

STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: Jane Harley, Consent Planner

REFERENCE: RM090370

SUBJECT: U and UH KOKCU - REPORT REP10-05-19 - Report prepared for hearing of 28 May 2010

1. SUMMARY OF PROPOSAL

The applicant owns a 331 m² site located at 265 Queen Street, Richmond. It is currently a vacant lot; the original brick building was removed from the site in 2007. The redevelopment of the site involves constructing a new building that will contain ground floor space of 230 m² - split into two tenancies, one tenancy being the applicant's business - Zara's Turkish Kebab café and the other will be a retail tenancy.

The first floor development is a 122 m^2 commercial space that could also be split into two separate tenancies. The first floor commercial activity has been provided with public pedestrian access from the Queen Street frontage as well as a rear external stairwell for staff. The ground floor development also has a rear staff entrance and four designated car parks. The building will occupy approximately 70% of the 331 m² site, which leaves 100 m² for rear on site car parking.

Land use consent is required as the activity can not comply with car parking requirements set out in Rule 16.2.3.1 (d) and figure 16.2C of the TRMP.

In accordance with the TRMP the development as proposed requires:

- five parks for the café (assessed at one park per 30 m² of gross floor area (GFA) and one park per four persons design capacity for outdoor eating areas);
- three parks for the retail space (assessed at one park per 35 m² GFA); and
- four parks for the first floor commercial office space (assessed at one park per 35 m² of GFA;
- Total of 12 car parks onsite car parks required.

The application proposes to provide four parks, pay cash in lieu for one car park and requests that Council dispense with the cash in lieu for seven car parks.

The site has a legal right-of-way access off Cambridge Street, this right-of-way is not formed, as such, but legally runs across the back of 261 Queen Street (currently Harcourt's Real-Estate site), the site physically adjoins the large Cambridge Street public car park, where access to the rear of the property has historically been taken and is also relied upon to be able to give effect to this redevelopment project.

2. SITE DESCRIPTION

The site is located within the western end of Richmond's Central Business District (see aerial attached as Appendix 1).

The site has direct frontage to Queen Street to the north and adjoins single-storey developments on either side. Harcourt's Real Estate is to the east and a block of retail outlets (barber, tile shop, Bin Inn) to the west. The site backs onto the Cambridge Street public car park to the south.

The site is zoned Central Business Zone under the operative Tasman Resource Management Plan (TRMP) (see Zone map attached as Appendix 2).

Queen Street is a Collector Road and Cambridge Street an Access Place in the TRMP Roading Hierarchy.

This site has been empty since 2007, the previous owners developed concept plans for the site, these plans generated such a large cash in lieu requirement that it cancelled out the viability of going ahead with the development. At the time there was a lack of engineering support for a reduced payment approach.

3. BACKGROUND TO APPLICATION

The application was first submitted to Council in June 2009, the design for the site consisted of a single story 225 m² development (retail and café) with six end-on-end car parks to the rear, these parks did not meet the required size or Engineering configuration standards. The design of the building was presented in floor plan format so the elevation detail of the buildings was unknown. The car parking layout that had been presented in order to meet the number or parks required by the TRMP was not practical or workable. It was evident that meeting the number car parks required by the Plan, in order to avoid the cash in lieu requirement was a driving force behind this design. Discussions with Engineering staff revealed that the site was unlikely to be able to cater for all the required car parks for the proposed development, and a car parking shortfall was inevitable.

Council staff are very aware of the implications that the cash in lieu provision was and still is having on the viability and success of CBD development in Richmond. It was proposed that the TRMP formulation to determine cash in lieu be re-looked at to achieve a more realistic figure for developers. This needs to be done without compromising the successful function of Council's Engineering Department who utilise the funds for public car parking. The cash in lieu figures (based on a specific valuation formula of land value) had reached as high at \$25,000 per car park in recent development proposals. Council's Environment and Planning Manager announced the new set figure for cash in lieu as \$14,500 + GST on 6 August 2009 in order to be reflect the ability to encourage development of the Richmond business district. The car parking layout for the site was revised by the applicants to now provide five of the required six car parks and make payment for one. This would have been a permitted activity if the full cash in lieu provision was paid and the car parking spaces met the required size, configuration and access requirements.

The applicant met with Council staff and the option of producing a development with greater floor area and therefore a greater car parking shortfall was discussed. It was determined that providing elevation detail that met the urban design expectations of Council would be critical to the success of any request to reduce the cash in lieu payable for a CBD development. One of the drivers for the consideration of a reduction in cash in lieu payments is the need to provide a design that provides a good urban design outcome. The basic principles of the design needed to consider a two storey building and an active edge to enable the retail frontage to interact with the users of the footpath.

The building design was further developed by the applicant and presented to Council on 24 February 2010. This information was crucial in establishing whether this represented the best urban design outcome and solution for the site. The original design was not considered to be the result that was hoped for and it would not have successfully supported the trade-off for car parks and cash in lieu. A second design was developed by the applicant and presented to Council on 26 April 2010. This design was now more inline with the expected quality of Urban Design. This design was then presented to the Nelson Tasman Urban Design Panel on Friday 30 April 2010. The outcome of this session before the panel was a report supporting the design (a full copy of the Urban Design Panel Report is attached as an Appendix 3 to this report).

We are aware that the plans of the previous owners of this site and other locations within central Richmond have been stifled by the financial implications of cash in lieu provision. It is considered that is we continue discouraging development by trying to protect the current parking requirements, then we are failing to meet the needs of our central business community.

4. ZONING AND STATUS OF APPLICATION

The subject property is zoned Central Business under the Proposed Tasman Resource Management Plan. (See Appendix 2 attached) This zoning is considered to be operative (as there are no outstanding appeals of relevance to this proposal), so no analysis is given of the Transitional Plan provisions, except for historical purposes relating to the original assessments.

The proposal does not comply with Rule 16.2.3.1(d) of the TRMP that requires parking spaces, of at least the number specified in the Plan, to be provided at all times within the net area of the site, except that within the Central Business Zone in Richmond a financial contribution in money in lieu of the provision of the required number of parking spaces may be paid to the Council.

Because the proposal breaches TRMP Rule 16.2.3.1(d) and the full amount of cash in lieu is not being provided the proposal becomes a Discretionary Activity in accordance with Section 87B of the Resource Management Act 1991.

The proposed building does not breach any of the permitted bulk and location requirements for the zone.

5. NON-NOTIFICATION

The application has not been notified as it is considered that the proposal involves the Council only and that there are no special circumstances or affected parties in respect of the car parking assessment. Therefore, Council must decide as to whether or not the adverse effects of the reduced cash in lieu contribution for the proposed development at 265 Queen Street are more than minor.

6. STATUTORY CONSIDERATIONS

6.1 Resource Management Act

6.1.1 Part II Matters

In considering an application for resource consent, Council must ensure that if granted, the proposal is consistent with the purpose and principles set out in Part II of the Act.

If consent is granted, the proposed activity must be deemed to represent the sustainable use and development of a physical resource and any adverse effects of the activity on the environment are avoided, remedied or mitigated.

These principles underpin all relevant Plans and Policy Statements, which provide more specific guidance for assessing this application.

6.1.2 Section 104

Subject to Part II matters, Council is required to have regard to those matters set out in Section 104. Of relevance to the assessment of this application, Council must have regard to:

- Any actual and potential effects of allowing the activity to proceed (Section 104 (1)(a));
- Any relevant objectives and policies in the Tasman Regional Policy Statement and the Proposed Tasman Resource Management Plan (Section 104(1)(b));
- Any other relevant and reasonably necessary matter(s) to determine the consent (Section (1)(c)).

In respect of Section 104(1)(b), the Proposed Tasman Resource Management Plan is now considered to be the dominant planning document, given its progress through the public submission and decision-making process.

Section 104B sets out the framework for granting or declining consent based on the status of an activity as set out in the relevant Plan.

6.2 Tasman Regional Policy Statement

The Regional Policy Statement seeks to achieve the sustainable management of land and coastal environment resources. Objectives and policies of the Policy Statement clearly articulate the importance of protecting land resources from inappropriate land use and development.

Because the Proposed Tasman Resource Management Plan was developed to be consistent with the Regional Policy Statement, it is considered that an assessment under the Proposed Plan will satisfy an assessment against Policy Statement principles.

6.3 Proposed Tasman Resource Management Plan

The relevant objectives and policies are contained in Chapter 11 " Land Transport Effects". This chapter articulates Council's key objectives: To ensure that adequate and efficient parking and loading spaces are provided, either on individual sites or collectively, to avoid or mitigate adverse effects on the safety and efficiency of the road network.

7. ASSESSMENT

In accordance with Section 104 of the Resource Management Act, Council must consider the actual and potential effects on the environment of allowing the activity, have regard for any relevant objectives, policies, rules, and consider any other matters relevant and reasonably necessary to determine the application.

7.1 Matters of Discretion and Control in the Proposed Tasman Resource Management Plan

The proposal is a discretionary activity where the Council has not restricted matters over which it has reserved its control.

The financial contributions taken as cash in lieu for car parking shortfalls is used to provide large public parking areas to serve the community when visiting there CBD, so is a relevant matter in assessing this application;

In considering reduced cash in lieu provision for a development, Council must consider if the development represents the most efficient use of the site and provide an outstanding urban design standard outcome that enhances and promotes the vibrancy of Richmond CBD. This has been determined as an important matter and a potential positive trade-off if Council are to accept the reduced cash in lieu provision.

7.2 Permitted Baseline

Section 104(2) gives a consent authority the ability to disregard adverse effects on the environment of activities that the Plan permits, if it so wishes. This is the permitted baseline and can provide a yardstick for the effects that otherwise might arise.

To be a permitted activity the Plan requires parking spaces to be provided at all times within the net area of a site, except that within the Central Business Zone in Richmond, a financial contribution in money in lieu of the provision of the required number of parking spaces may be paid to the Council.

The Plan does not prevent an application being made to reduce the amount of cash in lieu that is taken, which is when we must assess the actual effects of not receiving this payment.

This proposal seeks dispensation to dispense with the provision of eight car parks, accept payment for one space and therefore dispense with cash in lieu payment for seven spaces.

7.3 Assessment of Environmental Effects

The effects, positive and negative – actual and potential are summarised below. Pursuant to Section 104(1)(a) of the Resource Management Act, the following effects assessment has been set out and the relevant Policies and Objective from the TRMP discussed below.

7.3.1 Parking Provision

The proposal provides four car parking spaces on site with the access to these parks relying on informal access across the Councils Cambridge Street car park. The legal right-of-way access to the site has never been formed or utilised in accordance with right-of-way design which would impact on the current Cambridge Street car park layout and function.

The activities proposed within the building at 265 Queen street are not considered to be different to many other commercial activities along Queen street, these activities do not generate customers who are likely to expect to be able to drive to and park on the same site as the business. These businesses are used by existing pedestrian traffic and will continue to attract the public who are already in the Richmond CBD, or visiting for a variety of reasons and, in other words multi trip visits. In these circumstances the on street Queen Street parking and large public car parking areas adequately cater for the community. This may be a reason to either reduce the number of parks required, or the amount of monies paid to Council for this application.

The realistic demand for onsite parking by staff or service vehicles could be adequately catered for by the four proposed onsite parks.

When viewing land use in the Richmond CBD area, it clearly identifies that the majority of businesses either adjoin or back onto Council car parks or the Richmond Mall car park. Car parks in the CBD have been designed and subsequently provided specifically for this purpose, with provision in the Plan to give an option to pay where parking cannot be provided on site, so that future car parks may be developed by the Council.

Council's Transportation Manager, Gary Clark, considers the use of the site as proposed provides a good outcome in terms of traffic, urban design and encourages appropriate development within the CBD. The current rules of the TRMP make it difficult for developers to make the most opportunity of the CBD sites in terms of built environment as the car parking requirements and potential cash in lieu provision have had a stifling effect and can in turn result in a lack of new development and redevelopment of sites in Richmond's Town Centre.

When the step was taken by Council in August 2009 to reduce the cash in lieu amount that development paid per car park (now \$14,500+GST) it was seen as a positive move towards achieving a more viable and encouraging approach for developing Richmond's CBD.

Richmond currently is not considered to require additional land to expand the off street parking facilities for the community, so the effects from the reduced provision for cash in lieu is not considered to generate an effect that is more than minor. There are measures that are more appropriate to manage the car parking areas to meet the future demands.

Mt Clark also notes that if the development did provide the car parking required under the TRMP there would be other effects including the loss of car parking on Cambridge Street to enable the right-of-way to be used and the car park would be poorly used as it would be hidden away from the general public.

7.3.1.1 Policies and Objective relevant to Parking Provision

Chapter 11: Land Transport Effects

Relevant Issues:

The method of implementation for the policy provides rules for financial contributions to improve the quality of the transport network, including cash-in-lieu of parking requirements, as an option in specified areas.

Objective	Policy
transport system, where any adverse effects of	

The above objective and policy identify the need to provide off street parking to meet the needs of activities in the Commercial and Central Business Zones.

Without provision of sufficient car parks, development in the urban and particularly the commercial areas of the district would no longer be sustainable.

The application is considered to represent a development that makes efficient use of the site and does not generate adverse effects on the safety and efficiency of the road network. The current car parking supply exceeds the demands generated by the visitors to the shopping precinct.

7.3.2 Cumulative Effects

The cumulative effects have two aspects, the first being the sum of the individual effects and the second being the precedent effect.

In relation to the accumulation of individual effects having particular regard to parking and traffic effects that are predominantly catered for with existing parking facilities surrounding the site at 265 Queen Street, it is considered that there will not be any significant adverse effects on the environment.

However in relation to precedent effect, there is no doubt that dispensing with the provision of eight car parks and accepting payment for one of these, would have implications in respect of every business in the Central Business Zone that must either provide or pay for car parks when any building addition or new development occurs. The granting of this application could lead to other new developments and redevelopments of businesses requesting dispensation from parking requirements. It is not considered reasonable to dispense with all payment in lieu for the development, the applicant requests payment for one park, however both Council Engineering and Planning staff believe a fair compromise that maintains the applicants ability to get on with their development is to pay for one park prior to the commercial activity commencing from the site and to pay for another park other over a period of five years. This recommendation would be as a condition of consent should the committee be of a mind to grant approval.

The TRMP sets a permitted activity standard being that any parks that can not be provided for onsite can be paid for under the cash in lieu provision, when that standard is not being met then Council must be satisfied that a lower level of cash in lieu does not result in adverse effect on Richmond's CBD in terms of traffic, current parking and Councils ability to provide future parking. The payment of two parks in total (one now and one over 5 years) will not result in adverse traffic and parking effects and is not considered to create unrealistic financial pressure on the applicant's business development at 265 Queen Street.

7.3.3 Site Amenity and Urban Environment Effects

The site amenity of this location has been impacted since 2007 by being an empty and largely noticeable site. The redevelopment of this land has always had the potential to be a significant development that could be representative of a quality design and development solution for the site. Previous owners development proposals were stifled by cash in lieu requirements and the site remained empty, the current owners have been through several design options for the site, and we now feel we are now presented with the option that offers the best site amenity and Urban Design effects for the land.

Site amenity will be significantly improved by the proposal and the modern, urban design may in turn encourage and inspire other redevelopment of adjoining businesses to improve the amenity they offer to the Queen Street frontage.

Chapter 5: Site Amenity Effects 5.2 Amenity Values

Relevant Issues:

Amenity can be compromised in site development and site use.

Objective	Policy
5.2.2	5.2.3.5
	To promote amenity and convenience for people in commercial areas.

The above objective and policy identify the need to promote and encourage development that achieves a high level of site amenity.

The applicant has provided plans showing the site development scenario when trying to achieve compliance with the car parking requirements under the Plan. The designs submitted by the applicant to illustrate compliance with the number of parks required clearly restricts the ability to get the best use of the site and severely compromises likelihood of a quality urban design outcome for the site.

Chapter 6: Urban Environmental Effects

6.1 Sustainable Urban Design and Development

Relevant Issues:

How to ensure that growth and development of towns and urban area have socially and economically liveable and environmentally sustainable design features.

Objective	Policy
6.1.2	6.1.3.1
Urban Buildings, places,	To encourage development to incorporate sustainable
spaces and networks	urban design principles by:
that together, by design	
sustain towns as	(a) encouraging a sense of place and identity
sucessful places to live,	
work and play.	

The above objective and policy identifies the need to promote and encourage development that incorporates sustainable and successful urban design to achieve a high level of site amenity sense of identity for the community.

It is considered that the current building design reflects a significant improvement for the site and a successful urban design outcome for the CBD. The current design has been well supported and encouraged by the Nelson-Tasman Urban Design Panel. It is seen as a positive trade-off in allowing the shortfall of parking, as a potentially permitted building in this space that was designed around the TRMP requirements for parking that could have a significantly less desirable urban design outcome for the site (as illustrated in the applicants plans comparing site use with complying parking versus the current design). Councils Transportation Manager has encouraged the applicants to come up with the best urban design solution for the site, and the current design is considered to create a positive effect on this prominent Queen Street location.

8. OVERALL SUMMARY

Objectives and Policies of the Proposed Tasman Resource Management Plan – The provision of adequate and efficient parking, either on-site, or payment-in-lieu where parking spaces cannot be provided, has been necessary to avoid or mitigate adverse effects on the safety and efficiency of the road network. The objectives and policies of the Plan ensure that that parking is provided where it will most efficiently meet the parking needs of the District. In this case it is considered reasonable by the Engineering Department, who are responsible for the safety and efficient of the road network that the cash in lieu payment for parking spaces be reduced. The proposal represents a successful urban design outcome proposed for the site, with amenity benefits from a building that make the most efficient use of the site rather than a design based on providing the complying number of onsite parking.

Adverse Environmental Effects – Currently there is no obvious adverse effect from the lack of onsite parking proposed by the applicant as the parking demand generated by the activity can be suitably absorbed and catered for within the existing parking facilities in Richmond. The reduced contribution does not generate an adverse impact on Council's parking fund as it is considered that Richmond currently does not need any more off street parking.

Other Matters – It is considered that consistency is necessary when assessing car parking requirements and that payment for at least some car parks will ensure that the potential cumulative effects arising from the granting of this consent are sufficiently mitigated.

9. **RECOMMENDATION**

Subject to a condition requiring the development to be undertaken in accordance with the latest plans and design and the following condition for provision of parking and payment of cash in lieu then it is recommended that the application be granted:

1. The consent holder shall provide four on-site car parks as shown on the approved plans and pay cash in lieu for one park (\$14,500+GST) prior to the commencement of any of the commercial activities being undertaken from the site, in addition the consent holder shall pay cash in lieu for a second car park, in annual instalments over the five years following commencement of any of the commercial activities from the site (which equates to \$3262.50 per year for five years).

For the avoidance of doubt the consent holder refers to UH and H Kokcu and any successors in title.

Jane Harley Consent Planner, Land Use

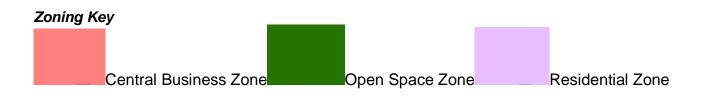
APPENDICES

- 1. LOCATION MAP (AERIAL) OF 265 QUEEN STREET
- 2. ZONING MAP
- 3. URBAN DESIGN PANEL REPORT





Zoning Map of Subject Site and surrounding area



NELSON CITY COUNCIL/ TASMAN DISTRICT COUNCIL URBAN DESIGN PANEL MEETING REPORT

Application Name: Project Address: Project Description: Meeting Date: Members Present: Applicant Presence:	U H and H Kokcu 265 Queen Street Construction of a commercial building 30 April 2010 Mr David Sheppard, Ms Liz Kidson, Mr Ian Jack Hanife Kokcu, Ugur Kokcu and Firooz Zadeh Marc Barron, Architect
Consents Planner:	Jane Harley

Overview and General Comments:

Firstly, the Panel commends both the Kokcus and the Council for being prepared to compromise and seek the best solution for this site. We understand the rules in the Tasman Resource Management Plan (TRMP) which require parking, or alternatively cashin-lieu, to be provided, but on a site such as the applicant's it seems unlikely that any development could be viable given the parking space and/or cash-in-lieu requirements; that is in nobody's interest. Therefore, we see a genuine win-win scenario if a compromise can be reached which allows a development to proceed and achieves a high quality urban design outcome.

We understand that a number of the commercial buildings in the vicinity of the applicant's site will be nearing the end of their life and no-doubt will be replaced in the future. Therefore, we agree with Council officers that with the Kokcu's property the first to be developed it is an excellent opportunity to set an example for other developments to follow. Contemporary buildings along the street frontage will also encourage changes to the Queen Street layout, which we understand are at a fledgling stage, to integrate better with the built environment. Changes to the TRMP in the future may also allow this to occur more easily.

Panel Recommendations:

Significant Issues and Recommendations

We support the design approach that has been taken to the front appearance of the building. We have briefly seen the original plans that were supplied to the Council and we consider that the Kokcus and Mr Barron have worked in the right direction to get a good contemporary design. We support the most recently submitted design.

The design presented to us is urban, but not so much so that it is out of place on Queen Street. The building is at an appropriate scale as two storey buildings suit Queen Street for the long-term. The street has the width to accommodate the proposed bulk of the building. We agree that the design needs to be aspirational to set a precedent for the next

phase of development of the town. The two-storied design introduces support activities to the upstairs which will support the use of the shops.

It appears that the rear of the building has been somewhat ignored and we point out that it is highly likely that the existing carpark to the rear will remain as such and likely be developed into a more formal and intensively used space for car parking. Therefore, the rear of the building will have some importance for the amenity of that car-park, and we recommend that more consideration be given to its design. We recommend that the rear façade be given some articulation and that structures that look like fire escapes or blank rear walls be avoided. We understand that at the rear of hospitality premises there are, often necessarily, bins and so forth necessary for the functioning of the business. These should be given effective screening from the public car park. In addition and if practicable, a small amount of mainly low level planting incorporated at the rear of the site will help to improve the amenity of the parking area and enhance the rear of the building.

Decking at the rear of the upper floor could be considered if desirable. This might offer a more versatile space and provide a more attractive view from the car-park. Alternatively, we do not consider that there will be any degradation of the urban design values of the building should the applicant choose to extend the rear of the upper storey such that it is two-storied over the entire footprint. Although, if a full second storey is considered, it will be even more important that the rear façade be articulated appropriately so that it has an attractive appearance from the car park. Also, increasing the floor area will increase the requirement for car parks according to the TRMP, therefore any such change must be considered in discussion with the officers of the Council as it maybe that the shortfall of car parks provided becomes too great if the upper storey is extended.

Signage is an aspect that is missing from the plans provided and we have no indication whether or how the tenant on the upper floor will advertise its presence. This will need to be done carefully as a poor choice of signage could reduce the clean modernism of the façade of the building. The choice to go for a two-storey building opens the option of placing signage on one or both of the side faces of the building above the adjoining single-storey buildings. While to do so may be a temptation it should be considered with care as such signs can be too dominating and detract from the considered design of the building frontage. Indeed, it may be that the Council should consider a condition to limit the use for advertising of those building faces.

We support the use of bi-fold doors at the front of one of the retail entrances. These doors can considerably increase the versatility of the entrance, particularly when used for a fast-food kebab shop or similar. They can make the entrance inviting and accessible, particularly on a warm summers evening.

Matters arising for the Tasman District Council

This development clearly identifies the shortcomings of rules which require parking spaces to be provided onsite on commercial lots in towns the size of Richmond. Mr Barron's demonstration of the amount of parking required makes that clear. Such rules and policies can seriously inhibit fledgling businesses and also encourage excessive car use when we now recognise the benefits of walking, cycling and public transport which reduces the need for extensive parking.

Therefore, we recommend the Council expedite review of its rules to address the balance between business development and car parking.

Finally, we also support the redevelopment and enhancement of both Queen Street and the car park at the rear of the applicant's building. We encourage the Council to take a coordinated approach to these redevelopments and to engage the services of an urban design professional to ensure that the outcomes that Council seeks are achieved to provide a progressive and effective environment for Richmond's central commercial area into the future.

hepport,

David Sheppard Deputy Chair of the Urban Design Panel