

HIWI PTY LIMITED
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General Manager
Blue Mountains City Council
Locked Bag 1005
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By facsimile: 4780-5555 (2 pages)

Dear Sir

Springwood Town Centre Proposals

Hiwi Pty Limited is the registered proprietor of 170 Macquarie Road, Springwood.

The Old Bakery Arcade is constructed on that land. Tenants of the arcade are:

- i) Michel's Patisserie;
- ii) The Old Bakery Coffee Shop;
- iii) Frantik Clothing; and
- iv) McPhee Kelshaw, Solicitors.

Hiwi Pty Limited constructed the arcade during or about 1983. At that time, as part of the development consent process, Hiwi Pty Limited dedicated a significant proportion of its land to Council, for car parking purposes.

Hiwi Pty Limited's land initially ran from Macquarie Road to Springwood Avenue at the rear.

About half of that land, that is, from the rear of the existing building, to Springwood Avenue, was dedicated to Council, and now forms part of the Southern (or Town Square) car park.

Hiwi Pty Limited wishes to strongly object to any development taking place in that car park, for two reasons:

1. It will, unless other provision is made, reduce the car parking spaces available; and
2. It will adversely affect the amenity of the existing tenants of 170 Macquarie Road, Springwood, in that the view which is currently enjoyed by those tenants, will be replaced by a wall, or some other visually restricting construction.

In relation to number 1, car spaces. We understand that any development would require the lost car parking space to be replaced by, for example, underground parking. That would have to be a condition of any development. Further, in order that the community might have some "value addedness", the additional car parking spaces should be significantly in excess of those which are lost. If, for example, any development resulted in one hundred spaces no longer being available, then any development should include additional car spaces, for example, an extra one hundred and fifty spaces, giving a total of two hundred and fifty, along with the number of further spaces which the development attracts.

In relation to number 2, visual impact. When the land was dedicated to Council, it was never envisaged that the land would be, or could be, developed. Council at all times stated that it was to be used for car parking purposes. If Hiwi Pty Limited had been aware, at that time, of the possibility of development which will visually adversely affect tenants of its building, it would have insisted upon an appropriately worded Restrictive Covenant, as part of the dedication. The Restrictive Covenant would have precluded construction of anything, in the car park, which would visually affect tenants of 170 Macquarie Road, Springwood. Hiwi Pty Limited does not accept that the basis upon which the dedication took place, will have been complied with by provision of alternative car parking spaces, as it was always part of Hiwi Pty Limited's rationale, when dedicating the land, that car parking would not spoil the view and visually impact the tenants. Indeed, there is an argument that while there is no formal Restrictive Covenant, the negotiations leading to the transfer result in the creation of a restriction which could be enforced.

In the above circumstances, Hiwi Pty Limited strongly objects to any development, of any nature, in the Southern (Town Square) car park, which will visually impact on the tenants of buildings which back onto the car park.

Yours faithfully

HIWI PTY LIMITED

