

NSW Department of Planning, Housing and  
Infrastructure  
Att. [michael.doyle@dpie.nsw.gov.au](mailto:michael.doyle@dpie.nsw.gov.au)

<b>APPLICATION</b>	<b>DE-2024/95</b>
Date	27 November 2024

Dear Sir/Madam

<b>Development</b>	<b>SSD-76132994</b> Coalcliff Eco-Tourist Facilities Request for SEAR's comments
<b>Location</b>	Lot 100 DP 715376 Lawrence Hargrave Drive COALCLIFF NSW 2508

Thank you for providing Council with the opportunity to comment on the revised Scoping Report No. 2240175 by Ethos Urban – version 4, dated 11 November 2024 for this proposal.

The DPHI RFI to the proponent included significant issues raised by Council for the revised Scoping Report to demonstrate:

- Construction and operational feasibility in a highly environmentally sensitive and geotechnically complex and constrained coastal location
- Alignment with all the relevant State Government legislation and policy, regional policy and local policy including for coastal zone management.

On review the following comments are provided for the Department's consideration.

## Coastal Zone Management

The additional information within the Scoping Report relating to the *Coastal Management Act 2016* and the *Resilience and Hazards SEPP 2021* (Chapter 2: Coastal Management) are not sufficient to demonstrate that the site is suitable for such a development.

While there is not currently a certified Coastal Management Program that applies to this site, the Wollongong Coastal Zone Study 2010 identified this lot as being subject to Coastal-influenced Geotechnical Hazard. This constraint has also been highlighted by Council's Geotechnical Officer who identified regression of the sea cliff by wave attack.

The Scoping Report indicates that assessment of any potential coastal hazards that may impact upon the site's development and require necessary mitigation, will be provided within the EIS, however it is agreed with Council's Geotechnical Officer that the submitted information is insufficient to support the proposed development, and geotechnical investigation, including coastal hazards (wave cut and sea cliff erosion), is required to determine subsurface conditions and confirm technical feasibility of the development based on the identified geotechnical constraints.

As part of the geotechnical investigation, consideration should also be given to the influence of coastal processes and the effects of climate change on this hazard in the future (e.g. sea level rise, and climate change induced shifts in rainfall intensity) in accordance with the following Objects of the *Coastal Management Act 2016*:

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(f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change

(i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events

## **Wollongong Development Control Plan 2009**

### E-12 Geotechnical assessment of slope instability, E-19 Earthworks

The requirement to adequately address this issue was clear in the following content of the DPHI RFI to Ethos Urban, where:

- DPHI noted that ‘advice by Wollongong City Council that a submission to the draft exhibition of Wollongong Local Environmental Plan 2009 (the LEP) in 2008 to rezone the land to SP3 was not supported due to concerns with the significance of the coastal location and landslip, and the proposal has not otherwise been pursued as a Planning Proposal. The Department considers this advice relevant where Eco-Tourism Facilities are not permissible under the LEP.’
- In addition to key NSW Government coastal management legislation and policy that was initially entirely overlooked, the SEAR’s request does not ‘does not genuinely address construction and operational feasibility.’

It is noted that Ethos Urban (2024) Section 3.4 Analysis of Alternatives is silent in relation to the known geotechnical instability and vulnerability of the subject site as a constraint. Given that the entire proposal is predicated on the geotechnical constraints to construction and in perpetuity operational feasibility, this level of assessment should not be set aside for assessment as part of an EIS.

The revised Scoping Report does not provide any amendments to the comments that the key risks and hazards (steep slope and potential landslip, mine subsidence and coastal hazards) will be within the EIS or in a report to be prepared, in the case of the geotechnical assessment. As such insufficient consideration has been given to the geotechnical constraints at the site, in particular instability and sea cliff erosion. Further geotechnical investigation and advice is required to determine subsurface conditions and constraints to demonstrate the technical feasibility of the proposed development.

### E-20 Contaminated land management

Despite the matter being raised in the DPHI RFI, the revised Scoping Report continues with a general silence on a high likelihood of site contamination where:

- There is no acknowledgment in Section ‘6.6 Hazards and risks’ of the high probability of contaminated land highlighted by Council in the first referral response. This oversight presents a departure from the requirements of Appendix B – Categories of assessment matters in the ‘State significant development guidelines – preparing a scoping report – Appendix A’ (DPIE, 2022)
- Although Section 4.1 Pre-Conditions to Exercising Power to Grant Approval has now been updated to recognise *State Environmental Planning Policy (Resilience and Hazards) 2021* is a key EPI for this critical element of a project assessment and potential approval, the content is silent on Chapter 4 Remediation of land and in particular section 4.8 (e) where a remediation work might be required.

### E-16 Bushfire Management

Comments within the scoping report regarding APZ’s is noted, however, no amended bushfire report has been provided in support of the proposal as such previous comments remain applicable.

It should be noted the submitted bushfire report, though being for the subject site, does not relate to the concept ecotourism development as proposed, is out of date and references repealed legislation.

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The concept ecotourism development as proposed does not satisfy PBP 2019 regarding APZ's and access nor does Council not support vegetation clearance in C2 zoned land for the purposes of APZ's.

If you have any enquiries or wish to discuss these matters further, please contact me on (02) 4227 7365.

This letter is authorised by

**John Wood**  
City Wide Development Manager  
Wollongong City Council  
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