



15 October 2014

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DA 751/2011 – s96(1A) modification - Objection

TRRA Inc. on behalf of its members, has a major concern about Woolworths application for the deletion of the condition of this DA that they provide public toilets and baby change facilities as part of their new supermarket development at Nelson Bay (Condition 11).

They misleadingly assert in their application that they will still be providing public toilet facilities off the lobby area, but the plans indicate that this is just a single 'accessible' toilet.

Many people don't like to use 'accessible toilets' – believing correctly or not that they are reserved for people with disabilities, or not wishing to deny the use of the facility to such a person who may need it. In any case one such toilet is in no way a substitute for proper separate mens and womens facilities.

There are no public toilets in the western part of the town centre and this is a 'once in a generation' opportunity to get a decent new facility at no cost to Council.

Woolworths are already making this the most basic development with only the bare minimum of 'public benefit' infrastructure, and Council has already allowed them to ignore the active street frontage requirement in the Nelson Bay Strategy, particularly on the Stockton Street frontage, where there will be a lengthy blank wall.

The condition to provide full public toilet facilities was an important 'public benefit' which Council clearly thought at the time of the DA approval was a reasonable request. Woolworths now argue that it is not technically a requirement under the Building Code of Australia for a complex of this size and type.

Council planners have explained to us that maintaining the condition risks a court challenge. We submit that it is extremely unlikely that Woolworths would feel that



the savings from not having to comply with this condition outweighed both the financial costs of a Court challenge and the inevitable adverse publicity. As such any risk to Council of maintaining Condition 11 is, we submit, very low.

We urge Council to reject this part of Woolworth's application and confirm the requirement that they provide proper toilet facilities as part of this new development.

We also note that the application proposes a reduction in the size and coverage of the awnings. It is very difficult to assess from the SEE and plans what the effect of this would be, and we could not see any justification offered. We would be concerned if the smaller awnings reduced the amount of shade over the footpaths, particularly in summer, or adversely affected the visual appearance of the development. We urge Council to consider this part of the application very carefully and only approve it if there is clearly no disadvantage.

**Nigel Waters**  
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