

Barlings Beach Modification 6 – PPG response to submissions

Submission	PPG Response
1.0 Eurobodalla Shire Council	
Council does not object to the proposed subdivision of the medium density areas to create conventional residential allotments. However, requests consideration be given to the following:	Noted.
1.1 This modification will define new lot boundaries and therefore establish the proximity of the development to the environmentally sensitive areas, being Endangered Ecological Communities, SEPP 26 Littoral Rainforest, Wetland and natural watercourse.	The proposed modification is contained wholly within the area approved for Integrated Housing. Further, the proposed modification is proposing to transfer into public ownership land identified as <i>mature dune complex</i> as part of the adjoining northern conservation zone.
1.2 The revised Vegetation Management Plan (VMP) dated February 2011 forms part of this application. If the impacts of this development are intended to be mitigated by the VMP it is requested that the plan be assessed and endorsed as part of this application. Council has not approved a revised VMP as required by condition B11a in Modification No. 5 because in the absence of a suitable buffer, Council did not consider the previous management actions sufficient to mitigate impacts on the SEPP26 Rainforest or EEC on this site.	<p>We do not object to the transfer of approval roles of the amended Vegetation Management Plan (VMP) to DoP. Eurobodalla Council approved a VMP prepared by ngh dated November 2006 on 5 February 2007.</p> <p>The master plan as approved by the then Minister became Eurobodalla Council's Barlings Beachside DCP ('the DCP'). The DCP included a 30m easement for an APZ located within the Littoral Rainforest buffer area and land identified as the northern conservation area in the DCP. One of the main purposes of Modification 5 was to transfer responsibility of asset protection to individual lot owners as preferred by the RFS and ESC. Modification 5 reduced the extent of littoral rainforest buffer area affected by the APZ adjoining the allotments 54 to 135 by 10m (from 30m to 20m). Further, as part of the consideration of Modification 5 by DoP and further consultation with the RFS and PPG's bushfire consultant, the extent of the APZ within lots adjoining the SEPP 26 Littoral Rainforest was further reduced to 15m to provide an additional buffer to lots closest to the Littoral Rainforest.</p> <p>The subsequent amendments to the VMP are limited to these changes and do not materially change the management approach as contained in the approved VMP as signed off by Council in February 2007.</p>
1.3 The Native Vegetation Conservation permit BR/03/05 appears to have lapsed. Notwithstanding, MOD 6 will require clearing which is outside the scope of the original permit.	<p>The Native Vegetation Conservation permit BR/03/05 lapsed on 23 January 2010. An application will be made to the Office of Environment and Heritage to clear vegetation as required.</p> <p>Barlings Beach Community Pty Ltd did not clear areas for which there was a permit in place at the request of the ESC and in the interests of responsible land</p>

	<p>management.</p> <p>The scope of the original permit covered the Integrated Housing lots. The report from the then DNR clearly describes the rationale for the approvals/refusal granted to the clearing of native vegetation over the integrated lots. See summary extract from DNR Assessment report included as Annexure 1.</p>
1.4 Council requests the conservation area be clearly defined on plan relative to existing landmarks and property boundaries to avoid ambiguity.	The boundary of the northern conservation area has been surveyed and pegged.
1.5 It is requested the cul-de-sac heads be constructed to full pavement standard (pavement design plus asphaltic concrete top course) and satisfy RFS requirements for 12.5m turning radius.	Noted. The turning circles have been designed to satisfy RFS requirements.
1.6 Works are proposed within 40 metres of the watercourse and will require a Controlled Activity Approval pursuant to the <i>Water Management Act 2000</i> .	Works are not proposed within the Riparian Zone. However, any approvals required will be sought under the Water Management Act. The proposed lots and APZ are wholly within the area designated for Integrated lots.
2.0 Department of Environment and Climate Change	
2.1 No objection provided some form of public access is retained to the Conservation Area surrounded by the proposed lot numbers 190 to 201.	Public access will be improved into the Conservation Area surrounded by proposed lot numbers 190 to 201. Public access is unrestricted from the road reserve at the northern boundary of the Conservation Area for its full width.
2.2 The proponent should satisfy themselves that the proposed modifications do not amend any requirements or conditions as agreed to in the Barlings Beach Cultural Facilities Deed especially with regard to the Cultural Centre proposed for Lot 202.	The proposed modification does not affect the terms of the Barlings Beach Cultural Facilities Deed ('the Deed'). The terms of the Deed requires the establishment of a committee with representatives from the Mogo Local Land Council and Barlings Beach Community Pty Ltd. The Committee is established and discussions are underway in relation to the Cultural Facility.
3.0 Pauline Rouillon	
3.1 Supports the proposal providing the amended Vegetation Management Plan is strictly adhered to by the developer. There has already been a lot of vegetation in the Conservation Zone destroyed. This has been reported the ESC by the Tomakin Community Association.	The works undertaken by PPG have been audited by ngh Environmental (i.e. Stage 1 and Stage 1A) against the requirements of the VMP dated November 2007. The audit found that vegetation management in these areas has complied with the VMP. See page 3 of the amended VMP dated September 2010.
3.2 The Association wants to know why DoP permitted development so close to the Littoral Forest.	<p>The rationale for the Minister's approval is included in DoP's assessment report. The report states:</p> <p><i>'The clearing required to facilitate the proposed development actually comprises two separate applications in legislative terms. Clearing of vegetation within 100 metres of the SEPP 26 area requires consent under that Policy and the Act. Clearing of native vegetation over the remaining parts of the site that are not covered by SEPP 26 or requiring a permit under Part</i></p>

	<p>3A of the Rivers and Foreshores Improvement Act, 1948 requires consent under the Native Vegetation Conservation Act 1997 (NVC Act). The DNR is the assessment authority for that approval process and accordingly the applicant has lodged an application with DNR pursuant to the provisions of the NVC Act. The DNR has advised that an assessment of the amended application has been completed and that the proposed native vegetation clearing will be approved subject to conditions.</p> <p>The applicant proposes to remove trees within the SEPP 26 area with a trunk diameter of less than 30 centimetres (at breast height). DoP has undertaken an assessment of the clearing proposed within 100 metres of the mapped SEPP 26 area and reviewed the flora and fauna assessment submitted with the application. The flora and fauna assessment (which includes an eight part test pursuant to Part 5A of the Act) concludes that the vegetation of the site is in a highly disturbed state. The report identifies past activities and uncontrolled recreational use of the site as resulting in the loss of original vegetation structure and composition. A few small stands of disturbed vegetation are considered to have a medium conservation value. These stands are predominantly located in the riparian and dunal zones which will be protected.</p> <p>The application was referred to DEC and the Department's in-house ecologist for review under SEPP 26. DEC advised that the description in the flora and fauna assessment indicated the areas of rainforest were likely to constitute littoral rainforest and that on that basis, the impacts on the SEPP 26 should be considered by way of a "eight-part test" (s.5A, EP&A Act). DEC acknowledged that while the area is not likely to be considered regionally significant, it remained worthy of protection and as such the proposal should avoid direct impacts and attempt to minimise indirect impacts. Management measures recommended by DEC included ensuring no fence boundaries along the edge of the rainforest areas and maintaining a buffer between all development and areas of rainforest.</p> <p>The Department's in-house ecologist assessed the application and DEC's comments and advised that the botanical composition of littoral rainforest is defined under SEPP 26. There are five types, four of which occur well to the north of Eurobodalla. The fifth type is defined by the presence of lillypilly, various figs, cabbage palm, and plum pine. While the first three of these species are present on the site, they also occur in other types of rainforest in the region.</p> <p>The most common rainforest species on the site are muttonwood, grey myrtle and lillypilly while cabbage palm was recorded as a single seedling. Vines were the most</p>
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	<p><i>abundant rainforest element present on the site and were draped over trees, shrubs and the ground in the more sheltered areas.</i></p> <p><i>The ecologist advised that structurally the rainforest patches present on the site occur only as understorey within eucalypt forest. The rainforest trees are all young, suggesting they have only become established on the site recently. Rainforest species appear to be located on the steep escarpment at the northern end of the site, largely on the adjoining property, rather than the site itself.</i></p> <p><i>Furthermore, current and past disturbances have lead to significant weed infestation within the site. It is expected that these weed infestations will continue if control is not undertaken. Weed infestation could be expected to further reduce the habitat value of the site and would not promote the natural regeneration of the site by local native species.</i></p> <p><i>The proposed development and associated vegetation clearance within the SEPP 26 area does not involve the removal of any significant area of known habitat for threatened flora species or communities. The site value as habitat for threatened fauna is low. The floristic structure is not conducive to supporting large species, diversity or proven core habitat for threatened species.</i></p>
3.3 One of the Integrated lots seems to be very close to the rainforest and is well back within the area designated as Conservation Zone. Concerned that without some form of physical protection i.e. temporary fencing, the area will be cleared.	A temporary fence will be provided.
4.0 Jennifer Edwards The Coastwatchers Association	
4.1 Objects to this proposal and the cumulative impact of all other modifications, both those approved and those carried out.	
4.2 How has estimated Sea Level Rise and Climate Change been catered for in this development. The creek that runs through the site is likely to be the first point of entry for inundation from the sea. The swamp across George Bass Drive that feeds this creek will flood more often when approved development in its catchment goes ahead even without the more intense rain events predicted to occur with climate change Eurobodalla Shire Coastal Hazards Scoping Study says the developer of the new estate is preparing a separate Coastal Hazard Study as Part of the Part 3A Assessment. Who has done or is going to do the study – presumably a consultant hired by the Developer.	An updated report was prepared by Coastal Engineering Solutions in 2009. A further report was prepared by GBA Coastal Pty Ltd dated 2010 in consultation with Eurobodalla Council. Eurobodalla Council advised by letter dated 30 March 2010 that the report prepared by GBA Coastal has been prepared with due diligence and that Council accepts the conclusions of the report. A copy of Council's letter is included as Annexure 2 .
4.3 The master plan approved in 2002 after much	

community consultation is already unrecognisable on the ground. Among other things:-	
<ul style="list-style-type: none"> Blocks are constantly being reduced. 	Modifications have resulted in the addition of a total of 18 lots over the whole site to total 180 lots. Modification 6 will result in the reduction of the total potential dwelling units within lots 178 and 179 from some 61 to 24 reducing the total dwelling units by some 37 dwelling units. Modifications to the original plan of subdivision have not resulted in all lots being reduced. A number of lots have been reconfigured to be larger in size and a significant proportion has remained the same size.
<ul style="list-style-type: none"> The buffer to the Littoral Rainforest was 'accidently' cleared. 	The clearance has been undertaken in accordance with the approvals granted. There has not been any 'accidental clearance'. The clearance undertaken has been audited as consistent with the approvals granted.
<ul style="list-style-type: none"> The swale drainage system is no longer part of the development. 	The swale drainage system forms part of the public domain throughout the subdivision. However, the open rain gardens located within individual allotments have been replaced with a below ground on site stormwater detention system which is equally, if not more effective. A copy of the system is included as Annexure 3 .
<ul style="list-style-type: none"> Dwellings are predominantly McMansions of rendered concrete instead of the promised light coastal style. 	The Design Solutions included in Council's Barlings Beachside DCP p.27 Section 7.7 states ' <i>External walls on street elevations must be either textured, rendered or bagged and painted with a colour complying with Appendix D.</i> '
<ul style="list-style-type: none"> Nothing has been done to protect the foredune. 	The coastal dune area has been regenerating naturally and no additional protection has been identified by ngh other than recently identified rabbit infestation which is being managed.
<ul style="list-style-type: none"> The Aboriginal Cultural Centre has not even been started. 	See the response to item 2.2 in relation to the Cultural Facilities Deed.
5.0 Judy Baghurst	
5.1 No objection providing that some protection is put in place around all the Conservation Areas. Suggests temporary fence. Developer advised residents that area around Red Hill Parade has been replanted but it has not. It has been slashed numerous times. Requests that all Conservation Areas be replanted this coming Spring.	See above. The works undertaken by PPG have been audited by ngh Environmental i.e. Stage 1 and Stage 1A of the subdivision against the requirements of the VMP dated November 2007 and found that the vegetation management in these areas has complied with the VMP. See page 3 of the amended VMP dated September 2010.
5.2 Asset Protection Zone The Community would like to see the trees remain and only the undergrowth cleared to help protect the Littoral Rain forest. Community cannot understand why the recommended buffer zone for a Littoral forest has not been adhered to.	See item 3.2 for extract from DoP's assessment report in relation to the management of Buffer Zone. The APZ is being cleared in accordance with the requirements of the Bushfire Act and trees are being retained accordingly.

5.3 The VMP states in Table 4.1 - Summary of existing vegetation on the Barlings Beach proposed subdivision site ' <i>A 100 metre buffer around the gazetted SEPP 26 rainforest should be treated as an area of significance</i> '. Why then have blocks been allowed in this area, some within metres of the rainforest. There appears to be little consideration to protect this area of rainforest.	See item 3.2 above in relation to the Buffer Zone.
5.4 Request a plan with the SEPP 26 Littoral rainforest overlaid on the plan of subdivision	See Annexure 4 .