(1)(a) states that the following determinations or decisions of a consent authority under Part 4 are subject to review under this Division:-

“(a) the determination of an application for development consent by a council, by a local planning panel, by a Sydney district or regional planning panel or by any person acting as delegate of the Minister (other than the Independent Planning Commission or the Planning Secretary)”

Council, in its correspondence, advised that in accordance with section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, and following consideration of the issues involved, it was resolved that the application was refused for the following reasons:-

- (1) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and in accordance with Clause 2.12(1)(a)(v) of the State Environmental Planning Policy (Resilience and Hazards) 2021, insufficient information has been lodged to demonstrate that the proposed development has considered the likelihood of causing an adverse impact to the cultural and built environmental heritage as identified in the Central Coast Council Heritage Review Study, published in May 2021
- (2) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and in accordance with Section 4.6(1)(b) and (c) of the State Environmental Planning Policy (Resilience and Hazards) 2021, insufficient information has been submitted by way of a Stage 1 Preliminary Investigation Report detailing the current and historical activities on the site with an assessment of the potential risk of soil and/or groundwater contamination which may (or may not) exist on the land.

2.

- (3) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Chapter 3.6 of the Central Coast Development Control Plan, 2022, insufficient information has been submitted to demonstrate that the proposed demolition is necessary on grounds that the building is not reasonably capable of retention and/or structurally unsound by way of a demolition report which includes:-
 - (a) a structural engineer's report which assesses the structural condition of the item; and
 - (b) a quantity surveyors report or statement comparing the cost of demolition and cost of retention and bringing the existing structure into compliance with the BCA/NCC where demolition is primarily sought on economic grounds.
- (4) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Part 3.6.2.3 of the Central Coast Development Control Plan, 2022, insufficient information has been submitted to demonstrate that the proposed development has given due respect to and not detracted from the heritage significance of heritage items surrounding it.
- (5) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Part 4.2 of the Central Coast Development Control Plan 2022, insufficient information has been submitted to demonstrate how the proposed development satisfies the future development vision of the Woy Woy Town Centre, recognised as a sub-regional town centre and gateway to the Peninsula.
- (6) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered unsatisfactory with regards to impacts on the existing and future intended built environment, vision and historical significance and setting of the Woy Woy Town Centre as required by the CCDCP 2022.
- (7) For the reasons stated above, and pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is not in the public interest.

Following a review of the planning submission, the demolition plans, the specialist reports and Council's reasons for refusal, the following submission and supporting reports are submitted as part of the request to review the determination under Clause 8.2 - Determinations and decisions subject to review.

Summary

The following additional information is provided in relation to each of the reasons for refusal shown in *italics*.

- (1) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and in accordance with Clause 2.12(1)(a)(v) of the State Environmental Planning Policy (Resilience and Hazards) 2021, insufficient information has been lodged to demonstrate that the proposed development has considered the likelihood of causing an adverse impact to the cultural and built environmental heritage as identified in the Central Coast Council Heritage Review Study, published in May 2021.

3.

The attached Heritage Assessment prepared by John Carr Heritage Design dated 27th September 2024 provides additional information in response to Item 1. The report states:-

“Item 1 the proposed demolition and removal of the subject building will not have an adverse impact on the cultural and built environmental heritage as identified in the Central Coast Council Heritage Review Study (May 2021). This review of the cultural value of the building has established it doesn't meet the benchmark required for heritage listing. Removal of this small building will have minimal impact on the heritage significance of the Woy Woy Hotel opposite the site due to its size and no impact on the nearby Bay View Hotel or the Woy Woy Memorial Park & Wall due to distance and screening of the site”.

Therefore, it is the applicants view that the proposed development has considered the likelihood of causing an adverse impact to the cultural and built environmental heritage as identified in the Central Coast Council Heritage Review Study, published in May 2021 and that the proposal will not have an adverse impact.

- (2) Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 and in accordance with Section 4.6(1)(b) and (c) of the State Environmental Planning Policy (Resilience and Hazards) 2021, insufficient information has been submitted by way of a Stage 1 Preliminary Investigation Report detailing the current and historical activities on the site with an assessment of the potential risk of soil and/or groundwater contamination which may (or may not) exist on the land.

In relation State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP) as it applies to the land, reference is made to Clause 4.6 – Contamination and remediation to be considered in determining development application.

Clause 4.6 requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out.

Based on the Heritage Assessment prepared by John Carr Heritage Design, it is determined that the site is not identified as a contaminated site and the historic uses on the site do not suggest a likelihood of contamination (ie: retail uses). Reference is made to Table 1 contained within the NSW Contaminated Land Planning Guidelines which lists potentially contaminating activities, industries and the chemicals typically associated with them. The past retail activities associated with the subject site do not fall within any of the Table 1 categories and therefore under Clause 4.6 – Contamination and remediation to be considered in determining development application of State Environmental Planning Policy (Resilience and Hazards) 2021, the site does not require a contamination report.

4.

- (3) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Chapter 3.6 of the Central Coast Development Control Plan, 2022, insufficient information has been submitted to demonstrate that the proposed demolition is necessary on grounds that the building is not reasonably capable of retention and/or structurally unsound by way of a demolition report which includes:-
- (a) a structural engineer's report which assesses the structural condition of the item; and
 - (b) a quantity surveyors report or statement comparing the cost of demolition and cost of retention and bringing the existing structure into compliance with the BCA/NCC where demolition is primarily sought on economic grounds.

The attached Memorandum: Structural Engineers Inspection prepared by CivilCon Consulting Pty Limited dated 2nd October 2024 addresses Item (3)(a) in more detail and states that:-

“We consider the following, from a structural engineering perspective:

- 3.1 With reference to Table 1 moderate–severe damage exhibited August 2022, has advanced and the building is in significantly dilapidated state based on the current status and as shown in photographic documentation 24.9.24.*
- 3.2 The deterioration and cracking in the south façade particularly and associated parapet brick is a structural concern and is not adequately integral or sound in the possible event of a major wind storm or earthquake. In this regard the parapet should be propped and supported from the interior of the building, for safety.*
- 3.3 IPWEA guidelines would place the building in very poor condition grade 5 “structural integrity issues; fabric badly damaged or weakened; services damaged, unsafe or inoperable; urgent rehabilitation or replacement”.*

Previous structural assessment comments from August 2024 remain: It is considered the overall condition of the building to be past functional and structural performance standards. The age, dilapidation and damage present in the building places the structure at the end of its serviceable and functional life and with integrity issues. The structure would require extensive and significant remedial, and replacement works on footings, subframes, roof and structural supports due to its age and dilapidated state, or by replacement in total as a high degree of structure and elements are past serviceable repair and not considered practicably salvageable, as seen in photographs contained within this report”.

The attached Bill of Quantities addresses Item (3)(b) and details the cost of remediation and reconstruction (if it were feasible) amounting to \$879,170.25 compared to the demolition of the building and construction of a comparable 120m² brick commercial building amounting to \$748,937.50 of which the demolition component is \$70,000.00.

The costing clearly indicates that remediation/reconstruction is more costly than demolition and replacement.

5.

However, it should be noted that the purpose of the demolition application is to clear the site of the structurally unsound building for future development with a more appropriate building that will better serve the surrounding Woy Woy precinct.

Therefore, it is the applicants view that the proposed development demonstrates that the proposed demolition is necessary on grounds that the building is not reasonably capable of retention and/or structurally unsound.

- (4) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Part 3.6.2.3 of the Central Coast Development Control Plan, 2022, insufficient information has been submitted to demonstrate that the proposed development has given due respect to and not detracted from the heritage significance of heritage items surrounding it.

The attached Heritage Assessment prepared by John Carr Heritage Design dated 27th September 2024 provides additional information in response to Item 4. The report states:-

“Item 4 the proposed demolition and removal of the subject building will not detract from the heritage significance of the heritage items surrounding it. The existing building currently detracts from the adjacent heritage qualities due to the dilapidated state of the premises and structural inadequacy of the building. The extant dilapidated building is screened from the commercial area by its large two storey mid century neighbouring building”.

Therefore, it is the applicants view that the proposed development has given due respect to and not detracted from the heritage significance of heritage items surrounding it.

- (5) Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 and in accordance with Part 4.2 of the Central Coast Development Control Plan 2022, insufficient information has been submitted to demonstrate how the proposed development satisfies the future development vision of the Woy Woy Town Centre, recognised as a sub-regional town centre and gateway to the Peninsula.

Under Section 4.2.4 – Future Development within Peninsula Centres – Vision, its states for Woy Woy:-

“Woy Woy will be recognised as the sub-regional town centre and gateway to the Peninsula. It will emerge as a vibrant, multi-functional centre with a high in-town residential base, and diverse and interesting mix of both conventional and non-conventional commercial activities, service retailing and public administration, that maximises opportunities along with views to the waterfront and waterways. Existing heritage buildings and elements within the streetscape are to be respected and new developments to be designed so as to complement and build on this heritage theme.

6.

The formalisation of a civic precinct in the vicinity of the existing library, post office and police station is encouraged and public administration activities should be encouraged in this area. There will be greater integration within the centre by linking the peripheral "greenfields" shopping centre and the traditional strip, and improved pedestrian and urban design links throughout the centre. Activities that encourage out of hours use of the centre and night time activities are encouraged, and this will be supported by an increase in the in-town residential population. The presence of car parking and traffic flow will become less domineering however it will remain as a key transport node for the Peninsula and linking the Peninsula to other areas. It will also act as a focal point for visitors and tourists, with a number of tourist activities centred on the foreshore and waterfront park, including tourist accommodation. It is envisaged that at the edges of the zoned town centre developments will seek to act as a transitional area between residentially zoned land and the zoned town centre”.

The proposal satisfies the future development vision for the Woy Woy Town Centre in that the demolition works:-

- (i) will not impact on the ability of the town centre to be a vibrant multi-functional centre as the demolition of the existing unsafe building will allow redevelopment that more closely aligns with the vision for Woy Woy including both conventional and non-conventional commercial activities and retail activities (including restaurants/cafes);*
 - (ii) will not impact of the opportunity to improve development outcomes adjacent to and in proximity with the waterfront precinct;*
 - (iii) respects the existing heritage buildings in the immediate precinct (see attached Heritage Assessment prepared by John Carr Heritage Design);*
 - (iv) allows for future design to be complementary to the surrounding heritage “theme”;*
 - (v) does not impact on the civic precinct;*
 - (vi) does not impact on the interface with Deep Water Plaza and the traditional shopping strip;*
 - (vii) allows for redevelopment that encourages out-of-hours activities; and*
 - (viii) allows for redevelopment that can act as a focal point for visitors and tourists*
- (6) Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is considered unsatisfactory with regards to impacts on the existing and future intended built environment, vision and historical significance and setting of the Woy Woy Town Centre as required by the CCDCP 2022.

The attached Heritage Assessment prepared by John Carr Heritage Design dated 27th September 2024 provides additional information in response to Item 6.

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7.

The report states:-

“Item 6 the proposed demolition and removal of the subject building will not impact on the future intended built environment, vision and historical significance and setting of the Woy Woy town centre and currently detracts from that setting due to the dilapidated state of the building and its structural inadequacy. The removal of this extant dilapidated building provides an opportunity for redevelopment of this site to comply with the design requirements and outcomes highlighted in section 4.2.8 Heritage of the CCDCP 2022”.

Therefore, it is the applicants view that the proposed development has considered the impacts on the existing and future intended built environment, vision and historical significance and setting of the Woy Woy Town Centre as required by the CCDCP 2022.

- (7) For the reasons stated above, and pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is not in the public interest.

For the reasons stated above and pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is in the public interest.

I trust that the above submission and attached reports will address the reasons for refusal as detailed in the Notice of Determination dated 9th September 2024 and result in the Council’s approval of the application under Clause 8.2 of the Environmental Planning & Assessment Act.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Matthew Wales', with a horizontal line underneath.

Matthew Wales
Development Manager
Wales & Associates