

29 September 2009

NSW Department of Planning,
Coastal Assessments
Major Project Assessments
GPO Box 39
SYDNEY NSW 2001

Attn: Sally Munk

Dear Sally,

**45 HEARNES LAKE ROAD, WOOLGOOLGA - MAJOR PROJECT APPLICATION
UNDER STATE ENVIRONMENTAL PLANNING POLICY (SEPP) (MAJOR PROJECTS)
2005**

I refer to our recent conversation regarding the PPR and the request that I address the individual matters raised in the Attachment 2 to submissions.

Section 3 - Project Description

- *All relevant figures should be provided at A3 minimum as they are unclear at the size they are presented in the EA, eg: Open Space Network Plan and Stormwater Concept Plan.*

All of the relevant figures have now been included in the in the A3 plan set

The site analysis plan should be amended to show the following site features:

- *the existing electricity easement that traverses across the western part of the site;*
- *steep land; and*
- *significance vegetation (SEPP26).*

This information has now been included and shown on Maps 8, 20 and 23 included in the final plan set.

- *Please provide details of when dedication of the environmental land to Council will occur. It is the Department's preference that dedication occurs after a 5 year maintenance period of these lands.*

The dedications are proposed to occur at the following times Lot 10 and Lot 3 Stage 1, Lot 28 Stage 4. Provision for maintenance will be included in the VMP prepared in consultation with CHCC.

- *Are any easements required to service the lots? If so, these should be clearly shown on the subdivision plan.*

The lots to be dedicated Lots 3, 10 and 28, are accessible from the proposed public roads and as such require no easements.

- *The assessment against SEPP71 is unsatisfactory as it only addresses the issue of scenic quality. Please provide a further assessment against all other relevant clauses.*

State Environmental Planning Policy No 71 – Coastal Protection (**SEPP 71**) aims to ensure that development in NSW coastal zone is appropriate and suitably located, that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone. The policy identifies State significant development in the coastal zone and aims to further implement the Government's coastal policy. Under this SEPP, the project site falls within the "coastal zone" and a "sensitive coastal location", and is therefore subject to the provisions of the SEPP. As stipulated under sub-clause 2(2) applications to carry out development in "sensitive coastal locations" are required to be referred to the Director-General for comment.

Clause 7 of SEPP 71 requires the consent authority to take into consideration the matters set out in Clause 8 when it determines a development application. The

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following comments are felt to be relevant to the proposed project and the matters for consideration under this Policy:

(a) The aims of this policy as set out in clause 2, being:

2 (1)(a) to protect and manage the natural, cultural, recreational and economic attributes

of the New South Wales coast,

(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore,

(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore,

(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge,

(e) to ensure that the visual amenity of the coast is protected,

(f) to protect and preserve beach environments and beach amenity,

(g) to protect and preserve native coastal vegetation,

(h) to protect and preserve the marine environment of New South Wales,

(i) to protect and preserve rock platforms,

(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991),

(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

(l) to encourage a strategic approach to coastal management.

The proposed project is considered consistent with these aims, particularly once regard is afforded the following major aspects:

- The areas of the project site identified as having the most significant ecological attributes have been set aside for conservation purposes, complementary to the surrounding coastal zone containing the SEPP 26 lands. These areas are proposed to be dedicated to Coffs Harbour City Council for the benefit of the local community.

- The proposed retention of the existing coastal beach access road and avoiding any new connections reflects the achievement of aims envisaged under clause 2 (1)(b)&(c) of the Policy.
- The aim to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, is also reflected in the proposed project by the protection of the potentially sensitive areas within the dedicated environmental zone.
- The rehabilitation measures for the environmental area by the proponent in an integrated fashion with the proposed project, is considered consistent with the aims to protect and preserve the visual amenity, beach environments and amenity and native coastal vegetation.
- The aims of ecological sustainable development and development appropriate to the location are considered to be adequately addressed in relevant sections of this EA.
- In this instance, having regard to the aim of encouraging a strategic approach to coastal development, it is acknowledged that , site specific response proposed under this proposed project is seen as an appropriate method of realizing a suitable outcome, consistent with the overall aims of the Policy.

This existing beach access road, currently south east of the project site is unchanged by the proposed development. The proponent to upgrade Hearn's Lake Road but not change the beach access arrangements. No further beach access is sought. These measures are considered to represent that envisaged under the considerations for these components of the Policy.

The suitability of development given its type, location and design and its relationship with the surrounding area. The development is located well within the body of the site, surrounded by substantial conservation buffers and the surrounding coastal parklands. The development stages of the project involve maintaining natural vegetation with complementary additional native landscape plantings. The development only occupies 78% of the total site with the balance integrated with the surrounding natural areas.

Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any

significant loss of views from a public place to the coastal foreshore. The scenic qualities of the New South Wales coast, and means to protect and improve these qualities. The development will have no significant impact on the foreshore environment, as it will be set back from the coastal foreshore by 50 - 150 meters. Views from the beach to the site will not be altered due to the rising, vegetated land form and natural sand dunes situated between the beach and the development. In addition, further regeneration of the coastal zone between the project site is proposed to further ensure the development is well screened. There will be no overshadowing of the coastal environment of public access to the foreshore as the shadows from the project are contained within the project area.

Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats and measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats existing wildlife corridors and the impact of development on these corridors. The proponent, has set out to preserve the qualities of the coastal environment and maintain and enhance the quality of this environment through thoughtful master planning, detail layout design, with minimal impact on the ecology of the animals, and plants and their habitats. Fauna corridors will be created in a north-south direction along the eastern edge of the site. The retention of a significant number of existing trees within the site together with supplemental planting will ensure arboreal connectivity is maintained and enhanced.

The water runoff from the site will be controlled and maintained with rainwater harvesting in minimum 10000 litre tanks for each dwelling house and the discharge of excessive stormwater through filtered absorption trenches and pits and through controlled bio swales and ponds. Stormwater from this site will not impact upon the surrounding waterways.

The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards and measures to reduce the potential for conflict between land-based and water-based coastal activities. The project site is an isolated site and does not interface directly with the coastal waterways as the nearest site boundary is some 50 meters from the beach and

lake. The development components are centred which has been extensively grazed and is in need of rehabilitated. In this instance no conflict impacts on the coastal process or hazards occur or conflicts with water based coastal activities.

Likely impacts of development on the water quality of coastal waterbodies. The water runoff from the site will be controlled and maintained with the harvesting of rainwater tanks in 10000 litre tanks for each dwelling house and the discharge of excessive stormwater through filtered absorption trenches and pits and through controlled bio swales and ponds. The site is engineered to ensure that there is no change to the existing water quality and quantity with post development flows being no greater than pre-development flows and water balance to the surrounding conservation areas are maintained.

The conservation and preservation of items of heritage, archaeological or historic significance. Discussions with local indigenous groups and archaeological studies on the site have led to agreements on how any artefacts which may be uncovered during excavation shall be conserved.

The cumulative impacts of the proposed development on the environment. The development has been modelled around current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials to ensure there will be no conflict with the environmental quality of the area. Cumulative impacts have been considered and are reflected in the assessment, conclusions and recommendations of the various Specialists Reports contained with Volume 2 to the EA.

Measures to ensure that water and energy usage by the proposed development is efficient. The development has been based upon current ESD principles which determines not only the outcome and use of materials but also the treatment of stormwater and other waste materials. All residences will be required to comply with BASIX to ensure a minimum of 40% reduction in water usage and a 25% reduction in energy usage.

It is considered that the proposal adequately satisfies the provisions of SEPP 71.

- *Section 4.12.6.9 and Section 5.1.6 state that the land proposed to be conserved is consistent with the proposed 7A zoning in Draft LEP 29. This appears to be incorrect as Lots 1,2, 24-27, 29-30, 32 and 43 lie partially within the proposed 7A zone. No justification has been provided for this. Of particular concern are lots 27 and 29.*

The proposed lots have now been amended to generally coincide with the zone boundary as it was intended to conform with the Agreed Conservation Line reflected on Map 20.

- *The proposal does not appear to address the aim of the 2E zone, which is to provide for tourist accommodation. Please justify the proposed land use.*

1 Objectives of zone

- to enable tourist development and other development that is compatible with the surrounding environment.
- to provide for development that is within the environmental capacity of a high density residential environment and can be adequately serviced.

The objectives of the 2E zone are conjunctive and are to enable tourist development and other development that is compatible with the surrounding environment. The residential use of the land is a permissible use and by virtue of its sensitive layout is compatible with the surrounding environment. The proposal is consistent with the objectives of the zone.

- *Section 5.1.2 states that significant trees were identified before masterplanning and are proposed to be retained. Please provide a plan and schedule of trees that shows all trees on the site and identifies those to be removed and those to be retained.*

The significant trees are now included on Map 20 in the final plan set.

- *The constraints plan (Map 20) does not illustrate the location of the SEPP26 littoral rainforest and does not include all ecological buffers. Please provide an*

amended final plan that illustrates all constraints (SEPP26, EECs, threatened flora, contours) and associated buffers, eg: buffers to SEPP26, buffers to freshwater wetland EEC, Sainty Line as per Draft Ecological Plan dated 7 November 2008.

The constraints plan has been updated to include these requirements. The contours are shown separately on Map 23 for graphical clarity.

- *Please provide a plan that shows the location of Aboriginal heritage constraints overlaid with the proposed subdivision layout.*

There are no aboriginal heritage constraints identified on the site.

- *Please confirm whether construction of the bus bay forms part of this application. If the bus bay is part of the application, land owners consent from affected landowners is required prior to determination.*

The construction of the bus bay does not form part of this application.

- *Please provide a copy of the Street Tree Masterplan.*

The Open Space Network Landscape Concept Plan is included in the revised plan set.

- *Please advise whether proposed water supply and sewer infrastructure works are to be considered as works in kind in lieu of section 94 contributions.*

The S94 contributions will be offset against forward funding of infrastructure as outlined in the Statement of Commitments at 15.

- *Please provide further construction detail for the proposed gravel fire trail walking track. The Department is concerned that the proposed gravel finish may pose a pollution threat to the adjoining environmental area.*

The proposed fire trail is no longer proposed to be finished in gravel but left natural.

- *Please provide a summary of the outcomes of the community consultation public information sessions undertaken during the exhibition period.*

The outcomes have been addressed in detail in the PPR table. The project has undergone significant amendments to address these submissions.

- *Lot 28 should be rehabilitated by the proponent, not the housing developer. This should occur prior to issue of a subdivision certificate. Please amend the Statement of Commitments (SoC).*

The Statement of Commitments has been amended to reflect this requirement.

- *The requirement for Aboriginal heritage items to be relocated to Lot 28; the management of pollutant runoff during construction and the long term; and, the requirement to cease works in the event of the discovery of Aboriginal cultural materials is the responsibility of both the proponent and the housing developer. Please amend the SoC accordingly (p230).*

The Statement of Commitments has been amended to reflect this requirement.

- *The Minister is the approval authority, not Council. Please amend p231-232 of the SoC accordingly.*

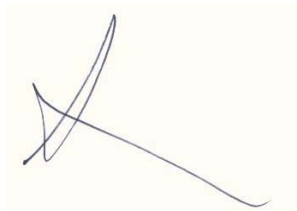
The Statement of Commitments has been amended to reflect this requirement.

- *All recommendations within the technical reports should be included in the Statement of Commitments, eg: Aboriginal Heritage Report, Stormwater Assessment, Flora and Fauna Assessment, etc. The Statement of Commitments should be stand alone document.*

The Statement of Commitments has been amended to reflect this requirement.

I trust this covers the matters raised, please don't hesitate to contact me if I may be of any further assistance.

Yours sincerely

A handwritten signature in blue ink on a light yellow background. The signature is stylized, starting with a large 'A' and ending with a long horizontal stroke.

Andrew Darroch
Consultant Planner