

Our Ref: M230120

27 November 2023

Byron Shire Council
C/- Marsdens Law Group
PO Box 291
CAMPBELLTOWN NSW 2560

Attention: Alicia Foley

Dear Alicia,

**TOWN PLANNING – 467 FEDERAL DRIVE, FEDERAL
LEC PROCEEDINGS 2023/00068084**

In accordance with your instructions, I have reviewed amended documentation provided by the applicant following Section 34 conciliation in relation to the above matter. I note that the applicant has prepared amendments to the application, provided to resolve wastewater and town planning considerations in the statement of facts and contentions (**SOFACS**) as filed on April 6, 2023. I have been asked to provide my opinion as to how the contentions of relevance to my expertise have been addressed by the amended documentation, in particular the architectural plans.

In describing the status of the contentions, I have reviewed the following as the assumed 'current' documents, on which it is understood the Applicant is seeking to rely:

- Architectural Plans prepared by Amitran Pty Ltd & U+I Building Studio, Revision G dated 6 October, 2023.
- Whitehead & Associates (November 13, 2023) 'Report on matters relating to on-site wastewater following s34 Conciliation Conference held on 7 August 2023 Revision following amendment of plans to show relocation of stormwater retention basin'. [referred to as '**Whitehead Letter**'].
- Floodworks (November 13, 2023) '467 Federal Drive, Federal NSW Stormwater Management Plan'. [referred to as '**Updated Stormwater Plan**'].
- Associated MUSIC and DRAINS modelling files provided by the applicant solicitors on November 13, 2023 via Marsdens Law Group. [Referred to as '**MUSIC model**' and '**DRAINS model**' respectively].

In my opinion, the planning and design related contentions are resolved for the reasons set out below.

Contention 1: Zone Objectives

The applicant has not provided additional information in relation to proposed specific uses for the completed buildings. The application continues to specify the nature of the proposed use as "light industry" (excluding artisan food and drink industry). Whilst it would be preferably for an applicant to provide details of an end use with a development application of this type, it is not a fundamental requirement or a reason to warrant refusal of the application. It is my recommendation that a condition of consent be imposed requiring that a development application be imposed for the initial use of the buildings. Such a condition will remove the opportunity for initial use to be achieved by way of a Complying Development Certificate. That imposition will ensure that Council has the opportunity to assess potential impacts of specific uses against the relevant planning controls at the time, including consideration of any proposal against the zone objectives. In my opinion, the contention is appropriately resolved if this recommendation is endorsed.

Contention 2: Streetscape and Character

Whilst the Federal Village Masterplan has been adopted by Council, the primary built form controls which apply to the site are contained in the locality-specific provisions in Chapter E6 in Part E of BDCP 2014 (and of course as set by the





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zoning of the site under the LEP). The LEP and DCP must be given weight over the Masterplan, and in any case, the Masterplan is not specific in terms of providing for built form controls. As an independent planning expert, my observation is that, were Council to be committed to endorsement of the principles in the Masterplan in a built form sense, the DCP should be amended accordingly. My second observation is that, whilst the subject site is located in the “Residential Area” for the purposes of Chapter E6 of BDCP 2014, the zoning of the site permits light industrial development. It must be assumed that permissible development in some form will be acceptable. The DCP cannot purport to preclude uses that are permissible under the LEP.

Based on the current planning regime, it is my opinion that the amended proposal has appropriately resolved streetscape and character issues. The amended plans have significantly reduced the length of Building C in an east-west direction which has increased the setback to the western boundary, better relates to the form to site topography and provides for a pattern of setback that is more consistent with development to the south. The amendments reduce site coverage and increase significantly the amount of landscaping at this part of the site. The amendments also provide for an increased setback to the car parking area which will assist with achieving an acceptable interface with the adjoining property to the south. The car parking is set behind the proposed buildings as required by the DCP.

The facade of Building B, the primary and longest building fronting Federal Drive has been modified to provide for a hipped roof form which significantly reduces building bulk and better provides for integration with the mixed one and two storey character of the Village. The front setback has been reconfigured by shifting buildings eastwards towards the street which has had the benefit of increasing landscaping and setbacks at the western boundary. The street presentation remains acceptable and in my opinion refines the presentation of the non-residential uses by providing decking to the front of buildings, with landscaping between the deck and boundary, as opposed to the previous less well defined territory within the front setback.

In my opinion, with the amendments, the proposed built form will sit comfortably within the streetscape of Federal Drive and Coachwood Court and the wider character of the locality, which includes a variety of relatively low scale building typologies and uses.

Contention 5: Insufficient Information

As discussed in the context of Contention1, it is my opinion that a condition of consent can be imposed requiring the submission of a future development application for initial use of the completed building.

Similarly, a condition of consent can be imposed requiring lighting details to be provided to the satisfaction of Council prior to the issue of a Construction Certificate.

Contention 6: Suitability of the Site

For the reasons set out above, and based on the amendments to the proposal, it is my opinion that the site is suitable for the development proposed.

If you require any further information, please do not hesitate to contact our office.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
MANAGING DIRECTOR