

25 March 2013
Our Ref: 10034

Mr Daniel Gorgioski
Planning Officer
NSW Department of Planning & Infrastructure
GPO Box 39
Sydney NSW 2001

By Email: Daniel.gorgioski@planning.nsw.gov.au

Dear Mr. Gorgioski,

Lakes Estate Residential Subdivision – Response to post PPR submissions – Major Project Application (05_129)

1.0 Introduction

We refer to our meeting of 7 February 2013 at the Department's offices in relation to the submissions received as a result of the exhibition of the Preferred Project Report for the above project.

This letter provides our additional comments in relation to these submissions so as to assist the Department in finalising its report for the determination of this project application.

We note that a total of eight (8) submissions were received and the following four of these raised no further issues or only provided advice for action by the consent authority:

- NSW Department of Education and Communities;
- NSW Roads and Maritime Services;
- NSW Department of Primary Industries; and
- NSW Catchment Management Authority.

In addition to the above, one submission was received from the adjoining land-owner to the north who supports the proposal but requests that Amadeus Place, which is currently proposed to end at a cul-de-sac, should be extended to provide access to that site. In our view, this matter does not influence the merits of the current proposal and can be achieved through modification at subdivision stage. It should therefore be dealt with separately. The design of the end of Amadeus Place is now proposed to be amended in response to the requirements of the NSW Rural Fire Service (RFS).

The remaining submissions received were from Coffs Harbour City Council (**Council**), the **RFS** and the NSW Office of Environment and Heritage (**OEH**). The following sections provide more detailed comments for your consideration in relation to each of these.

2.0 Coffs Harbour Council Submission

2.1 Target density

The Council submission indicates that, “The development should be amended to accord with the target density.” Although our clients would be pleased to increase the yield, this has not been achievable in the context of other constraints of the site. It may still be possible to further refine the lot layout at subdivision stage to achieve additional lots.

2.2 Provision of works not provided in the Contributions Plan

The schedule of works in the Contributions Plan (**CP**) outlines the works proposed to be carried out *by Council* upon receipt of funds from developers. It is anticipated, nevertheless, that the developer and Council will be involved in further discussions to prepare works-in-kind agreement(s).

2.3 Acquisition of Habitat Lands

The costs to Council for acquiring koala habitat lands are not a matter for this application and could be considered in the preparation of works-in-kind agreement(s) as appropriate.

It is noted though, that koala habitat lands are significantly greater than originally proposed so as to satisfactorily address statutory and other provisions for the protection of habitat. As a result private land was not able to be developed and has been retained for a public purpose.

2.4 Vegetation Management Plans

Our clients have advised that a Vegetation Management Plan (VMP) can be provided with the subdivision application so that initial works can be completed prior to the release of the subdivision certificate as proposed by Council.

2.5 Kratz Drive Connection

We note Council’s objection to Road No.3. The applicant is prepared to modify the lot layout in this location by removing the Kratz Drive connection. As an illustration, plan 912 – A018B, which is included as a Bushfire Response Plan at **Attachment 1**, shows how the removal of Road No. 3 could be accommodated. A condition of consent requiring the design to be modified accordingly would be acceptable.

2.6 Functions of proposed future reserves

Council’s submission requests that the primary function of open space areas should be identified and quantified, for example, “conservation areas, Asset Protection Zones [APZ], play, visual amenity, drainage buffer etc”.

Where possible, all open space areas have multiple uses and it is not appropriate to identify any one of these as primary. For example, in Stage 2h, to the east of Road No. 7, a substantial open space area is provided. This area is required as an APZ as identified in plan 912-A017A but it also incorporates the heritage park, provides a buffer for the adjoining riparian lands, includes a cycle/ pedestrian path, could include some play areas and offers visual amenity for the precinct. This is considered to be the most efficient approach for open space areas.

2.7 Additional seating, gathering areas and play areas

The specific location of open space furniture, including toddler play areas, is not at this stage a developer responsibility. However, this is part of the suite of open space infrastructure works that is intended to be negotiated with Council as part of a works-in-kind agreement.

2.8 Vehicle controls and Additional pathways

The additional pathways proposed by Council appear to enhance connectivity through the precinct, although it is unclear exactly where the pathways in the vicinity of lots 16 and 117 should be located.

Nevertheless, the applicant has proposed commitments C14 and C15, which currently provide:

C14. The proponent commits to a pedestrian and/or path network in the locations identified in the Roads and Movement Access Plan (912-A008 G).

C15. The proponent commits to the payment of monetary contributions in accordance with the relevant sections of the CP. The total cash contributions to be paid would be off-set by the value of the public infrastructure land and works provided by the proponent through these commitments in accordance with the terms of the CP.

An additional sentence could be added to C15 to clarify the consequence of modifications to the infrastructure that is proposed to be delivered. Commitment C15 can be amended to read as follows:

C15. The proponent commits to the payment of monetary contributions in accordance with the relevant sections of the CP. The total cash contributions to be paid would be off-set by the value of the public infrastructure land and works provided by the proponent through these commitments in accordance with the terms of the CP. The contributions to be paid and the works done will be quantified in a works-in-kind agreement, which may be negotiated prior to commencement of works (for each stage or a grouping of stages) and may incorporate modifications to the various infrastructure plans included in this approval.

2.9 Perimeter Road

It is unclear which area “stage 6.2” refers to. If it is intended to refer to the western part of stage 2, then the perimeter areas will be managed as Asset Protection Zones (APZ) for the purpose of managing the risk of bushfires.

2.10 Implications of the Pacific Highway Bypass

The applicant recognises the importance of the east-west wildlife corridor and that this will be severed by the Pacific Highway Bypass. It is unclear how this could otherwise be identified in the design and the application is considered acceptable with regard to this matter.

2.11 Proposed lot 42

It is assumed that references to lot 42 were intended to refer to lot 142. The RMS has previously objected to the development of land identified as acquisition lands for the proposed construction of the bypass. Despite its zoning as Residential 2A and the fact that our clients had purchased this property to develop it for residential purposes, the land identified for the bypass and the portion to the west is affected by the RMS proposal. Lot 142 is therefore a residential subdivision super-lot, which is currently affected by the proposed bypass. The land on which the proposed bypass is located and also land to the west can all be accessed via Road No. 10 of the proposed subdivision.

In the future it is likely that a separate development application for residential subdivision could be submitted consistent with Council's plans for this area and accessed via Road No.10. Accordingly, the following additional commitment should be included:

C30. That in the event that Lot 142 is to be developed for residential purposes then the road connections from Lakes Drive to the end of the current Road No. 10 shall be widened and operate as a collector road.

It is noted that the width of the road from alignment to alignment has been designed to be wide enough to cater for a collector road.

2.12 Dedication of Public Reserves

Transfer of land for public purposes will be the subject of a separate agreement with Council in accordance with commitment C6.

2.13 Traffic and Engineering considerations

The proposed modification to Commitment C15 referred to above will address any proposed changes to road designs and other infrastructure works.

2.14 Potential site contamination

Commitment C23 adequately addresses this matter.

3.0 NSW Rural Fire Service Submission

The applicant's bushfire planning consultant, 'Building Code and Bushfire Hazard Solutions Pty. Ltd.' have prepared a detailed report, included in **Attachment 1**, addressing the matters raised in this submission. This sets out their recommendations.

Where appropriate at this stage, the applicant has addressed the relevant recommendations by preparing additional 'Bushfire Response Plans 912-A015A, A016A, A017A and A018B. These were prepared in conjunction with the consultant who discussed the various issues with the RFS. The final plans are included in the attached report and the bushfire consultant has provided an additional letter confirming that these plans address their recommendations 9-12 and 15.

These changes are all minor in nature and do not substantially alter the subdivision pattern.

The remaining recommendations may be included as additional conditions of consent.

4.0 NSW Office of Environment and Heritage Submission

4.1 Biodiversity

The OEH confirms that the Council is the "ultimate land manager" for the identified conservation lands. The Council has already prepared policy documents and management plans for this and similar bushland areas. The applicants commits to complying with such plans in accordance with commitment C20.

4.2 Aboriginal cultural heritage

The comments and issues raised in relation to Aboriginal Cultural heritage are noted. The applicants reiterate comments provided within the Preferred Project Report at clause 3.9.1, which included the assessment of an independent anthropologist:

"I do not recommend that an application be made to have any of these four sites designated as an Aboriginal Place. There is insufficient cultural information available which would warrant them being given this status."

The applicant therefore does not propose to alter Commitment C29.

4.3 Flood Risk Management

As agreed with DPI, further comments are provided in respect of flood risk management. The following additional comments are therefore provided:

- (a) The four dot point comments within the OEH submission are simply repeated verbatim from the comments made in the previous submission by DECCW. Despite the fact that these matters have been directly addressed in the Preferred Project Report, it is simply stated that they have not been adequately addressed and then the text 'cut and pasted' from the previous submission. It is therefore unclear what the perceived inadequacies may be and indeed appears that no further review has been carried out.
- (b) The stormwater and flood management for the entire precinct (which incorporates this and a number of surrounding subdivisions) has already been designed, approved and constructed. The approval issued by Council included the construction of five (5) lakes (stormwater detention basins), which ensured that the post-development peak flows will be less than or equal to the pre-development peak flows.

The substantial reduction in development lots for this proposal also means that the impermeable area will be substantially less than anticipated when designing the water management systems.

- (c) In respect of the comment regarding Probable Maximum Floods (which were addressed in the Preferred Project Report at clause 3.7.3, it should also be noted that the planning circular issued on 31 January 2007 (PS 07-003), which includes guidelines prepared jointly with the Department of Natural Resources, indicates that:

“Unless there are exceptional circumstances, councils should not impose flood related development controls on residential development on land with a low probability of flooding...”

We note that commitment C22 provides that all dwellings will be constructed with a freeboard of 500mm above the 1 in 100 flood level.

- (d) It is noted that no concerns have been raised by the Local Council, which is the authority responsible for flood risk management.

In our view, therefore, the relevant flood risks have been considered and appropriately managed.

5.0 Conclusion

It is considered that the above comments satisfactorily address the matters raised in the post PPR submissions and that the application may now be determined by granting consent.

If you have any further questions in relation to the matters in this report please contact Steven Liaros at the offices of GLN Planning on (02) 8031 6031.

Yours faithfully
GLN PLANNING PTY LTD



STEVEN LIAROS
CONSULTANT PLANNER

Attachment 1 – *Bushfire Hazard Assessment Report*, prepared by Building Code & Bushfire Hazard Solutions Pty Limited, dated 11 March 2013.

cc Mr George Khouri, Astoria Group Pty. Ltd.