

23rd March 2014.

The General manager
Mr. R. Harper
Flinders Council
Whitemark
Flinders Island.

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Representation to: Development Application DA 2013/0034
57A Franklin Parade (CT: 11112/1) with access via 57 Franklin
Parade (CT: 250865/1), LADY BARRON

Dear Raoul,

Though not wishing to restrain development in the area we make representation to Development Application 2013/0034 on the following issues:

1/. Reduced Setbacks. In general this is a large title of around 1.6 Hectares and the rural setback requirement of 20 metres should not need to be reduced for either the house or the shed.
Specifically

a/. The applicant proposes that the shed housing the diesel generator be situated only 3 metres from the title's western boundary and 18 metres from the title's southern boundary. The area the title sits in is zoned rural but has not been developed as agricultural and surrounding titles may likely have applications for further residential development in the future which would not be out of character with the area. The shed should respect the rural zone setback of 20 metres and screening would be suggested to limit noise flow down to the nearby houses in the town ship of Lady Barron

Title (CT 250865/1), 57 Franklin Parade has previously had Development Approval for a dwelling on the north west section of the title and although this DA is no longer valid and the dwelling was not built that area remains the preferred position for a dwelling.

The proposed Interim Planning Scheme as it was released for public comment proposes the area to become "Low Density residential" and thus possible noise pollution from the diesel generation should be mitigated by noise screening of the shed to the south and the west. This request is made in reference to 6.1 (a) of the planning scheme.

2/. Issues of concern with the "Bush Fire Risk Assessment Report"

a/. The report states that *"The proposed dwelling is located within an area of Rural Zoning and the Planning Scheme advises of Permitted use (with Planning Permit – Home Occupation)."* when the Development Application is for a House and Residential Outbuilding which is discretionary in the Rural Zone.

Page 5: States that the Development is Zoned as Rural Living and that the use is a Permitted Use (with Planning Permit). This is an incorrect Statement.

Page 5: Under Access the report states that “ *Alternative access is also available onto Gunter and Barr Streets to the west of the development* ” There is no legal alternative access as 57A is bounded by private land.

Page 5: The Report claims “*Existing Fire Control Advantages: “10m+ firebreak on northern and western boundaries “* The report does not stipulate if this is inside or outside the boundary. The firebreak should be required to be inside the boundary. There should be no requirement , legal or otherwise, imposed on owners of the adjoining private property to maintain firebreaks for the protection of the proposed development.

Page 8: Vehicular Access: This section recognises that the Right of Way access is only 3.6 metres wide and that the pavement surface can only be 3.6 metres wide but then goes on to require “*access clearance will be a minimum of 4 metres high and 2 metres wide*”. The report writer states that “*As adjoining lots have been cleared along this right of way, clearing distances are compliant.*” There is no legal right for the owner of 57A to maintain a 2 metre clearance on either side of the Right of Way.

The Right of Way sits hard on the eastern boundary of 57 Franklin Parade with the boundary title being the eastern edge of the ROW. Thus the eastern side of the ROW will at a future date have a boundary fence erected on it and the 2 metres clearance extends into the neighboring property. The 2 metres on the western side does not form part of the right of way and no legal impost should be put on the owners of that title to maintain a 2 metre clearance beside the ROW.

I argue that clearing distances would detract from the rights of the property owners to erect a boundary fence or any other action they might care to undertake on their own property that is not part of the designated ROW. It must also be noted that at the Franklin Parade end the ROW hugs the boundary of a small residential block with an existing house and related buildings and there is no 2 metre clearance on the eastern and southern sections of the ROW in this area. I query if Objective 1, Acceptable Solution A4(iv) can be met and maintained as claimed in the report.

The two right angle corners on the right of way should also be noted as the ROW gives no extra width to negotiate these turns which does not fit with dot point 1 of E1.6.3.2 – A1 (b) which states that “*sight lines are straight on the existing ROW to allow for the efficient access of emergency vehicles.*” Dot Point 3 States that “*The cross overs are existing and acceptable for access to the subject lot and also allow vehicles to pullover.*” There is no cross over from Franklin Parade to the Right of Way and trees will need to be removed to allow physical use of the ROW.

In Summary the report does not recognize that the Fire trails in the area are over private land and in particular that meeting the objectives for access and alternative access would require access to adjoining properties not owned by the developer. i.e. It does not respect the private ownership of all the land that adjoins 57A Franklin Parade.

3/. Drainage: There are known drainage issues in this area of Lady Barron, and there should be no drainage of storm water or run-off water from property 57A that has not historically existed. has a low area in the centre of the title that has previously acted as a catchment and contained storm runoff within the title. Any drainage that removes this water from should be engineered and directed to an accepted collection point.

Subdivision of the lower third of Number 57 Franklin Parade, was stopped, technically due to an omission in the Council of the time's processes, however the underlying argument was that proposed drainage that had been designed and accepted for the subdivision and that would have relayed stormwater down to a Council collection point on Franklin Parade was not acceptable for a neighbouring property.

Hence the drainage issues in the area still exist and should not be exacerbated by any drainage of storm water or redirection of runoff from 57A.

4/. Visual amenity: The visual amenity of title 57 has the potential to be impacted by any future power lines that might be constructed to service 57A. It is requested that for visual amenity purposes any future power lines be restricted to the western boundary area of title 57. This request is made in line with 6.3 (b) of the Flinders Planning Scheme 1994.

In summary it is requested that the proposed Development does not have reduced setbacks, should be developed to meet and maintain bushfire protection requirements using the 3.6 metre Right of Way without expectations of impost on adjoining property owners, any drainage off the property should be by engineered drain to an agreed collection point and it is requested that any future power lines be restricted to the western edge of the property at 57 Franklin parade (CT 250865/1) and that some vegetation screening for noise be sited near the shed.

Yours sincerely