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20 August 2012

The Assessment Manager
Gold Coast City Council
PO Box 5042
Gold Coast MC



Our Reference: VGF 3463
Your Reference: PN163781/01/DA1
MCU201100650

Per: www.goldcoastcity.com.au/pdonline

Dear Sir,

Re: Submission by James P Sourris, Stephen J Sourris and Peter J Sourris to Gold Coast City Council in response to Application by Patricia Hester & William Hester to Gold Coast City Council for Preliminary Approval for making a Material Change of Use to Override the Planning Scheme for Low Impact and Service Industry; General Impact, Business and Industry and Open Space/Reserves Precinctual purposes on land described as Lot 4 on RP6843, Lot 1 on RP 6882 and Lot 240 on W91320, situated at 31 Yellowwood Road and 82 Christensen Road, Stapylton Q 4207

We advise that we act for and on behalf of the above-named Submitters, James P Sourris, Stephen J Sourris and Peter J Sourris in relation to the above-described Application.

The Submitters are the registered owners of adjoining land described as Lot 2 on RP115018, situated at 100 Stapylton Jacobs Well Road, Stapylton, on which land they operate the Yatala Drive-In Theatre complex.

The Submitters, in addition are in receipt of a Development Permit for the land for Industry purposes, comprising three (3) buildings and ancillary offices.

It is to be noted that a condition of approval requires the construction of roading across the southern part of the land connecting to Angel Road and Penny Lane.

The approval is current to 28 June 2016.

**IN CONTINUOUS PRACTICE SINCE 1976**

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The facts, considerations and circumstances and the grounds upon which these submissions rely, are as follows

- (i) The Yatala Drive-In Theatre site adjoins the land the subject of an application to Council described above.
- (ii) This facility continues to operate as a long-established popular, well patronized, drive-in theatre.
- (iii) Notwithstanding that, as stated above, there is approval for redevelopment of the site for industrial purposes - noting that this approval is current to 28 June 2016 - it is nevertheless the stated intention that the drive-in theatre to continue for the foreseeable future.
- (iv) Any development adjoining the theatre which displays potential for causing undue and intolerable interference into the continuing lawful operations of the theatre in the interim is, it is submitted, undesirable and unacceptable.
- (v) In particular, any intrusion of night-lighting which has adverse impacts on the ability for screens to be viewed at night, will be, it is submitted, an intolerable intrusion which would otherwise make night-screening impossible, to the extreme detriment of a continuing lawful activity.
- (vi) Therefore any activity to be conducted on adjoining land must be subjected to conditions which ensure the safe, secure and unhindered continuing of night screening of films at the Yatala Drive-In Theatre, and it is so submitted.
- (vii) With reference to the approved road-connection described above, it is noted that such connection will not be constructed unless and until the lawful operation of the drive-in theatre ceases and construction and completion of the approved development for industrial purposes (also referred to above) commences.
- (viii) Therefore any proposed development of adjoining land which is now proposed (and which development is the subject of these submissions) and which seeks to rely upon the use of this road, must be made subject to such road being constructed at such time after the cessation of the lawfully continuing drive-in theatre facility (and not before) to ensure that such lawfully continuing use is not prejudiced.

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- (ix) To the extent therefore that the subject application relies upon such road construction, any consideration for approval of the subject application must ensure that such connection to Angel Street - Penny Lane across the adjoining land (the drive-in theatre site) is not to be a requirement or a condition of any such approval, as it is prejudicial to the lawfully continuing drive-in theatre use.
- (x) Any such consideration referred to above must also take into account that upon cessation of the lawful adjoining use and the lawful construction of the approved replacement use, the costs of any such road construction be apportioned commensurately between adjoining land interests, equitably and responsibly, and upon any such pro-rata basis agreed to by the parties and by Council, representing the public interest.

Having regard to the above stated facts and circumstances upon which these submissions rely, Council's favourable consideration of these submissions in support of, and in protection of the existing lawful and future approved of the adjoining land (currently occupied by the Yatala Drive-In Theatre site) is accordingly commended.

Yours faithfully,



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