

March 18, 2013

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**DA No: N0021/13**

**Pasadena 1858 Pittwater Road Church Point NSW 2105**

The Scotland Island Residents' Association Committee have considered the current application and present the following review.

This review focuses on our Committee's objections which primarily result from the proposed increase in size and intensity of usage of the Pasadena building and the surrounding Crown leased land. In these objections we have also considered the impact that would have been generated on the local communities from the Land and Environment Court 2007 ruling of the Stutchbury building design, should it have proceeded.

The objections, or concerns, have been widely discussed both at Committee level and by the general residential community, as noted by the number of individual Offshore responses received about this Development Application, listed on the Council website.

Some suggestions for conditions of consent in relation to parking (should the application be recommended for approval) have also been discussed and are included below.

### **PARKING**

Any development of this building from its current uninhabitable state will cause a significant increase on the demand for parking spaces in the adjacent car park and surrounding streets.

Whilst the Land and Environment Court previously determined that the Pasadena Restaurant patrons were free to use the neighbouring Church Point Reserve Car Park, along with Offshore residents, the proposed increase in the restaurant/function room floor area will have a greater and more significant effect. The increase of around 150m<sup>2</sup> of function room area in this application will generate additional seating and, therefore, more competition for car parking than in any previous approval for this site.

Previous experience highlights the fact that the competition for car spaces amongst the Pasadena patrons, Post Office, Waterfront Cafe patrons and Offshore communities peaks in the late afternoons or early evenings and on weekends. On weekends and weeknights the car park and surrounding streets are currently at full capacity without the Pasadena in operation. The busier operating times of the Pasadena function room and restaurants coincide with Offshore residents searching for an overnight parking space.

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SIRA recognises the fact that parking is at a premium in the evenings and on weekends at Church Point. We also recognise that there is no Council Section 94 contribution plan applicable for developments at Church Point. With this in mind, we ask Council to refuse any increase in function room floor area and/or leasehold lawn area in the current proposal compared to that approved for the Stutchbury building.

Should any refurbishment of the building be recommended for approval, SIRA request Council to consider imposing Development Conditions relating to car parking associated with the development.

Conditions of Consent could relate to the introduction of:

1. A shuttle bus available for both patrons of the Pasadena and the local residents (the same costs, terms and conditions to apply to all user groups) during the trading hours of the Pasadena.
2. A valet parking system where the vehicles of patrons are parked by Pasadena staff in secure premises away from the immediate local area through an arrangement with another organisation, such as a school or shopping centre car park, or at BYRA or Rowland Reserve.
3. Parking for a minimum of seven additional vehicles within the Pasadena freehold or on the previously approved car parking area of the Crown leasehold. This could, in part, be achieved by stack parking and/or shared use with the loading dock.

The Traffic Study submitted includes the "street parking" spaces in front of the Pasadena in its calculations for some sort of compliance. These vehicle spaces are public spaces tightly monitored by Council Rangers for use by all of the community, not just the patrons of the Pasadena. The study concludes that "there will not be any unsatisfactory traffic implications" and "the proposed parking provision will be appropriate to the circumstances". We fail to see how there could be anyone else apart from the paid consultant and his clients who would believe this. There needs to be some sort of relief, not any intensification of the previous competition for parking, for those wanting to get home at night and the patrons of the businesses of Church Point.

## **HEIGHT and SCALE**

The previous Stutchbury proposal was scrutinised and criticised by the Land and Environment Court for inappropriate height, bulk and scale. The building was considered too large on only 634m<sup>2</sup> of freehold land. View loss from the principal living room of 2195 Pittwater Road opposite was also an issue.

After evaluation of these issues, the Court's judgement limited the height of the building and deleted the top level western end apartment. To maintain this established Court directive on view loss, it is requested the "roof level" motel rooms in this application be reduced at least to a similar size and scale and in the same rooftop location, as previously approved for the Stutchbury building.

## **RELIANCE ON PUBLIC LAND**

Apart from relying on leased Crown Land at the eastern end of the site for car parking, the application seeks to completely demarcate the Crown Land lawn leasehold area from the public walkway that links Mona Vale with Church Point. The landscape plan shows the creation of a

hedged "barrier between public and private land". This is misleading as the hedge barrier actually demarcates the public walkway from the Pasadena lawn lease area of public land.

As with other similar Crown Licence or Lease areas, and in the previous Romeo lease, the public should have unrestricted access through the leased lawn area. For public access to be more readily available over the leasehold public land, at least five additional openings in the perimeter landscaping should be made available. Only two openings are currently available. A copy of the new Crown Lease to the proprietors should be furnished to Council for review, either by Crown Lands or the applicant.

Some of the relevant terms and conditions in the Crown Lease could also be strengthened by Council through the imposition of similar development consent conditions to those standard and special conditions in the Crown Lease.

The pinch point at the north western corner of the site also needs to be opened up with turf, not planter boxes that restrict public from use of the Mona Vale to Church Point scenic walkway.

### **NOISE TRAVEL ACROSS PITTWATER AND IMPACT ON OFFSHORE RESIDENTIAL PROPERTIES**

There is a history of complaints from Scotland Island residents regarding noise emanating late at night from the Pasadena function room. The increased seating capacity will generate the potential for loud music at functions.

The acoustic report refers to the ground floor and upper terrace doors being locked between 10pm and midnight and that up to 150 people could be on the terraces during this time. Double glazing of the doors and proper soundproofing of roof structure also needs to be addressed to keep the noise "escaping" from the venue. Noise limiters at the sources need to be set and automatically controlled to certain decibel ranges for different hours of the day and night to avoid constant complaints from across the water. The Acoustic Report falls short in providing adequate soundproofing measures for a building that could be used as a night club.

### **PUBLIC BENEFITS**

There are no public benefits in this proposal. Again, this application seeks to maximize the built form and usage of such a small site, as well as rely on an expansive area of surrounding Crown Land for lease, without any public benefits proposed.

### **PARKING AREA IN FRONT OF BUILDING**

It is unclear if the shifting of the car spaces outside the Pasadena towards Pittwater Road will impact on the proposed road realignment around Church Point. Further details of the impact of these car spaces on road realignment, as shown in the CPPOM, needs to be furnished.

### **EXISTING USE RIGHTS or RIGHTS ASSOCIATED WITH PROHIBITED USES WITHIN THE ZONING OF THE LAND**

The applicant claims that the motel component of the development is not permitted by Council's zoning of the land. This is agreed. However, the applicant argues that the new owners desire to "continue" the abandoned motel use constitutes an acceptance that the upper two levels of the

building that contain the motel units have "existing use rights". The applicant continues on and states that "no controls strictly apply to the assessment of the proposed development."

This is quite a revelation. As "existing use rights" are legally complex matters, it is questionable as to whether:

1. The abandonment of the use of the motel for well over twelve months, ("existing uses" are considered in the EP&A Act to be abandoned if not in use for over 12 months)
2. The expansion of the footprint of the rooftop level as a laundry to four motel rooms with large balconies, ("existing uses" should not be expanded under the EP&A Act unless it can be demonstrated that the proposal does not derogate the provisions of any environmental planning instrument)
3. The expansion of the footprint of the rooftop level as a laundry to that previously approved by the Court for a different use, namely residential units in the Stutchbury building. The existing use legislation has since changed from that which applied to the Stutchbury building.
4. The lapsing of the previous Court approval for the Stutchbury building,

actually constitutes a benefit or continuance of "existing use rights" for the site. Legislative changes in 2006 do not permit an existing prohibited use to change to another prohibited use, nor is there to be any expansion of a prohibited use.

## **ARCHITECTURE**

There seems to be little or no hint of the local maritime heritage of Church Point in the treatment of the buildings refurbishment, or "adaptive reuse". Although this building would fit comfortably in the Mona Vale shopping precinct, it falls short in complementing the historical context of the Church Point Post Office building or the past and present maritime nature of "The Point".

## **CONCLUSION**

There is no doubt that SIRA wishes to see the Pasadena building refurbished tastefully and operating successfully. There is no intention by SIRA to derogate those existing and lapsed approvals or associated uses.

However, an increase in bulk and size of the building greater than all previous approvals; an increase in the competition for limited parking spaces greater than ever before; an intensification in the use of the leased public land; the fact that 150 patrons can be on the ground and upper floor northern terraces at one time, with many more patrons inside the function and restaurant areas simultaneously, all behind closed doors at midnight seven days a week, highlights the incompatibility of the proposal with local planning and community expectations.

Yours truly

*Judy Readman*

President  
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