

Date: 13 April 2007  
Contact: Monique Anderson  
Location: Implementation & Assessment Branch, Nerang  
Telephone: (07) 5582 8866  
Your Reference:  
Our Reference: PN94320/01/DA16  
Application No: MCU2600920



Dear Sir/Madam

**DECISION NOTICE TO IN TIME SUBMITTER – REFUSAL  
APPLICATION TYPE: MATERIAL CHANGE OF USE  
PROPERTY DESCRIPTION: LOT 1 ON CP846066  
PROPERTY SITUATED AT: SEA WORLD DRIVE, MAIN BEACH**

I wish to advise that on 10 April 2007 Development Application No: MCU2600920 was refused.

The reasons for the refusal are outlined in the attached document.

As a Submitter you have the right of appeal to the Planning and Environment Court regarding this decision. Extracts from the Integrated Planning Act 1997, which detail your appeal rights, are attached for your information.

You should note that Submitters have 20 business days in which to appeal from the date of this notice.

In the event that the applicant appeals Council's decision, you are entitled to receive notice of the appeal under Section 4.1.41 of the Integrated Planning Act 1997.

Upon receipt of a notice of appeal, a submitter may elect to become a co-respondent to the appeal under Section 4.1.43 of the Integrated Planning Act 1997 by filing in the court a Notice of Election on the approved form within 10 business days after the day the notice of appeal has been given.

Extracts from the Integrated Planning Act 1997 which detail your appeal rights are attached for your information.

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Planning Assessment area on telephone (07) 5582 8866.

Yours faithfully

A handwritten signature in black ink that reads 'Casey Mitchell'.

Casey Mitchell  
**SUPERVISING PLANNER MCU CITY WIDE**  
*For the Chief Executive Officer*

MA:SB  
attach

<b>Real Property Description</b>	<b>LOT 1 ON CP846066</b>
<b>Address of Property</b>	<b>SEA WORLD DRIVE, MAIN BEACH</b>
<b>Area of Property</b>	<b>290200m<sup>2</sup></b>
<b>Proposed Use</b>	<b>TOURIST FACILITY (OBSERVATION WHEEL)</b>
<b>Further Development Permits</b>	<b>BUILDING WORKS</b>

The applicant and the submitters be notified as required under the provisions of the Integrated Planning Act that under Special Delegation (ex Minute No. C01.1109.005) Council refuses the issue of a Development Permit for Material Change of Use for a Tourist Facility (Observation Wheel) for the following reasons:

1. The proposed Tourist Facility (Observation Wheel) is inconsistent with The Spit (Gold Coast Harbour) Local Area Plan as it represents a deviation from the Scheme that would cause a change of character for 'The Spit' and promote the future transformation of the character of 'The Spit' as an area for structures that exceed the height limit thereby reducing the integrity of The Spit (Gold Coast Harbour) Local Area Plan.
2. The proposed Tourist Facility (Observation Wheel) is in conflict with the Intent of the Sea World Precinct (5) of The Spit (Gold Coast Harbour) Local Area Plan, because:
  - A) The development would introduce an excessively tall structure into an area of significant natural landscape value and in doing so the visual impact of the proposal would negatively affect the amenity and visual significance of 'The Spit', in respect to the areas landscape quality and natural appearance; and
  - B) It is clear, due to height restrictions, that the Scheme supports presentation of a low-key character that is visually unobtrusive; the increase in height of the structure would be out of character and would change the existing 'low-key' character of The Spit and compromise the Intent for the Sea World Precinct (5.)
3. The proposed Tourist Facility (Observation Wheel) presents a visual dominance that intensifies the built environment or 'man made' element of 'The Spit' detracting from the 'natural appearance, and thereby the development is in conflict with Desired Environmental Outcome DEO3.1 of The Spit (Gold Coast Harbour) Local Area Plan that requires *"the protection and enhancement of The Spit (Gold Coast Harbour) as an area of outstanding natural beauty and significance to the City (refer to DEO Ecol.1.)"*
4. The proposed Tourist Facility (Observation Wheel) is intrusive because of its height and inconsistent with the *"surrounding built form, landscape work and terrain of The Spit (Gold Coast Harbour)"* and thereby in conflict with Performance Criteria PC2.

**Notice of appeal to other parties (div 8)**

- 4.1.41** (1) An appellant under division 8 must, within 10 business days after the day the appeal is started (or if information is requested under section 4.1.40, within 10 business days after the day the appellant is given the information) give written notice of the appeal to the chief executive and –
- (a) if the appellant is an applicant – the assessment manager, any concurrence agency, any principal submitter whose submission has not been withdrawn and any advice agency treated as a submitter whose submission has not been withdrawn; or
  - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal – the assessment manager, the applicant and any concurrence agency; or
  - (c) if the appellant is a person to whom a notice mentioned in section 4.1.30 has been given – the assessment manager and any entity that was a concurrence agency for the development application.
- (2) The notice must state –
- (a) The grounds of the appeal; and
  - (b) if the person given the notice is not the respondent or a co-respondent under section 4.1.43 – that the person, within 10 business days after the day the notice is given, may elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

**Respondent and co-respondents for appeals under div 8**

- 4.1.43** (1) This section applies to appeals under division 8 for a development application.
- (2) The assessment manager is the respondent for the appeal.
  - (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
  - (4) If the appeal is about a concurrence agency response, the concurrence agency is a co-respondent for the appeal.
  - (5) If the appeal is only about a concurrence agency response, the assessment manager may apply to the court to withdraw from the appeal.
  - (6) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
  - (7) A person to whom a notice of appeal is required to be given under section 4.1.41 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.