



NSW GOVERNMENT
Department of Planning

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Our ref: 09_0019
File: S09/00106

Shannon Pacific Pty Ltd
C/- Simon Waterworth
Geolink Environmental Management and Design
PO Box 1446
COFFS HARBOUR NSW 2450

Dear Mr Waterworth,

Subject: Proposed tourist facility entailing 11 self-contained cabins, at Lot 4 DP 1022342, New Entrance Road, South West Rocks in the Kempsey local government area (09_0019)

The Department has received your application (09_0019) for the proposed tourist facility at New Entrance Road, South West Rocks.

As raised in the Departmental advice dated 22 December 2008, concern is raised with the cabins proposed on the northern side of the existing tavern. Given that the site adjoins a SEPP 14 wetland, is subject to significant flooding impacts, is zoned Scenic Protection and has been the subject of a refusal of a previous proposal by the Department and the Land and Environment Court, development of only a part of the site, with a limited footprint will be supported.

In addition, the design presented to date for the cabins on the southern side of the tavern is not supported. The cabins are bulky two storey buildings, exacerbated by the use of timber slats on all elevations at ground level. The structures should be open at ground level, and the size of the cabins-reconsidered.

As raised in previous discussions, part of the reason for considering the proposal is on the basis that remediation works will be undertaken to the SEPP 14 Wetland, as part of the application. These works will need to be clearly identified and documented in the Environmental Assessment. The inclusion of remediation works to the wetland as part of the application will not preclude the site being considered as a possible bio-banking site in the future, should you wish to apply to the DECC under the biobanking scheme.

Notwithstanding the above, the Director-General's Environmental Assessment Requirements (DGRs) for the subject proposal are attached to this correspondence at **Attachment 1**. These requirements have been prepared in consultation with the relevant government agencies including Kempsey Shire Council. **Attachment 2** lists the relevant plans and documents which will be required upon submission of your proposal.

The DGRs have been prepared based on the information provided to date. Under section 75F(3) of the Act, the Director-General may alter or supplement these requirements if necessary and in light of any additional information that may be provided prior to the proponent seeking approval for the project. By issuing the DGRs, the Department is not endorsing the likelihood of future development on this site.

If the EA is not exhibited within 2 years of the date of issue of these requirements, you should consult further with the Director-General in relation to the preparation of the EA.

A list of some relevant technical and policy guidelines which may assist in the preparation of the EA are attached at **Attachment 3**.

Prior to exhibiting the EA, the Department will review the document to determine if it adequately addresses the DGRs. The Department may consult with other relevant government agencies in making this decision. If the Director-General considers that the EA does not adequately address the DGRs, the Director-General may require the proponent to revise the EA to address the matters notified to the proponent. Following this review period, the EA will be made publicly available for a minimum period of 30 days.

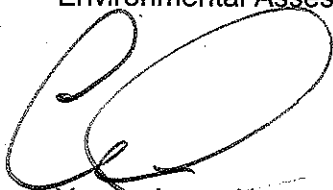
If your proposal includes any actions that could have a significant impact on matters of National Environmental Significance (NES), it will require an additional approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. It is your responsibility to contact the Commonwealth Department of the Environment, Water, Heritage and the Arts in Canberra (6274 1111 or <http://www.environment.gov.au>) to determine if the proposal is likely to have a significant impact on matters of NES and would require an approval under the EPBC Act. The Commonwealth Government has accredited the NSW environmental assessment process for assessing any impacts on matters of NES. As a result, if it is determined that an approval is required under the EPBC Act, please contact the Department immediately as supplementary DGRs will need to be issued.

Please note that under section 75U of the Act, Part 3A applications do not require certain permits/approvals required under other legislation. These matters are considered as part of the Part 3A assessment process. For example, Section 87 permits and Section 90 consents under the *National Parks and Wildlife Act 1974* are not required for Part 3A applications. Section 75U applies from the date of issue of the DGRs.

Notwithstanding, the Department still requires an equivalent level of information within the EA as would ordinarily be required for the issue of any such permit/approval to enable an assessment of the relevant works. Please notify the Department should any sub-surface testing be required during the preparation of your EA.

Copies of responses from government agencies to the Department's request for key issues and assessment requirements are enclosed at **Attachment 4**. Please note that these responses have been provided to you for information only and do not form part of the DGRs for the EA.

If you have any queries regarding these requirements, please contact Sebastian Tauni. It is recommended that a meeting be arranged with the Department on the receipt of this letter, to discuss the above comments and the requirements, prior to the preparation of drawings and the Environmental Assessment.



6.3.09

Yours sincerely

Chris Wilson

Executive Director

Major Project Assessments

as delegate for the Director-General

Attachment 1

Director-General's Environmental Assessment Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number
09_0019
Project
Tourist facility entailing 11 self contained cabins
Location
Lot 4 DP 1022342, New Entrance Road, South West Rocks in the Kempsey local government area
Proponent
Shannon Pacific Pty Ltd
Date issued
6 March 2009
General requirements
<p>The Environmental Assessment for the Project Application must include:</p> <ol style="list-style-type: none"> 1. An executive summary; 2. A detailed description of the proposal; 3. An outline of the scope of the project including: <ul style="list-style-type: none"> • any development options; • justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest; • outline of the staged implementation of the project if applicable; 4. A thorough site analysis including constraints mapping and description of the existing environment; 5. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans; 6. Consideration of the consistency of the project with the objects of the <i>Environmental Planning and Assessment Act 1979</i>, and the <i>Native Vegetation Act 2003</i>; 7. Demonstrate consistency of the project with regards to the targets and intents of the <i>Northern Rivers Catchment Action Plan</i>; 8. Investigate the impacts of the proposal on the Macleay River Estuary in accordance with the <i>Macleay River Estuary Process Study 2009</i>; 9. Consideration of impacts, if any, on matters of National Environmental Significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>; 10. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project; 11. The plans and documents outlined in Attachment 2; 12. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and 13. An assessment of the key issues specified below and a table outlining where in the Environmental Assessment these key issues have been addressed.

Key Issues

The Environmental Assessment must address the following key issues:

1. Strategic Planning

- 1.1 Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.
- 1.2 Demonstrate consistency with the Sustainability Criteria set out in the relevant Regional Strategy (including draft Regional Strategies).

2. Urban Design and Sustainability

- 2.1 Demonstrate suitability of the proposal with the surrounding area in relation to bulk, scale, amenity (including noise) and visual amenity having regard to the *Coastal Design Guidelines of NSW (2003)*, the *NSW Coastal Policy 1997*, *State Environmental Planning Policy No. 71 – Coastal Protection*.
- 2.2 Outline the long-term management and maintenance of the adjoining wetlands, areas of open space and/or conservation including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management. Outline how the proposed open space areas and recreational facilities link and complement surrounding facilities.
- 2.3 Provide a Building Management Plan providing details in relation to occupancy, management systems, use of amenities and facilities and body corporate roles and responsibilities etc. Include detail on ownership (private or central management), proposed subdivision method (if proposed) and any covenants proposed to control use and occupation of the long-term sites and tourist buildings.
- 2.4 Demonstrate that the tourist cabins will not be used for permanent accommodation and that that the facility will primarily be used for tourist accommodation or recreation, or both. Provide details of appropriate mechanisms, including restrictive covenants to ensure that tourist cabins are used for short stay tourist uses only.

3. Visual Impact

- 3.1 Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address impacts on the amenity of the foreshore, overshadowing of public reserves, loss of views from public places and cumulative impacts.
- 3.2 Use visual aids such as scale model or photomontage to demonstrate visual impacts.
- 3.3 Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.
- 3.4 A schedule of external materials and finishes is to be submitted.

4. Infrastructure Provision

- 4.1 Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.
- 4.2 Address and provide the likely scope of any planning agreements and/or development contributions with Council/ Government agencies.
- 4.3 Identify any public infrastructure traversing the site and along adjoining road reserves.

5. Traffic and Access

- 5.1 Prepare a traffic impact study in accordance with Table 2.1 of the RTA's *Guide to Traffic Generating Developments*.
- 5.2 Identify the development's access arrangements and internal circulation patterns including ingress/ egress to the road network and proposed heavy vehicle flow paths and loading areas.
- 5.3 Protect existing public access to and along the coastal foreshore and provide, where appropriate, new opportunities for controlled public access.
- 5.4 Consider the project's requirements for pedestrian access in accordance with *Development Control Plan 24 Access and Mobility*.

6. Hazard Management and Mitigation	
<i>Coastal Processes</i>	
6.1	Address coastal hazards and the provisions of the <i>Coastline Management Manual</i> . In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms.
<i>Contamination</i>	
6.2	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> (SEPP 55).
6.3	Provide a Preliminary Contamination Assessment, identifying any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55.
<i>Acid Sulfate Soils</i>	
6.4	Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures. Identify the need for an Acid Sulfate Management Plan (prepared in accordance with ASSMAC Guidelines).
<i>Bushfire</i>	
6.5	Address the requirements of <i>Planning for Bush Fire Protection 2006</i> (RFS).
<i>Geotechnical</i>	
6.6	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.
<i>Flooding</i>	
6.7	Provide an assessment of any flood risk on site (for the full range of floods including events greater than the design flood, up to probable maximum flood; and from coastal inundation, catchment based flooding or a combination of the two) and having consideration of any relevant provisions of the <i>NSW Floodplain Development Manual 2005</i> , in addition to Council's relevant flood policy. The assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development (including waste disposal), address the impact of the development (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event.
6.8	Assess the potential impacts of sea level rise and an increase in rainfall intensity on the flood regime of the site and adjacent lands with consideration of <i>Practical Consideration of Climate Change – Floodplain Risk Management Guideline</i> (DECC, October 2007).
7. Water Cycle Management	
7.1	Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages.
7.2	Prepare a conceptual design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system. The conceptual design should also give consideration to the existing Tavern on the subject site.
7.3	Assess the impacts of the proposal on surface water hydrology and quality during both construction and occupation of the site.
7.4	Consider the nature and profile of the groundwater regime under the site, including any hydrologic impacts which would affect its depth or water quality, result in increased groundwater discharge, impact on the stability of potential acid sulfate soils in the vicinity, or affect groundwater dependent native vegetation.
8. Heritage and Archaeology	
8.1	Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. The assessment must address the information and consultation requirements of the draft <i>Guidelines for Aboriginal Cultural Heritage Assessment and Community Consultation</i> (DEC 2005) and <i>Interim Community Consultation Requirements</i>

	<i>for Applicants (DEC 2004)</i>
8.2	Identify any items of non-indigenous heritage significance and, where relevant, provide measures for the conservation of such items. A Heritage Assessment of the non-indigenous heritage values of the site is to be submitted, including any built, archaeological, landscape and moveable items of potential significance. A draft Statement of Heritage Impact is to be submitted detailing and evaluating any impacts that the development concept would have on the non-indigenous heritage significance of the site.
8.3	Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
9. Flora and Fauna	
9.1	Assess the potential direct and indirect impacts of the development on flora and fauna taking into consideration impacts on any threatened species, populations, ecological communities and/or critical habitat and any relevant recovery plan in accordance with DECC's <i>Guidelines for Threatened Species Assessment (2005)</i> , having particular consideration for an known threatened species on the site. Provide measures for the conservation of flora and fauna, where relevant.
9.2	Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
9.3	Address measures to protect and manage the riparian corridor and adjacent aquatic habitats including measures that increase tidal flows into the site's <i>State Environmental Planning Policy No. 14 –Coastal Wetlands (SEPP 14) Wetland</i> .
9.4	Survey the extent of the site's SEPP 14 wetland, area and show suitable buffers.
9.5	Consider the impacts of the project on vegetation in accordance with the <i>Native Vegetation Act 2003</i> .
10. Noise	
10.1	Address potential noise impacts, in particular road traffic noise, for future residents and appropriate mitigation measures.
Consultation	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:	
(a) <i>Agencies or other authorities:</i>	
<ul style="list-style-type: none"> • Commonwealth Department of the Environment, Water, Heritage and the Arts; • Kempsey Council; • Department of Environment and Climate Change; • Department of Primary Industries; • NSW Rural Fire Service; • Department of Water and Energy; • Roads and Traffic Authority; • State Emergency Service; • Northern Rivers Catchment Management Authority; • Local Aboriginal Land Council/s and other Aboriginal community groups; and • Utility and infrastructure providers. 	
(b) <i>Public:</i>	
Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.	
The consultation process and the issues raised should be described in the Environmental Assessment.	
Deemed Refusal Period	
60 days	

Attachment 2

Plans and Documents to accompany the Application

<p>Plans and Documents of the development</p>	<p>The following plans, architectural drawings and diagrams of your proposal as well as the relevant documents will be required to be submitted for your application:</p> <ol style="list-style-type: none"> 1. The existing site survey plan is to be drawn to 1:500 scale (or other appropriate scale) and show: <ul style="list-style-type: none"> • the location of the land, the measurements of the boundaries of the land, the size of the land and north point; • the existing levels of the land in relation to buildings and roads; • location and height of existing structures on the site; and • location and height of adjacent buildings and private open space. 2. An aerial photograph of the subject site with the site boundary superimposed. 3. A site analysis plan must be provided which identifies existing natural elements of the site (including all hazards and constraints), existing vegetation, property dimensions, footpath crossing levels and alignments, existing pedestrian and vehicular access points and other facilities, slope and topography, natural features such as watercourses, rock outcrops, utility services, boundaries, orientation, view corridors and all structures on neighbouring properties where relevant to the application (including windows, driveways etc.). 4. A locality/context plan drawn to 1:500 scale (or other appropriate scale) should be submitted indicating: <ul style="list-style-type: none"> • significant local features such as parks, community facilities and open space, water courses and heritage items; • the location and uses of existing buildings, shopping and employment areas; • traffic and road patterns, pedestrian routes and public transport nodes; and • The existing site plan and locality plan should be supported by a written explanation of the local and site constraints and opportunities revealed through the above documentation. 5. A zoning plan must be provided which shows the existing zoning overlaid with the proposed development layout. An extract of the land use table or relevant clauses from the subject LEP is required. 6. Subdivision plans are to show the following:- <ul style="list-style-type: none"> • The location, boundary dimensions, site area and north point of the land, and names of roads fronting the land; • Title showing the description of the land with lot and DP numbers etc; • Existing and proposed subdivision pattern including all measurements and sites areas of existing and proposed allotments; • Location and details of all proposed roads and footpaths; • Location of all structures proposed and retained on site; • Location and details of access points to the subdivision; • Existing vegetation on the land and vegetation to be retained; • Location of services and infrastructure, and proposed methods of draining the land;
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- Any easements, covenants or other restrictions either existing or proposed on the site;
- Type of subdivision proposed (Torrens, strata and/or community title).
- Cross sections of roads, including gradients, widths, road names, footpaths etc.
- Existing and proposed finished levels in relation to roads, footpaths and structures;

7. The **Architectural drawings** are to be drawn to scale and illustrate the following general features:

- the location of any existing building envelopes or structures on the land;
- the floor plans;
- the location of lifts, stairs and corridors;
- adaptable housing requirements;
- section plans;
- fenestrations, balconies and other features;
- communal facilities and servicing points;
- the height of the proposed development in relation to the land;
- significant level changes;
- parking and vehicular access arrangements; and
- pedestrian access to, through and within the site.

8. **Elevations** – of the proposed buildings drawn to the same scale as the architectural drawings. The elevations are to indicate height and key datum lines, building length and articulation, the composition of the façade and roof design, existing buildings on the site, building entries (pedestrian, vehicular and service), and profile of buildings on adjacent properties.

9. **Stormwater Management Plan** - illustrating the concept for stormwater management from the site and must include details of any major overland flow paths through the site and any discharge points to the street drainage system. Where an on-site detention system is required, the type and location must be shown and must be integrated with the proposed landscape design. Site discharge calculations should be provided;

10. **Erosion and Sediment Control Plan** – plan or drawing that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site;

11. **Landscape Concept Plan** – showing planting design and plant/tree species to be used, listing botanical and common names, mature height and spread, number of plants to be utilised in relation to the treatment of communal/public open space areas, footpaths, driveways and the public domain including details of street trees, furniture, signage, lighting and surface treatments (i.e. pavers).

12. **Construction Management Plan** – a plan which outlines traffic and pedestrian management during construction and management of impacts on amenity of adjoining properties and appropriate mitigation measures including noise, dust and sediment and erosion controls;

13. **View analysis** – artist's impression, photomontages, etc of the proposed development in the context of the surrounding development.

14. **Shadow Diagrams** – diagrams showing solar access to the site and

	<p>adjacent properties, including the public reserve, at summer solstice (Dec 21), winter solstice (Jun 21) and the equinox (Mar 21 and Sept 21) at 9am, 12 midday, 3pm and 6.30pm.</p>
<p>Specialist advice</p>	<p>Specialist advice, where required to support your Environmental Assessment, must be prepared by suitably qualified and practising consultants in relation to issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Planning; • Flora and Fauna; • Bushfire; • Landscaping; • Geotechnical and/or hydrogeological (groundwater); • Stormwater/drainage; • Urban Design/Architectural; • Contamination in accordance with the requirements of SEPP 55; and • Acid Sulfate Soils.
<p>Documents to be submitted</p>	<ul style="list-style-type: none"> • Both hard copy and electronic versions of the Environmental Assessment will be required to be submitted. Please contact the Department prior to submitting your Environmental Assessment to determine how many copies will be required. • If the Environmental Assessment is bulky, you will be required to package up each Environmental Assessment ready for distribution by the Department to key agencies.
<p>Electronic Documents</p>	<p>Electronic documents presented to the Department for publication via the Internet must satisfy the following criteria:-</p> <ul style="list-style-type: none"> ▪ All files should be approximately 5 Mb. ▪ Large files of more than 5 Mb will need to be broken down and supplied as different files.

Attachment 3

State Government technical and policy guidelines

The following list provides relevant technical and Policy Guidelines which may assist in the preparation of the Environmental Assessment. It should be noted, however, that this list is not exhaustive as other documents and policies may need to be reviewed. It is also important to note that not of all of these guidelines may be relevant to your proposal.

The majority of these documents can be found on the relevant Departmental Websites, on the NSW Government's on-line bookshop at <http://www.bookshop.nsw.gov.au> or on the Commonwealth Government's publications website at <http://www.publications.gov.au>.

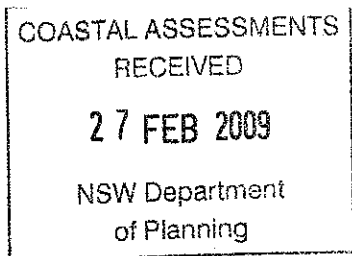
Aspect	Policy /Methodology
Biodiversity	
	Draft Guidelines for Threatened Species Assessment (DEC & DPI, 2005)
	Draft Threatened Biodiversity Survey and Assessment Guidelines (DEC, 2004)
	Why do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (NSW Fisheries, 2003)
	Policy and Guidelines: Aquatic Habitat Management and Fish Conservation (NSW Fisheries, 1999)
	Threatened Species Management Manual (NPWS, 1998)
Coastal/ Rural Planning	
	NSW Coastal Policy 1997 - A sustainable Future for the New South Wales Coast, NSW Government, 1997
	Coastal Design Guidelines for NSW, PlanningNSW, February 2003
	NSW Wetlands Management Policy (DLWC, March 1996)
	Coastline Management Manual (NSW Government 1990)
	Living and Working in Rural Areas - A handbook for managing land use conflict issues on the NSW North Coast (DPI 2007).
Community Consultation	
	Guidelines For Major Project Community Consultation, (NSW Department of Planning, 2007) http://www.planning.nsw.gov.au/assessingdev/pdf/Dr3%20DOP%20GuideMajProjComConsult%20BRO.pdf
Bushfire	
	Planning for Bushfire Protection 2006 (NSW Rural Fire Service)
Contamination and Soils	
	Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land (DUAP & EPA, 1998)
	Best Practice in Contaminated Sites (Commonwealth DEH, 1999, ISBN 0 642 546460)
	Contaminated Sites: Sampling Design Guidelines (EPA, 1999)
	NSW Acid Sulfate Soil Management Advisory Committee - Acid Sulfate Soil Manual (ASSMAC, 1998).
Environmental Management Systems	
	NSW Government Interim Water Quality and River Flow Environmental Objectives (DEC)

Aspect	Policy /Methodology
	Guidelines for the preparation of Environmental Management Plans (DIPNR, 2004)
Heritage	
Aboriginal	Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DEC, 2005) Interim Community Consultation Requirements for Applicants (DEC, 2004)
Non-Indigenous	Assessing Heritage Significance Update for Heritage Manual, NSW Heritage Office, 2000 Statements of Heritage Impact, NSW Heritage Office 2002 NSW Heritage Manual, NSW Heritage Office 1996
Noise	
	Environmental Criteria for Road Traffic Noise (EPA, 1999) Acoustics - Road traffic noise intrusion - Building siting and construction (Standards Australia, 1989, AS 3671-1989)
Safety and Hazards	
	Electrical Safety Guidelines (Integral Energy)
Traffic & Transport	
	Guide to Traffic Engineering and Guide to Geometric Design of Rural Roads (Austroads, 2003, AP-G1/03) Guide to Traffic Generating Developments (RTA, 2002)
Urban Design: Cycleway/Pathway Design	
	Guidelines for the Design and Construction of Paths and Cycleways along Watercourses and Riparian Areas (Version 2) (DIPNR/DNR)
Water	
Water Quality	Water quality guidelines for the protection of aquatic ecosystems for upland rivers. (ANZECC, 2000) Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC 2000)
Effluent Reuse	Environmental Guidelines for the Utilisation of Treated Effluent by Irrigation (NSW DEC 2004)
Floodplain	NSW Government Floodplain Development Manual - the Management of Flood Liable Land (DIPNR, 2005) Practical Consideration of Climate Change – Floodplain Risk Management Guideline (DECC, October 2007)
Groundwater	NSW State Groundwater Quality Protection Policy (DLWC, 1998, 0 7313 0379 2) NSW State Groundwater Quality Protection Policy (DLWC 1998) NSW Groundwater Dependent Ecosystem Policy (DLWC 2000)
Stormwater	Managing Urban Stormwater: Soils & Construction (NSW Landcom, March 2004) - "The Blue Book"
Waterways	Waterways Crossing Design & Construction (Version 4 – DIPNR/DNR Draft Guidelines)
Wetlands	NSW Wetlands Management Policy (DLWC 2000)

Attachment 4
Agency Responses to Request for Key Issues
- For Information Only



NSW Government
Department of Water & Energy



Mr Sebastian Tauni
Coastal Assessments
Department of Planning
GPO Box 39
Sydney NSW 2001

Contact: Rod Browne
Phone: (02) 6740 2347
Fax: (02) 6742 3129
Email: rod.browne@dnr.nsw.gov.au

Our ref: ER 20520
Your ref: MP 09_0019
File: 9051325

re
27/2/09
to Mr
Browne

24th February 2009

Dear Mr Tauni,

**Tourist Development , MP 09_0019, Lot 4 DP 1022342
New Entrance Road, South West Rocks, Kempsey LGA
Key Issues and Assessment Requirements**

I refer to your letter of 9th February 2009 and accompanying Preliminary Environmental Assessment Report (PEA), seeking Departmental (DWE) comment and advice on matters for inclusion in the Environmental Assessment (EA) for the above 11 cabin tourist development proposal on land adjacent to the Macleay River and SEPP 14 wetlands.

The proposed development footprint is largely restricted to the small area of the lot not classified as SEPP 14 wetland, and surrounding an existing tavern. The site is separated from the Macleay River water front by a sealed road. Proximity to the river and adjacent low lying land make the site prone to flooding, and the subsoil is expected to present acid sulfate soil (ASS) risks. A number of planning instruments and strategies apply to the site, largely aimed at environmental protection and scenic amenity.

The PEA clearly identifies the key issues of interest to DWE, namely:

- the impact on and protection of SEPP 14 wetlands;
- flooding;
- the presence of ASS materials on the site and the risk of disturbance or exposure; and
- the management of stormwater to avoid water quality impacts on wetlands and the river.

DWE's general requirements for the EA are attached. The following specific aspects should be addressed in some detail.

- Measures to prevent or minimise water quality impacts on wetlands and the river due to runoff, erosion and sedimentation should be detailed. Landscaping of the site to ensure stability during major storm or flood events should also be ecologically compatible with wetland and riparian habitats.
- While the PEA recognised the flood risk over the site, there was no mention of the longer term issue of sea level rise and the range of likely inundation depths. The issue requires more consideration than just compliance with existing building height requirements.
- A comprehensive assessment of the risk posed by ASS material under the site and its likely disturbance should be undertaken, according to the *ASS Manual* guidelines. During this

assessment, the depth, standing water levels and characteristics of the local groundwater regime should be determined, and the EA should include a consideration of measures to ensure its continued stability.

- Water management for the development generally should embrace sustainability and efficiency as per principles in the general attachment.

Please contact me if you have any queries on the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Browne', written in a cursive style.

Rod Browne
Senior Planning and Assessment Coordinator
Major Projects & Planning

Department of Water and Energy

General Assessment Requirements for Major Project Proposals Under Part 3A of *Environmental Planning & Assessment Act 1979*

The Department of Water and Energy (DWE) provides the following advice for consideration:

Relevant Legislation

The assessment is required to take into account the requirements of the following legislation (administered by DWE), as applicable:

- *Water Act 1912*
- *Water Management Act 2000 (WMA)*

In particular, proposals and management plans should be consistent with the Objects (s.3) and Water Management Principles (s.5) of the *WMA*.

Water Sharing Plans

Gazetted Water Sharing Plans (WSPs) prepared under the provisions of the *WMA* establish rules for access to, and the sharing of water between the environmental needs of the surface or groundwater source and water users. If the proposal is within a gazetted WSP area the assessment is required to demonstrate consistency with the rules of the WSP. Refer to: <http://www.dnr.nsw.gov.au/water/plans.shtml>

Relevant Policies

The assessment is required to take into account the following NSW Government policies, as applicable:

- *NSW Groundwater Policy Framework Document - General*
- *NSW Groundwater Quantity Management Policy*
- *NSW Groundwater Quality Protection Policy*
- *NSW State Groundwater Dependent Ecosystem Policy*
- *NSW State Rivers and Estuaries Policy*
- *NSW Sand and Gravel Extraction Policy for Non-Tidal Rivers*
- *NSW Wetlands Management Policy*
- *NSW Farm Dams Policy*
- *NSW Weirs Policy*

In addition assessments should consider the following strategies:

- *NSW Salinity Strategy*
- *NSW Water Conservation Strategy*

The majority of these documents can be found at:

<http://www.dnr.nsw.gov.au/water/legislation.shtml>

Guidelines

The assessment is required to take into account the following DWE Guidelines for Controlled Activities (February 2008), as applicable:

- Riparian corridors (and associated Vegetation Management Plans)
- Watercourse crossings
- Laying pipes and cables in watercourses
- Outlet structures
- In-stream works

Refer to: http://www.dnr.nsw.gov.au/water/controlled_activity.shtml

Groundwater

DWE is responsible for the management of groundwater resources so they can sustain environmental, social and economic uses for the people of New South Wales.

Groundwater Source

The assessment is required to identify groundwater issues and potential degradation to the groundwater source and provide the following:

- Details of the predicted highest groundwater table at the development site.
- Details of any works likely to intercept, connect with or infiltrate the groundwater sources.
- Details of any proposed groundwater extraction, including purpose, location and construction details of all proposed bores and expected annual extraction volumes.
- Describe the flow directions and rates and the physical and chemical characteristics of the groundwater source.
- Details of the predicted impacts of any final landform on the groundwater regime.
- Details of the existing groundwater users within the area (including the environment) and include details of any potential impacts on these users.
- Assessment of the quality of the groundwater for the local groundwater catchment.
- Details of how the proposed development will not potentially diminish the current quality of groundwater, both in the short and long term.
- Details on preventing groundwater pollution so that remediation is not required.
- Details on protective measures for any groundwater dependent ecosystems (GDEs).
- Details of proposed methods of the disposal of waste water and approval from the relevant authority.
- Assessment of the need for an Acid Sulfate Management Plan (prepared in accordance with ASSMAC guidelines).
- Assessment of the potential for saline intrusion of the groundwater and measures to prevent such intrusion into the groundwater aquifer.
- Details of the results of any models or predictive tools used.

Where potential impact/s are identified the assessment will need to identify limits to the level of impact and contingency measures that would remediate, reduce or manage potential impacts to the existing groundwater resource and any dependent groundwater environment or water users, including information on:

- Details of any proposed monitoring programs, including water levels and quality data.
- Reporting procedures for any monitoring program including mechanism for transfer of information.
- An assessment of any groundwater source/aquifer that may be sterilised as a consequence of the proposal.
- Identification of any nominal thresholds as to the level of impact beyond which remedial measures or contingency plans would be initiated (this may entail water level triggers or a beneficial use category).
- Description of the remedial measures or contingency plans proposed.
- Any funding assurances covering the anticipated post development maintenance cost, for example on-going groundwater monitoring for the nominated period.

Licensing

All proposed groundwater works, including bores for the purpose of investigation, extraction, dewatering, testing or monitoring must be identified in the proposal and an approval obtained from DWE prior to their installation.

Groundwater Dependent Ecosystems (GDEs)

The assessment is required to identify any impacts on GDEs.

GDEs are ecosystems which have their species composition and natural ecological processes wholly or partially determined by groundwater. GDEs represent a vital component of the natural

environment. GDEs can vary dramatically in how they depend on groundwater from having occasional or no apparent dependence through to being entirely dependent. GDEs occur across both the surface and subsurface landscapes ranging in area from a few metres to many kilometres. Increasingly, it is being recognised that surface and groundwaters are often interlinked and aquatic ecosystems may have a dependence on both.

Ecosystems that can depend on groundwater and that may support threatened or endangered species, communities and populations, include:

- Terrestrial vegetation that show seasonal or episodic reliance on groundwater.
- River base flow systems which are aquatic and riparian ecosystems in or adjacent to streams/rivers dependent on the input of groundwater to base flows.
- Aquifer and cave ecosystems.
- Wetlands.
- Estuarine and near-shore marine discharge ecosystems.
- Fauna which directly depend on groundwater as a source of drinking water or that live within water which provide a source.

The *NSW Groundwater Dependent Ecosystem Policy* provides guidance on the protection and management of GDEs. It sets out management objectives and principles to:

- Ensure the most vulnerable and valuable ecosystems are protected.
- Manage groundwater extraction within defined limits thereby providing flow sufficient to sustain ecological processes and maintain biodiversity.
- Ensure sufficient groundwater of suitable quality is available to ecosystems when needed.
- Ensure the *precautionary principle* is applied to protect GDEs, particularly the dynamics of flow and availability and the species reliant on these attributes.

A number of gazetted WSP list and map priority GDEs and set out the management strategies and actions for sharing and protecting groundwater quality, quantity and dependent ecosystems.

Surface Waters

DWE is responsible for the sustainable management of rivers, estuaries, wetlands and adjacent riverine plains.

Watercourse/Riparian

The assessment is required to consider the impact of the proposal on the watercourses and associated riparian vegetation within the site and provide the following:

- Identify the sources of surface water.
- Details of stream order (using the Strahler System).
- Details of any proposed surface water extraction, including purpose, location of existing pumps, dams, diversions, cuttings and levees.
- Detailed description of any proposed development or diversion works including all construction, clearing, draining, excavation and filling.
- An evaluation of the proposed methods of excavation, construction and material placement.
- A detailed description of all potential environmental impacts of any proposed development in terms of vegetation, sediment movement, water quality and hydraulic regime.
- A description of the design features and measures to be incorporated into any proposed development to guard against long term actual and potential environmental disturbances, particularly in respect of maintaining the natural hydrological regime and sediment movement patterns and the identification of riparian buffers. (See note below)
- Details of the impact on water quality and remedial measures proposed to address any possible adverse effects.

Riparian corridors form a transition zone between terrestrial and aquatic environments and perform a range of important environmental functions. The protection or restoration of

vegetated riparian areas is important to maintain or improve the geomorphic form and ecological functions of watercourses through a range of hydrologic conditions in normal seasons and also in extreme events.

Development activities and works on *waterfront* (riparian) land generally require a *Controlled Activity* approval under the *WMA* (s91). However, Part 3A Major Projects are exempt from requiring such a controlled activity approval (under s75U of the *EP&A Act*). Nevertheless the Environmental Assessment is required to take into account the objectives and provisions of relevant water legislation and guidelines, particularly the principles in s5(7) of the *WMA*.

Note: Recommended Core Riparian Zones (as applicable):

- Minimum of 10m for any intermittently flowing 1st order watercourse;
- 20m for any permanently flowing 1st order watercourse or any 2nd order watercourse;
- 20m – 40m (merit based assessment) for any 3rd order or greater watercourse.

[Refer to DWE Guidelines for Controlled Activities (February 2008) – Riparian Corridors available via: http://www.naturalresources.nsw.gov.au/water/controlled_activity.shtml]

Water Management Structures/Dams

DWE is responsible for the management and licensing of these structures under water legislation.

If the proposal includes existing or proposed water management structures/dams, the assessment is required to provide information on the following:

- Date of construction (for existing structure/s).
- Details of the legal status/approval for existing structure/s.
- Details of any proposal to change the purpose of existing structure/s.
- Details if any remedial work is required to maintain the integrity of the existing structure/s.
- Clarification if the structure/s is on a watercourse.
- Details of the purpose, location and design specifications for the structure/s.
- Size and storage capacity of the structure/s.
- Calculation of the Maximum Harvestable Right Dam Capacity (MHRDC).
- Details if the structure/s is affected by flood flows.
- Details of any proposal for shared use, rights and entitlement of the structure/s.
- Details if the proposed development/subdivision has the potential to bisect the structure/s.

DWE's Farm Dams Assessment Guide provides details on harvestable rights and the calculation of the MHRDC. Refer to: <http://www.dnr.nsw.gov.au/water/dams.shtml>

Basic Landholder Rights

The *WMA* identifies Basic Landholder Rights (BLRs) for access to water whereby landholders over an aquifer or with river or lake frontage can access water for domestic (household) purposes or to water stock without the need for a water licence (although a works approval may still be required). This has the potential to impact inequitably on existing licensed water users (under a WSP) in the case where riparian frontage continues to be subdivided, creating new basic rights for water extraction.

If this is an issue for the proposal the assessment should identify any potential for creation of new BLRs along the frontage to major waterways or over any sensitive aquifers. For those subdivisions fronting rivers/lakes, innovative subdivision design which allows the creation of additional lots without direct river/lake frontage or utilises collective or community title to manage the use of any existing BLR could provide a satisfactory way of managing this issue whilst still allowing for subdivision. Subdivisions over a sensitive aquifer however, may be more limited in using this approach.

Sustainable Water Supply

Many gazetted WSPs to-date have identified particular surface and groundwater systems that are currently over-allocated (that is, water licence volumes issued to landholders operating in these catchments exceed the sustainable volumes/flows within these systems). In the case of over-allocation, the systems have subsequently been embargoed and no new water licences are to be issued within these catchments. Any new or expanded development within such catchments will therefore be unable to obtain any new water entitlements directly and will have to enter the water trading market (if available within that catchment) to seek additional water. Therefore, there can be no guarantees of obtaining additional water via this mechanism and there is the potential of restrictions on further development within such catchments.

Whilst there is provision in the WMA to allow for limited growth in Town Water Supplies (TWS) this could still impact subsequently on other water users.

The assessment is required to address the issue of provision of a sustainable water supply for any project proposal. The assessment should include Water Management Plans detailing how a sustainable and efficient water supply can be sourced and implemented with minimal reliance on accessing valuable surface and groundwater resources.

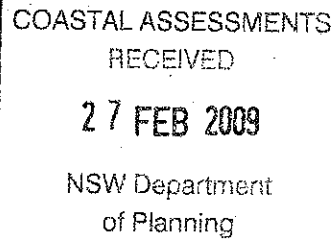
Through the implementation of BASIX, Integrated Water Cycle Management and Water Sensitive Urban Design, any proposed development must also be able to exhibit high water use efficiency. Access to information on sustainability can be found via:
http://www.deus.nsw.gov.au/business_industry.asp

Current as at February 2009.

*Inquiries: Rod Browne
Senior Planning & Assessment Coordinator
T 6740 2347
M 0427 920520
E rod.browne@dnr.nsw.gov.au*

Our Ref: IN09/0178
Your Ref: 09_0019

Ms Heather Warton
Director, Coastal Assessments
NSW Department of Planning
GPO Box 39
Sydney NSW 2001



NCLW
27/2/09
to Alan Bragg

Attention: Sebastian Tauni

Dear Ms Warton,

REQUEST FOR PROVISION OF DETAILS OF KEY ISSUES AND ASSESSMENT REQUIREMENTS – 09_0019

Thank you for your letter of 9 February 2009 with the opportunity to identify key issues for inclusion in the Director-General's Environmental Assessment (EA) Requirements (DGRs) for the above proposal.

Staff have reviewed the documents and provide comments on several issues of interest to the Northern Rivers Catchment Management Authority (NRCMA) that are not covered in your Draft DGRs, and which we recommend for inclusion. These are as follows:-

1. The EA should demonstrate consistency with the targets and intent of the Northern Rivers Catchment Action Plan. This plan may be accessed at the following address:-

http://www.northern.cma.nsw.gov.au/region_catchment_action_plan.php

2. The *Native Vegetation Act (2003)* should be included for consideration within both the General Requirements, and Section 9 "Flora and Fauna". The NRCMA is responsible for the information access and approval processes of the Native Vegetation Act, which regulates the clearing of native vegetation on all lands in NSW except for land listed in Schedule 1 of the Act as "Excluded Land".

3. In relation to potential landuse conflict occurring between urban development and high conservation value habitat areas, the NRCMA supports the recommendations listed in the publication *North Coast guide for avoiding and reducing rural land use conflict and interface issues* (Centre for Coastal Agricultural Landscapes – Southern Cross University, June 2007) which was produced by the NRCMA to help reduce landuse conflict in rural environments. This guide may be accessed at the following address:-

http://www.dpi.nsw.gov.au/research/alliances/centre_for_coastal_agricultural_landscapes/living-and-working-in-rural-areas

The EA should demonstrate consistency and compliance with the recommendations to reduce landuse conflict detailed in the above publication.

All communications to be addressed to:

Headquarters
NSW Rural Fire Service
Locked Mail Bag 17
GRANVILLE NSW 2142

Headquarters
NSW Rural Fire Service
15 Carter Street
HOMEBUSH BAY NSW 2127

Telephone: (02) 8741 5555
e-mail: development.control@rfs.nsw.gov.au

Facsimile: (02) 8741 5550



Coastal Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001

COASTAL ASSESSMENTS
RECEIVED

24 FEB 2009

NSW Department
of Planning

Your Ref: MP 09-0119
Our Ref: S09/0007
G09/0357
DA09012057330

Attention: Sebastian Tauni

16 February 2009

Dear Mr Tauni,

RECEIVED
23/2/09
to Alan Bright.

Re: Request for Details of Key Issues & Environmental Assessment Requirements for 4/1022342, NEW ENTRANCE ROAD, SOUTH WEST ROCKS NSW

I refer to your letter dated 9 February 2009 seeking the NSW Rural Fire Service key issues regarding bushfire protection for the above property in accordance with section 75F (4) of the *Environmental Planning and Assessment Act 1979*.

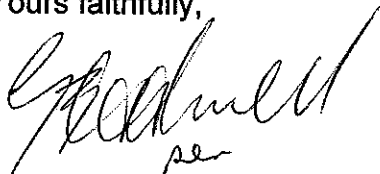
The Service has reviewed the environmental assessment and the following conditions are recommended:

1. The NSW Rural Fire Service (RFS) notes that the subject site has bush fire issues and is identified as bush fire prone. Special Fire Protection Purpose developments are likely to be subject to the requirements of section 100B of the *Rural Fires Act 1997*.
2. It is noted that the site also contains bush land that has been identified as State Environmental Protection Policy 14 – Wetland (SEPP 14). Therefore the applicant should address how, asset protection zones (APZ's) and other bush fire protection measures required as part of the development can be met without conflicting with the ecological values of the site.
3. Minimising the impact of radiant heat and direct flame contact by separating the development from the bush fire hazard through the implementation of asset protection zones in accordance with *Planning for Bush Fire Protection 2006*.
4. The ability to provide for adequate egress/access to the proposed development as outlined within 4.2.7 – Internal Access, of *Planning for Bush Fire Protection 2006*.

5. The ability to site and provide for adequate future water supplies for bush fire suppression operations as outlined within sections 4.1.3 and 4.2.7 – Water, electricity and gas, of *Planning for Bush Fire Protection 2006*.
6. Minimising the vulnerability of buildings to ignition from radiation and ember attack by addressing the construction of assets in accordance with Australian Standard AS 3959 -1999 '*Construction of buildings in bush fire-prone areas*'.
7. The future management regimes for any areas of hazard remaining within the subject area. This should focus on the level of hazard posed to future development by the land or adjacent land and how the hazard may change as a result of development.
8. A plan of management will need to include fuel management within the development and maintenance of asset protection zones in accordance with *Planning for Bush Fire Protection 2006* and the Service's document '*Standards for asset protection zones*'.

For any enquiries regarding this correspondence please contact Jason Hulston on (02) 8741-5555.

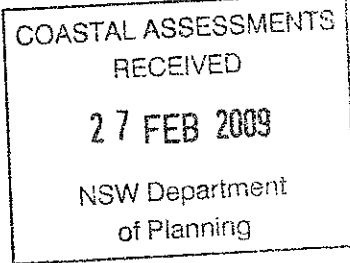
Yours faithfully,



Nika Fomin

Development Control Co-ordinator

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at www.rfs.nsw.gov.au and search under *Planning for Bush Fire Protection 2006*.



Ref: T6-09-29
AJC:DLC

24 February 2009

Heather Warton - Director
Coastal Assessments
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

KLW
27/2/09
TO Alan B...

Attention: Heather Warton

Dear Madam

MAJOR PROJECT 09_0019/S09/00106-1
TOURIST FACILITY - Lots 4 DP 1022342 NEW ENTRANCE, SOUTH WEST ROCKS
YOUR REFERENCE: 09_0019

Reference is made to your letter received at Council on the 12 February 2009 seeking details of key issues and assessment requirements for the development proposal pursuant to Section 75F(4) of the Act.

This office has reviewed the Director General's Requirements and the proponent's draft preliminary environmental assessment (EA) for the development proposal and provides the following additional comment: -

General

1. The proposed land tenure system is to be indicated in the Environmental Assessment. This will allow identification of what title restrictions are required to ensure that the land is utilised as a tourist facility rather than long term residential.
2. The Preliminary Environmental Assessment does not show the exact location of the existing New Entrance Wetlands (436).

A suitably qualified ecological consultant is to identify the extent of the wetland area within the subject development, and then a surveyor is to provide a survey along the identified line provided by the ecological consultant for inclusion into the Environmental Assessment.

3. The Preliminary Environmental Assessment does not show the exact location of the existing Endangered Ecological Communities (EEC) as represented in the 2004 Darkheart Environmental Assessment on the development site.

A suitably qualified ecological consultant is to identify the extent of the EEC within the subject development, and then a surveyor is to provide a survey along the identified line provided by the ecological consultant for inclusion into the Environmental Assessment.

4. Any Environmental Assessment is to show the total area of the subject development site that is described by the proponent as *disturbed* taking into account the location of the Wetlands, EEC, issues associated with any controlled activity under the Water Management Regulation 2008 and required setbacks from New Entrance Road.
5. The applicant to provide a plan showing the location of all existing public infrastructure where it traverses the subject allotment and in New Entrance Road and Marlin Drive and likely impacts upon that infrastructure.
6. Both the South West Rocks Section 94 Contributions Plan and Section 94 Administration Plan apply to this development.

Key Issues

7. Flooding from the Macleay River at the development site. The following information is provided for your information: -

a) *Data*

- Natural surface levels at proposed development site range from 0.78 to 2m South of Tavern and 1.2 to 0.70m to the north (Flood Risk Assessment Patterson Britton 2006 Survey). This differs from the Preliminary EA details 2.3.1 with ranges from 1.58 to 1.7m.
- 1% Flood Level at site 2.54m AHD (Lower Macleay Flood Study)
- Average Depth of flooding at proposed development site is 1.18metres.
- Velocity at site during 1% Flood event is 1.8m/s at the proposed development site reducing to 0.4m/s 200metres from the existing Tavern within Wetland 436 (Patterson Britton 2006 Flood Risk Assessment).
- True Hydraulic Hazard Category is HIGH during a 1% Flood event (Webb McKeown 1996 and Review 2000).

b) *Council's Floodplain Management Strategy Policy*

Council policy will not prohibit this tourist development.

c) *Lower Macleay Floodplain Management Plan*

This plan has recognised the need to upgrade dissemination of flood warning advice. Currently twenty four hours notice is able to be given for minor flooding.

This plan allows for the monitoring of the Greenhouse Effect, such as rising Sea Levels. The Preliminary EA has not addressed this aspect. The International Panel on Climate Change (IPCC 2007) predicts a sea level change of up to 0.91metre by 2100. Coastal Engineers in Australia are factoring in sea level rises of up to 1metre in their designs (NCCOE Engineers Australia 2004 Guidelines for Responding to Climate Change).

Associated with sea level rise is adverse affects on groundwater. The likely impact on groundwater that might present is changing discharge patterns