

16th May 2022

General Manager
Woollahra Municipal Council
536 New South Head Road
Double Bay NSW 2028

Attention: Valdis Aleidzans, Development Assessment Officer

Dear Sir/Madam,

RE: OBJECTION | 488-492 OLD SOUTH HEAD ROAD, ROSE BAY NSW 2029 | DA 140/2022

1. Introduction

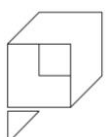
I write to you in relation to DA 140/2022 concerning land at 488-492 Old South Head Road, Rose Bay NSW 2029 relating to proposed works described by Woollahra Municipal Council as ... *"Change of use to former service station and associated works. Change of use to a temporary Woolworths neighbourhood supermarket which utilises the existing service station building on the site; including direct to boot and delivery pick up areas; parking; signage and remediation works"*.

We hereby advise that we act for the Rose Bay Resident Action Group and respectfully submit that the proposal is an objectionable development.

2. Proposal

The proposed development (DA 140/2022) is summarised as follows:

- The repurposing of the former service station, known as 'Starmart' convenience store for change of use to a 'neighbourhood supermarket';
- Minor alterations and additions to the building, including new external door openings and waste enclosure;
- Minor alterations and additions to establish an at-grade car park providing 11 car parking spaces, comprising:
 - 6 car parking spaces for direct to boot pick-up service;
 - 3 car parking spaces for food delivery drivers;
 - 2 staff car parking spaces;
 - 6 bicycle parking spaces.
- New external canopy, adjustments to external kerbs and provision of altered and new landscaping areas;



- Remediation works including in-situ decommissioning of underground (fuel) storage tanks and associated infrastructure;
- Installation of business identification and safety signage and devices; and
- Operation of the Woolworths neighbourhood supermarket and associated direct to boot pick-up service for an interim period of up to 5 years.

3. Consideration of Planning Matter/s

3.1 Woollahra LEP 2014

The site is zoned B4 – Mixed Use pursuant to the Land Zoning Map Sheet LZN_005 pursuant to the Woollahra LEP 2014:



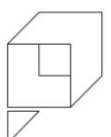
Source: Woollahra Municipal Council

Of note, the relevant objectives of the zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To provide active ground floor uses to create vibrant centres.*
- *To provide for development of a scale and type that is compatible with the amenity of the surrounding residential area.*
- *To ensure that development is of a height and scale that achieves the desired future character of the neighbourhood.*

We submit that the proposal is inconsistent with the aforementioned objectives and for the following reasons:

- The proposed use is not compatible with that of existing surrounding uses and sets an undesirable precedent for others to follow,
- The proposed use ignores the underlying intent of public transport use and in fact encourages private motor vehicle use,
- The proposed use does not adequately activate the ground floor of the premises and will detract from the vibrant nature of the locality i.e. walk-in shops,



- The proposed use is not compatible with that of the predominant surrounding development because it necessitates that customer remain in their vehicle which contradicts the underlying intent of a mixed-use zone,
- The proposed use will result in a change in height/scale, however, it fails to uphold the desired future character of the neighbourhood which is dependent on customers parking and shopping (in person).

The Statement of Environmental Effects describes the proposed use as a “Neighbourhood Supermarket” which is permissible use within the within the B4 Mixed Use land use zone.

However, we consider that the proposed use is not in fact a “Neighbourhood Supermarket”, rather, a “Local Distribution Centre” which is prohibited in the zone.

The Woollahra LEP 2014 defines a “Neighbourhood Supermarket” as follows:

“neighbourhood supermarket means premises the principal purpose of which is the sale of groceries and foodstuffs to provide for the needs of people who live or work in the local area”.

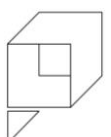
We submit that the definition of neighbourhood supermarket does not envisage a “local distribution premises” type operation in the subject zone taking into account the aforementioned objectives of the zone. Of note, the proposed use necessitates that retail transaction/s occur off-site (via an app) and no sales are proposed to occur on-site and/or “in-store” due to the absence of a walk-in shop, therefore, the proposed use is that of a “local distribution premises”, which is defined as follows by the Woollahra LEP 2014:

“local distribution premises means a building or place used for the storage or handling of items (whether goods or materials) pending their delivery to people and businesses in the local area, but from which no retail sales are made”.

Taking into account the above definition, we submit that the proposed use is not permissible in the land use zone and must be either withdrawn by the applicant or refused by the Council.

If Council approve a “local distribution premises” in the B4 Mixed Use zone this will set a dangerous precedent for other local distribution premises in other business centres in the locality, which do not enable the sale of goods or services to the local community and would erode the economical viability of local centres. “Local distribution premises” are better suited in industrial zones as they do not provide a direct retail service to the local community and result in adverse impacts upon nearby residential areas as a result of increased noise and traffic generation.

Notwithstanding this, if the Council is of the mind to approve the proposed use, we recommend that the Council obtain expert legal advice with regard to the issue of zoning prior to determining the development application in order to prevent the Council being exposed at law.



3.2 Condition/s

If the Council is of the mind to approve the proposed development, we hereby request the imposition of the following condition/s:

Trading hours – We submit that the trading hours are excessive (Monday – Sunday 7.00am – 10.00pm) and will have an adverse impact on the amenity of surrounding residential properties, as such, we request the imposition of a **condition** limiting the trading hours to Monday – Sunday 7.00am – 8.00pm.

Deliveries – We submit that the delivery hours are excessive (Monday – Sunday 7.00am – 9.00pm) and will have an adverse impact on the amenity of surrounding residential properties, as such, we request the imposition of a **condition** limiting the delivery hours to Monday – Sunday 7.00am – 8.00pm.

On-site parking – We submit that efficient on-site parking can only occur when the subject parking spaces are clearly marked, as such, we request the imposition of a **condition** requiring that all intended onsite parking be clearly delineated by either yellow or white paint (or a range of colours if needed).

Parking - We submit that if staff were to park their private vehicle/s on-site it would have an adverse impact on the efficiency and functionality of the on-site parking area and would cause traffic issues in the locality, as such, we request the imposition of a **condition** prohibiting staff from parking on-site between the hours of Monday – Sunday 7.00am – 8.00pm.

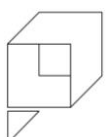
It is also requested that A **condition** be imposed to the DA Consent which requires a car to not be unattended if parking on the premise.

Waste management – We submit that should bins be located external to the building they will have an adverse impact on the amenity of the locality, as such, we request the imposition of a **condition** requiring that all bins be stored internally within the subject building.

Waste collection – We submit that waste collection may have an adverse impact on the amenity of surrounding residential properties, as such, we request the imposition of a **condition** limiting waste collection hours to Monday – Sunday 7.00am – 7.00pm i.e. to prevent incidents of waste being collected at 5.00am and alike.

Horn use – We submit that due to the way in which the business intends to operate (direct to boot) it may cause customers to utilise their motor vehicle horn to get the attention of staff and/or adversely liaise with other driver/s, as such, we request the imposition of a **condition** requiring the applicant to install and maintain adequate signage prohibiting customers from utilising their motor vehicle horn.

Mechanical plant – We submit that the warehouse will necessitate the installation of a wide range of mechanical plant and equipment which may have an adverse



impact on the amenity of surrounding residents, as such, we request that a **condition** be imposed requiring any such plant and equipment to achieve OdBA at the site boundaries for the life of the proposed use.

Liquor sales – We submit that the potential sale of liquor from the site would have an adverse impact on the proposed groceries to boot use, as such, we request the imposition of a **condition** prohibiting the sale of liquor.

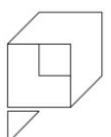
Plan of Management – We submit that the Plan of Management must be updated to accord with the relevant conditions imposed by the Council should consent be granted and that the Plan of Management be affixed to the exterior of the premises so that it is visible to interested parties, as such, we request the imposition of a **condition** to achieve this logical outcome.

Approved documents – We submit that any documents relied upon by the Council should form part of the “approved documents” if the Council is of the mind to approve the proposal, as such, we request the imposition of a **condition** to achieve this.

Compliments/Complaints – We submit that the most appropriate way for a resident to make a compliment/complaint to Woolworths regarding the operation of the site would be via email rather than an on-site paper-based register, as such, we request that a **condition** be imposed requiring the operator to affix the applicable email for any compliments/complaints to the exterior of the existing building (at eye level and a minimum font size of 72).

Time limited consent – We submit that surrounding residents would be best served via the imposition of a time limited consent, as such, we request the imposition of a **condition** limiting the length of time the warehouse can operate to a period of not more than 3 years.

Pickup Management – A **condition** imposed to the DA Consent which requires a car to not be unattended if parking on the premise to ensure.



4. Conclusion

We submit that the proposed “local distribution centre” is not permissible in the zone, as such, the development application is prohibited in the land use zone – Refer to sub-section 3.1 of this letter. Notwithstanding this, if the Council is of the mind to approve the development application, we hereby request the imposition of condition/s – Refer to sub-section 3.2 of this letter.

Feel free to contact me on 0422 983 710 or at daniel@paroconsulting.com.au should you wish to discuss the contents of this letter.

Kind regards,



Daniel Barber
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