

Our Ref: 23.186

Measured form and function



24 July 2023

Sandra Ayton
General Manager
Central Coast Council

By Email: admin@centralcoast.tas.gov.au

Dear Sandra,

**REPRESENTATION IN RELATION TO DRAFT AMENDMENT LPS2022003
CENTRAL COAST LOCAL PROVISIONS SCHEDULE AND PERMIT
DA2022107 – 6 JOHNSONS BEACH ROAD, PENGUIN**

6ty° Pty Ltd has been engaged by John and Louisa De Bruyn, owner and occupiers of property at 11 Main Road, Penguin, to prepare the following representation to the above Planning Scheme Amendment and Development Application.

The proposal is for a Site Specific Qualification (SSQ) to the Central Coast Local Provisions Schedule to make the Visitor Accommodation Use Class a Discretionary Use Class with no qualification for this site and to issue a permit for development application DA2022107 – Demolition of buildings and Visitor Accommodation (40 short stay apartment units and 21 three-bedroom holiday cabins); Food Services (cafe/restaurant); and Community Meeting and Entertainment (function centre) with ancillary tennis court, car parking and managers residence.

We submit that the application is deficient regarding the matters detailed below.

1 Open Space Zone - Clause 29.4.1: Building Height

The Acceptable Solution for Building Height in the Open Space Zone is 10m, as detailed in A1 of Clause 29.4.1.

The proposed Visitor Accommodation development includes forty (40) short stay apartments contained in a four (4) storey building, with a maximum height of 16.55m and length of around 80m. This building is a significant departure from the existing small, single storey structures on the site.

In order to be approved the proposal must satisfy the Performance Criteria P1 of Clause 29.4.1, reproduced below.

Clause 29.4.1 P1

Building height must not cause an unreasonable loss of amenity to adjacent properties, having regard to:

(a) the topography of the site;

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- (b) *the height, bulk and form of existing buildings on the site and adjacent properties;*
- (c) *the bulk and form of proposed buildings;*
- (d) *the requirements of the proposed use;*
- (e) *sunlight to private open space and windows of habitable rooms of dwellings on adjoining properties;*
- (f) *the privacy of the private open space and windows of habitable rooms of dwellings on adjoining properties; and*
- (g) *any overshadowing of adjacent public places*

Amenity is a defined term in Table 3.1 of the Scheme:

amenity means, in relation to a locality, place or building, any quality, condition or factor that makes or contributes to making the locality, place or building harmonious, pleasant or enjoyable.

The proposed apartment building will negatively impact the amenity of adjacent properties by way of the 16.55m height, together with the bulk and form, causing an unreasonable impact on the appearance of the coastal locality by replacing small single storey buildings with a large four storey one.

The largely unobstructed views to the coast and development generally following the topography of the area contribute to making the locality harmonious, pleasant and enjoyable for all residents and users.

The proposed building will be at the same relative height as adjacent residential dwellings in Main Road, Penguin, as illustrated in Figure 19 of the Ireneinc report, reproduced below.

As demonstrated in the figure below, section E-E' highlights that due to the rising topography, nearby residence 5 Main Road, Penguin is level with the height of the proposed accommodation building.

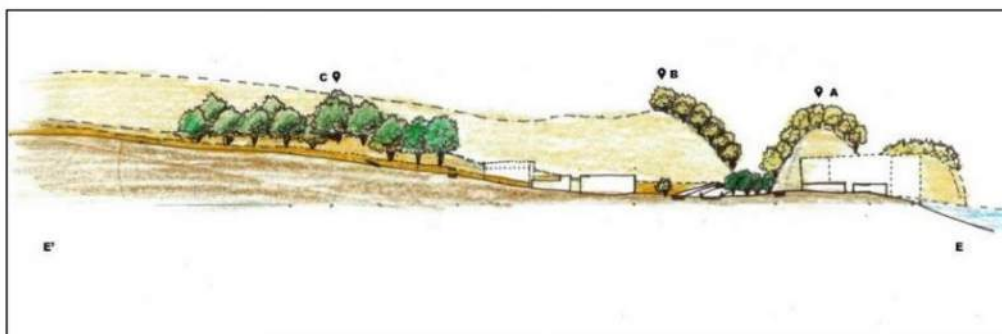


Figure 19: Drawing demonstrating rising topography (source: Ireneinc, 2021).

Figure 1 – Topography drawing - Figure 19 reproduced from Ireneinc Planning Scheme Amendment Request, dated December 2022.

This represents a substantial departure from the existing development pattern of this coastal area and will have direct impact on the amenity currently enjoyed by these properties.

It is further noted that no assessment of the Performance Criteria is offered in the Council report considering the proposal (Council Minutes 19 June 2023).

2 Section 32 – Land Use Planning and Approvals Act 1993 (“the Act”)

Section 32 of the Act sets out the contents of a Local Provision Schedule (LPS) of the Tasmanian Planning Scheme.

Section 32 (3) (c) and Section 32 (4) (reproduced below) specifically pertain to Site Specific Qualifications, as applied for in the draft Planning Scheme Amendment.

Section 32 (3)

Without limiting subsection (2) but subject to subsection (4) , an LPS may, if permitted to do so by the SPPs, include –

- (c) a site-specific qualification, being a provision, or provisions, in relation to a particular area of land, that modify, are in substitution for, or are in addition to, a provision, or provisions, of the SPPs.*

Section 32 (4)

An LPS may only include a provision referred to in subsection (3) in relation to an area of land if –

- (a) a use or development to which the provision relates is of significant social, economic or environmental benefit to the State, a region or a municipal area; or*
- (b) the area of land has particular environmental, economic, social or spatial qualities that require provisions, that are unique to the area of land, to apply to the land in substitution for, or in addition to, or modification of, the provisions of the SPPs.*

To be approved, the draft Planning Scheme Amendment must demonstrate compliance with either (a) or (b) of Section 32(4).

No such evidence is provided in the submission documents or in the consideration of the matter by Council.

The subject land does not appear to have particular qualities necessitating the proposal in order to satisfy Section 32 (4) (b).

Regarding Section 32 (4) (a), no doubt that the proposal will provide economic benefit to the proponent. However, it remains to be demonstrated if there is a significant social, economic or environmental benefit to the State, region or municipal area that would justify the proposed amendment.

3 Road and Railway Assets Code - Clause C3.5.1: Traffic Generation

The Council report considering the proposal identifies that it complies with the applicable acceptable solution requirements, including A1.4. This is contrary to the accompanying Traffic Impact Assessment which identifies that the proposal will generate up to an additional 124 vehicle trips per day and an additional 9 vehicle trips during the evening peak period.

The TIA further identifies that the function centre forming part of the proposal will not operate every day. However, there is no specific information in the application on how many days it will operate and no condition on the draft permit which would limit the number of days it can operate. Similarly, there is no information on how the operation of the restaurant (currently under renovation) is expected to differ from its historical usage.

The TIA includes a consideration of the performance criteria for the standard however there is no information indicating that Council's road authority is satisfied that there will be no adverse impact on the safety and efficiency of the road network that it administers having regard to the specific operational characteristics of the proposal, including the function centre and restaurant.

4 Conclusion

We look forward to discussing this representation further with Council and the Tasmanian Planning Commission in considering the matters raised.

Please do not hesitate to contact me should you have any queries in regard to this submission.

Yours faithfully

6ty° Pty Ltd



Jacqui Tyson
Planning Consultant

From: Ashley Brook <abrook@6ty.com.au>
Sent: Monday, 24 July 2023 4:30 PM
To: Admin
Cc: Jacqui Tyson; John GM De Bruyn
Subject: Draft Amendment LPS2022003 and Permit DA2022107 - 6 Johnsons Beach Road, Penguin - Representation
Attachments: LPS2002003-and-DA2022107 - 6 Johnsons Beach Road, Penguin - Representation.pdf

Attention: General Manager

Please find attached representation which is made John and Louisa De Bruyn, who are the owners and occupiers of an adjacent property at 11 Main Road at Penguin.

We look forward to discussing this representation further with Council and the Tasmanian Planning Commission in considering the matters raised.

Please do not hesitate to contact us should there be any queries in relation to this representation.

Regards,
Ashley



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