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Director General

S J CONNELLY CPP PTY LTD

23 August 2010
Our Ref: SJC1102-600

The Director General
Department of Planning
PO Box 39
Sydney NSW 2001

Dear Sir,

**Re: DA 188-8-2004 Lot 208 DP 851318, Angels Beach Drive
East Ballina, Amendment to Condition E3A and staging**

1. INTRODUCTION

This planning report is in support of an application by SJ CONNELLY CPP PTY LTD to NSW Department of Planning under Section 96 (1A) of the Environmental Planning and Assessment Act 1979 and Clause 115 of the Environmental Planning and Assessment Regulation 2000 to amend and modify Development Consent No 188-8-2004 dated 18 November 2007.

The purpose of the modification is to modify Condition E3A to require completion of external civil works prior to the release of the subdivision certificate for Lots 59-62. The relevant application form is attached as **Attachment A**

2. ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND REGULATIONS 2000

Section 96 (1A) of the Environmental Planning and Assessment Act 1979 enables the Department to modify Development Consent No 188-8-2004 where it is satisfied that proposed modification is of minimal environmental impact and that the consent as modified is substantially the same development as was originally approved.

Section 96(3) requires that the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application. A summary of those matters relevant under Section 79C (1) to this application are included in **Attachment B**.

Clause 115(1) of the Environmental Planning and Assessment Regulations 2000 applies to this amendment and requires certain information be provided with an application for modification of development consent to assist in the determination of the amendment. Clause 115 (d) and (f) require a description of the proposed modification to the development consent and a description of the expected impacts of the modification.

The matters identified in Section 115(d) and 115(f) relating to the full description of the amendment and expected impacts of the proposed amendment are addressed within this report.

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3. BACKGROUND

Development Application No 188-8-2004 was approved on the 18 November 2007. This consent approved a 67 lot subdivision, roads, open space and associated infrastructure.

More recently this consent was modified on the 24 June 2010 and included a new heading and Condition E3A.

Condition E3 (A) states:

E3A Civil works

All civil works required under Condition B5 of this consent are to be completed to the satisfaction of Council prior the issue of a Subdivision Certificate.

SJ CONNELLY CPP PTY LTD requests the modification of Condition **E3A Civil Works** allowing for the development to progress and for external works to be completed to the satisfaction of Council prior to the release of the subdivision certificate for Lots 59-62.

4. DESCRIPTION OF THE PROPOSED AMENDMENTS

SJ CONNELLY CPP PTY LTD seeks to modify Development Consent No 188-8-2004 by altering Condition E3A to enable external Civil Works identified in this Condition and Condition B5 to correspond to the release of the subdivision certificate for Lots 59-62.

The reasons and details in support of this amendment, and draft example of a possible condition, are outlined in detail in **Section 4.1.**

4.1 Relationship of Civil works to release of Lots 59-62

The physical development of the Angels Beach subdivision has been carried out as a single project.

SJ CONNELLY CPP PTY LTD has raised the issue of external works with the Department having regard to the time taken to formalise design approvals to enable construction of works to proceed.

The impact of these delays affects the sequential release of lots where all other works associated with the development are completed.

To enable a clear relationship between completion of the external works to the development Condition E3A will require further amendment.

We submit the following **draft condition** for consideration by the Department for amendment to the original consent:

E3A Civil works

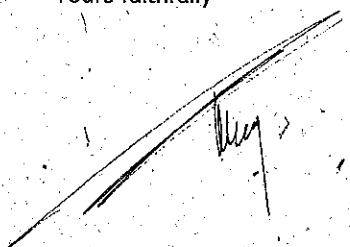
"All civil works required under Condition B5 of this consent must be completed to the satisfaction of the Council, prior to the release of the subdivision certificate for Lots 56-62"

5. EXPECTED IMPACTS OF THE PROPOSED AMENDMENTS

The expected impacts of the alteration to the timing of completion of external works will be minimal.

Should the Department require any additional information or wish to clarify any matter raised by this request please feel free to contact the writer at any time.

Yours faithfully



Stephen J Connelly FPIA
Certified Practising Planner

 **SJ CONNELLY CPP** 
email: steve@connelly.com.au
mobile: 0419 237 982

CC Ballina Shire Council

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ATTACHMENT A

S.96 APPLICATION FORM

Application to modify a development consent

Date lodged: ____/____/____



NSW GOVERNMENT
Department of Planning

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23-33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

S J CONNELLY CPP PTY LTD

ABN

40 125 970 783

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

STEPHEN

Family name

CONNELLY

STREET ADDRESS

Unit/street no.

6

Street name

BYRON STREET

Suburb or town

LENNOX HEAD

State

NSW

Postcode

2478

POSTAL ADDRESS (or mark 'as above')

PO BOX 538

Suburb or town

LENNOX HEAD

State

NSW

Postcode

2478

Daytime telephone

0266877171

Fax

0266877067

Mobile

0419 237 982

Email

steve@connelly.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

LOT 208

Street or property name

ANGELS BEACH DRIVE

Suburb, town or locality

EASTE BALLINA

Postcode

2478

Local government area

BALLINA SHIRE

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

LOT 208 DP 851318

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

67 lot subdivision and associated roads, open space,
conservation areas and infrastructure

What was the original
development application no.?

18-8-2004

What was the date
consent was granted?

16/11/2007

What was the original application
fee?

\$4293 (including
\$500 integrated fees)

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☒ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☐ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ > Please submit a new development application.

Yes ☒ > Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

ATTACHED REPORT

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

MODIFICATION TO CONDITION E3A

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

NOT APPLICABLE TO CONDITION E3A

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

15

Operational jobs (full time equivalent)

0

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

Original application fee

Total fees lodged

\$4293

\$500

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☒

No ☐

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. **An original signature must be provided.**

As the owner(s) of the above property, I/we consent to this application:

Signature

REFER TO ATTACHED AUTHORITY

Name

Date

Signature

Name

Date

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature

Date

In what capacity are you signing if you are not the applicant

TOWN PLANNER

Name, if you are not the applicant

S J Connelly

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.

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LAND OWNER AUTHORITY

TO WHOM IT MAY CONCERN

This is to advise that S.J Connelly Pty Limited has been engaged by:

Client Name:

Client Address: C/o S J CONNELLY PTY LIMITED

Dated

in respect to land described as:

No: Street:

Locality/Suburb:

Real Property Description:

The owner of the abovementioned land hereby authorises S.J Connelly Pty Limited or its agents to:

1. Inspect Records
2. Carry out searches and site inspections
3. Lodge applications, objections or appeals

Signed:

Christopher Brian Leo Condon
Director

North Angels Beach Development (Ballina) P/L.

A.C.N. 102 629 461

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ATTACHMENT B

RELEVANT MATTERS FOR CONSIDERATION SECTION 79C (1)

Deemed Environmental Planning Instruments

No deemed environmental planning instruments apply to the subject land.

Local Environmental Plans

Name: Ballina Local Environmental Plan 1987

Application in Subject Case:

Zone: The land is predominantly zoned 2(a) – Living Area Zone, with a strip of land approximately 1790 m² in area zoned 7(d) Environment Protection – Scenic Escarpment Zone.

Permissibility: The associated infrastructure in conjunction with the residential development of the land is permissible within the 2(a) – Living Area Zone

Special Provisions Applicable: The following provisions of the Ballina Local Environmental Plan are applicable to consideration of the subject proposal:

Clause 9 - Zone Objectives: The objectives of the relevant zones are set out below.

Zone No 2 (a) - Living Area Zone

A The primary objectives are:

- (a) to regulate the subdivision and use of land to permit housing and ancillary development where the scale, type and traffic generating characteristics of the ancillary development are compatible with the character and amenity of the surrounding residential area,*
- (b) to permit development which is considered by the council to be an essential land use within the urban living area, but not including a shop (other than a general store), and*
- (c) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for varying housing densities as well as other associated urban and tourist facilities.*

B The secondary objective is to allow a variety of housing types and designs and to encourage greater visual amenity by requiring site landscaping.

C The exception to these objectives is development of land within this zone for public works and services, outside the parameters specified in the primary objectives.

Zone No 7 (d) -Environmental Protection (Scenic/Escarpment) Zone

A The primary objectives are:

- (a) to protect and enhance those areas of particular scenic value to the Shire of Ballina, and*
- (b) to minimise soil erosion from escarpment areas and prevent development in geologically hazardous areas.*

B The secondary objective is to enable development as permitted by the primary and secondary objectives for Zone No 1 (b), except for development which could conflict with the primary objectives of this zone.

- C The exception to these objectives is development of public works and services, outside the parameters specified in the primary and secondary objectives, but only in cases of demonstrated and overriding public need and subject to the visual impact being minimised as much as is reasonably practical.*

The proposed development is consistent with the objectives of the land use zones applying to the subject land. No development is proposed by this application within the land zoned 7(d). All residential development and associated infrastructure is proposed entirely within the 2(a) zone and the proposed subdivision provides urban housing opportunities in a manner consistent with the amenity of the Angels Beach locality.

Clause 15 - Development adjoining arterial roads

- (1) A person shall not carry out development on land within Zone No 1 (a1), 1 (a2), 1 (b), 1 (d), 1 (e), 7 (a), 7 (c), 7 (d), 7 (f), 7 (i) or 7 (l) for a purpose referred to in Schedule 5 within 400 metres of a main or arterial road if any form of direct vehicular access is gained from a main or arterial road except with the concurrence of the Commissioner for Main Roads.*

All civil works are entirely located within land zoned 2(a) – Living Area. No development is proposed within the 7(d) zoned portion of the land. Therefore, the provisions of Clause 15 are not applicable to the subject application.

Clause 23 - Development within Zone No 1 (d), 7 (c), 7 (d), 7 (f), 7 (i) or 7 (l)

A person shall not, on land within Zone No 1 (d), 7 (c), 7 (d), 7 (f), 7 (i) or 7 (l):

- (a) notwithstanding clause 8 of the Environmental Planning and Assessment Model Provisions 1980, cut down, top, lop or otherwise destroy a tree (other than a tree planted for commercial or landscaping purposes), or*
- (b) clear, fill or otherwise alter the surface level of land, without the consent of the council.*

The proposed amendment does not involve the removal of any trees, clearing or filling within the land zoned 7(d) on the property.

Clause 25 - Development within Zone No 7 (d) or 7 (i)

- (1) This clause applies to land within Zone No 7 (d) or 7 (i).*
- (2) A person shall not erect a building on land to which this clause applies without the consent of the council.*
- (3) The council shall not grant consent to the erection of a building on land to which this clause applies unless it has made an assessment as to whether it should impose conditions relation to:*
 - (a) the height and location of the building, and*
 - (b) the colour of materials, so as to ensure that the building blends with the surrounding landscape and other development and preserves or enhances the scenic quality of the land.*

No buildings or works are proposed within the 7(d) zoned land on the site.

Clause 36 – Development of land identified on Acid Sulfate Soils Planning Maps

Clause 36 of the LEP requires that a person must not, without consent carry out works on land described as Class 1, 2, 3, 4 or 5 on Council's Acid Sulphate Soils Planning Maps.

The subject land is generally mapped as Class 5 land on the planning maps and the proposal involves minor earthworks. Given this, consent is sought to carry out the proposed works.

"Model Provisions" Considerations:

The following Model Provisions as adopted at Clause 6 of the Ballina Local Environmental plan are applicable to the proposed development.

Model Provisions Clause 5(1)

The consent authority shall, in respect of an application under the Act for its consent or approval to the development of land within view of any waterway or adjacent to any main or arterial road, railway, public reserve or land zoned as open space, take into consideration the probable aesthetic appearance of the proposed building or work or that land when used for the proposed purpose and viewed from that waterway, main or arterial road, railway, public reserve or land zoned for open space.

The proposed civil works are within the road reserve to an identified arterial road under the Ballina LEP. Further, the Angels Beach foreshore and Pacific Ocean are located to the east of the land, and the Chickiba Park sportfields are located to the south west. The site is not visible from the beach foreshore due to the presence of woodland and forest vegetation between the foreshore and the site.

Model Provisions Clause 5(2)

The consent authority shall, in respect of an application under the Act for its consent or approval to development for the purposes of commercial premises, shop, residential flat building, hotel, motel, service station, car repair station, place of assembly, industrial premises or caravan park or to the carrying out of any other development likely to cause increased vehicular traffic on any road in the vicinity of that development, take into consideration:

- (a) *whether adequate vehicular exits from and entrances to the sites have been provided so that vehicles using those exits and entrances will not endanger persons and vehicles using those roads;*
- (b) *the provision of space on the site or on land adjoining the site, other than a public road, for the parking or standing of such number of vehicles as the council may determine;*
- (c) *Not adopted by Ballina Local Environmental Plan*
- (d) *whether adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.*

The original development approved was supported by a detailed Traffic Engineering Report prepared by TTM Consultants. This report included detailed consideration of matters regarding vehicle circulation and traffic generation.

Model Provisions Clause 30 - Services

- 30. *The consent authority shall not grant its consent to the carrying out of any development on any land unless:*

- (a) a water supply and facilities for the removal or disposal of sewage and drainage are available to that land; or
- (b) arrangements satisfactory to it have been made for the provision of that supply and those facilities.

Reticulated water supply and sewerage services are available to the site. Drainage and sewerage works will be provided in accordance with engineering drawings prepared by *ASPECT NORTH*.

Development Control Plans

Name: Development Control Plan No.1 – Urban Land

Application in Subject Case:

No Control Plan Area under DCP No.1 is currently designated over the site. However, the DCP policies are applicable to all land zoned for residential purposes. Given that the land is zoned 2(a) and is the subject of a planned urban development, the proposal has been assessed below with regard to the development standards applicable to the P1 – Planned Urban Development Control Plan Area.

P1 Planned Urban Development Control Plan Area.

The objective for the P1 – Planned Urban Development Control Plan Area is as follows:

- *To encourage the development of comprehensively planned new urban areas, which may incorporate a variety of housing forms and other non-residential activities which would complement the amenity of the future residential neighbourhood.*

The Master Plan prepared in accordance with the requirements of SEPP 71 and approved by the Minister for Planning is based on extensive site analysis and underpins the proposed development. It is intended that the Master Plan forms the basis for the adoption of appropriate development standards for the site.

Regional Environmental Plans

Name: North Coast Regional Environmental Plan (NCREP)

Application in Subject Case:

The following provisions of the NCREP are relevant to Council's consideration of the Development Application:

Clause 12 - Impact of development on agricultural activities

The council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The site does not contain, nor is it directly adjacent to, any prime crop or pasture land. NSW Agricultural Land Class mapping indicates that the site and its surrounds are comprised of Class 5 agricultural land.

Clause 15 - Wetlands or fishery habitats

The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area unless it has considered the following matters:

- (a) the need to maintain or improve the quality or quantity of flows of water to the wetland or habitat,*
- (b) the need to conserve the existing amateur and commercial fisheries,*
- (c) any loss of habitat which will or is likely to be caused by the carrying out of the development,*
- (d) whether an adequate public foreshore reserve is available and whether there is adequate public access to that reserve,*
- (e) whether the development would result in pollution of the wetland or estuary and any measures to eliminate pollution,*
- (f) the proximity of aquatic reserves dedicated under the Fisheries Management Act 1994 and the effect the development will have on these reserves,*
- (g) whether the watercourse is an area of protected land as defined in section 21AB of the Soil Conservation Act 1938 and any measures to prevent soil erosion, and*
- (h) the need to ensure that native vegetation surrounding the wetland or fishery habitat area is conserved, and*
- (i) the recommendations of any environmental audit or water quality study prepared by the Department of Water Resources or the Environment Protection Authority and relating to the river, stream, wetland, area or catchment.*

No wetland or fishery habitat areas are located within the site. However, wetlands identified under State Environmental Planning Policy No.14 are located approximately 60 m south of the south western boundary of the site. Given the proposed water cycle management strategies for the site, and in particular, the stormwater management system which has been designed to ensure that there is no net increase in stormwater pollutant loads and flows post development compared to pre development conditions, no adverse impacts in terms of water flows or pollutants are likely to occur on the SEPP 14 wetland area.

Clause 29A - Natural areas and water catchment

(1) The council must not grant consent for the clearing of natural vegetation in environmental protection, scenic protection or escarpment preservation zones unless it is satisfied that:

- (a) the wildlife habitat will not be significantly disturbed by the proposed development, and*
- (b) the scenery will not be adversely affected by the proposed development, and*
- (c) an erosion and sediment control plan will be implemented which will successfully contain on the site any erosion or sediment caused by the proposed development.*

The proposed development does not involve the removal of any trees, clearing or filling within the environmental protection zones on the property.

Clause 32B - Coastal lands

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.*
- (2) In determining an application for consent to carry out development on such land, the council must take into account:*

- (a) the NSW Coastal Policy 1997,*
- (b) the Coastline Management Manual, and*
- (c) the North Coast: Design Guidelines.*

- (3) The council must not consent to the carrying out of development which would impede public access to the foreshore.*
- (4) The council must not consent to the carrying out of development:*
 - (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or*
 - (b) elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).*

The proposed development is consistent with the relevant provisions of the documents listed in this clause. The proposed development will not impede access to any area of foreshore or impact on any beaches in the locality.

Clause 43 - Residential development

- (1) The council shall not grant consent to development for residential purposes unless:*
 - (a) it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*
 - (b) it is satisfied that the proposed road widths are not excessive for the function of the road,*
 - (c) it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,*
 - (d) it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and*
 - (e) it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.*

The erosion and sedimentation control plan prepared for the site (see *ASPECT NORTH* Engineering Report) indicates that erosion can be minimised via the implementation of a range of control devices including limitations on the extent of soil exposed at any one time, diversion drains, settlement ponds and respreading of topsoil and seeding at the earliest opportunity following completion of earthworks.

State Environmental Planning Policies

State Environmental Planning Policy No.55 – Remediation of Land

The site has been investigated by Coffey Geosciences Pty Ltd for potential soil contamination. Their report indicates the site is not likely to be the subject of any contamination.

State Environmental Planning Policy No.71 – Coastal Protection

In accordance with Part 5 (Master Plans) of the previous SEPP 71, a Master Plan was prepared and approved by the Minister. That plan forms the basis of this proposed Section 96 amendment.

That Master Plan is cited as Angels Beach North Master Plan 2004. This proposed amendment has been designed to completely accord with the provisions of that Master Plan. In the main, the key controls adopted by the Master Plan are provided for in a range of "Guiding Principles". The relationship of the proposed amendment is discussed in respect of the relevant guiding principles.

Certified Draft Local Environmental Plans

Council exhibited a draft Local Environmental Plan – *Ballina Draft Local Environmental Plan 2010* from the 15 March 2010 to 4 June 2010.

The effect of the draft plan on Lot 208 DP 851318 can be summarised as follows:

- The draft plan proposes to zone the developed land in Lot 208 as *R3 Medium Density Residential*
- The approved development for residential development is consistent with the aims and objectives of the draft plan as exhibited.
- There are no specific provisions in the draft Local Environmental Plan that directly affect the proposed amendment that have not been previously considered in assessment of the original development and subsequent amendments.

Conservation Agreements

No conservation agreement or plan of management applies to the subject land.

Other Environmental Planning & Assessment Act Requirements

Section 5A of the Act sets out a range of matters to be considered in deciding whether development will have a significant effect on threatened species, populations, ecological communities or their habitat. In the subject case, the proposed will not adversely effect habitat areas not lead to direct or indirect impacts on threatened species, populations or ecological communities.

The proposed development is not specified in the Ballina Local Environmental Plan or included in Schedule 3 of the Regulations to the Environmental Planning and Assessment Act 1979 as a Designated Development.

For the purposes of Section 79C of the Act, I have set out below my comments concerning Sections 79C (b), 79C(c) and 79C (e).

Section 79(C) (b) Impacts of the Development

In terms of impacts on the natural and built environment, the proposed amendment is compatible with the approved residential development and approved road infrastructure.

Therefore, no adverse impacts are anticipated in relation to the natural or built environment.

In terms of social and economic impacts, the proposed amendment will not have a detrimental social impact within the immediate locality.

Suitability of the Site

The proposed site is suitable for the development.

The Public Interest

The public interest is protected through the planning and development controls applicable within Ballina Shire. This report has demonstrated that the proposed development is generally in compliance with these controls are fully consistent with the approved Master Plan for the land.

The following State Government Policy document is applicable in the subject case.

Name: NSW Coastal Policy.

Pursuant to Section 92 of the *Environmental Planning and Assessment Regulation 2000*, there are no relevant provisions of the Government Coastal Policy to be considered for this amendment.