

Addendum Report

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

b11 [PR-CM] Class 1 Appeal - Section 96 Application D97/0175.02 for an Amendment to Development Consent D97/0175 for the Establishment of a Brothel/Escort Agency at Lot 6 DP 249122, No. 17 Morton Street, Chinderah

ORIGIN:

Development Assessment

FILE NO: PF3560/60 Pt1

SUMMARY OF REPORT:

At its meeting on 19 April 2011, Council refused the Section 96 Application D97/0175.02 for the extension of hours and proposed internal building works to the existing Brothel/Escort Agency at Lot 6 DP249122, No. 17 Morton Street, Chinderah.

Council has been served notice of a Class 1 Appeal against Council's determination in the NSW Land and Environment Court. A telephone directions hearing has been set down for Monday 28 November 2011 and it is requested that Council establish a position on defending the Appeal to enable engagement of solicitors and consultants.

RECOMMENDATION:

That Council, in respect of its decision to refuse D97/0175.02 for the extension of hours and proposed internal building works to the brothel/escort agency at Lot 6 DP249122, No. 17 Morton Street, Chinderah, determines to either:

- 1. Engage its solicitors to defend the refusal of the brothel/escort agency.**

or

- 2. Engage its solicitors to negotiate Consent Orders for the brothel/escort agency.**

Addendum Report

REPORT:

The proposed development (D97/0175.02) was an amendment to the existing brothel/escort agency within Unit 4 of the existing unit of an approved industrial development. The proposal includes internal works on the ground floor which is currently existing and increasing the hours of operation to 24 hours a day, 7 days a week. Overall, the development will have 8 works rooms with associated bar area, reception area, staff room and car parking provisions.

The subject site has an area of 2,970m², with frontage to Morton Street, Chinderah. The site incorporates a three unit factory development and associated car parking.

The proposed hours of operation for the development are 24 hours per day, seven days a week, which is not in strict compliance with Council's DCP 8 – Brothels Policy of 6pm to 6am.

The application was advertised for a period of 14 days, during which time no submissions were received.

Council officers submitted a report to Council's meeting of 19 April 2011 recommending approval of D97/0175.02, subject to conditions. At this meeting Council resolved to refuse the application based on the following reasons:

1. The proposal is not in accordance with DCP 8 - Brothels Policy and Draft Brothel Code.
2. The proposal is not in the public interest.
3. The building contains unauthorised building works.

OPTIONS:

1. Defend the Appeal
2. Negotiate Consent Orders.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will be required to engage legal representation regarding the Appeal. As Council staff recommended approval for the application it will also be necessary to engage consultants to be expert witnesses on behalf of Council if it is resolved to defend the Appeal. Costs will be incurred as a result of the Appeal.

POLICY IMPLICATIONS:

Nil.

Addendum Report

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

Addendum Report

THIS PAGE IS BLANK