

## **APPENDIX C**

### **SUBMISSION FROM TWEED SHIRE COUNCIL**



Council Reference: DA07/0589 LN45515  
Your Reference: MP06\_0243

Scanned & emailed to  
Daryl Anderson 1/7/10



**TWEED**  
SHIRE COUNCIL



PCU007206

28 June 2010

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Dear Sir/Madam

**75W Request to Modify Development Consent MP06\_0243  
(DA07/0589) - Major Project 157 lot residential subdivision at  
Lot 2 DP 1000385; Lot 9 DP 1039569 Fraser Drive Tweed  
Heads South**

Reference is made to your correspondence received 3 June 2010, inviting comments on a section 75W request to modify the Minister's approval for the abovementioned development.

The amendments relate to engineering issues and infrastructure provision as follows:

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- Subdivision and sale of battleaxe handle from Lot 156. no issues are raised with this proposed modification.
- Lot 2 created for local shops (Condition B1) - refer to discussion below
- Increase area of Lot 11 for provision of drainage corridor (Condition B18) - no issues are raised with this proposed modification.
- New pathways - no issues are raised with this modification, subject to compliance with D9
- Signalised intersection (Condition B16) - refer to discussion below
- Master Drainage contributions (Condition E33) - agreed that drainage contributions should be charged only for the contributing catchment (Stages 2B and 3B)
- Engineering plans of constructed wetlands - no issues are raised with this modification and it can be dealt with at the CC/s68 stage.

#### **Amendments to Consent Conditions**

No objection is raised to amendments to the following conditions:  
Schedule 1, A1, A2, A3, A4, E33, Schedule 3, except for the following:

- Proposed change to condition A2 - staging. Reference to stage 2A incorrectly refers to 32 residential lots, when it should be 31 plus one duplex.
- Proposed change to condition A3 - remove redundant site plan drawing from table (18 August 2008).

Please find below additional comments on modifications proposed to specific conditions below.

### **Condition B16 - Signalised Intersection**

The consent conditions require the developer to construct a signalised intersection at the main Fraser Drive entrance to the subdivision. The intersection must cater for turning movements into and out of the intersection and include a stub to the "Sullivan's Land" on the eastern side of Fraser Dr. The details of this intersection have been discussed between Council officers and the developer's engineering consultants, in order for the intersection to be compatible with the future four-laning of Fraser Dr under the TRCP, as well as the intended raising of the level of the road to increase flood immunity as an evacuation access.

The Engineering Report, provided as Annexure H, includes drawings of the intersection (in plan view only) that generally comply with Council's requirements. The raised levels of the intersection have necessitated a change in stormwater drainage design in this area, to maintain the existing east to west drainage path across Fraser Drive. Q100 culverts are now to be installed under Fraser Dr at the intersection. This was Council's preferred approach in the initial assessment of the subdivision, and is acceptable, provided adequate inlet design and factors of safety are achieved for the system, to account for blockage, increased rainfall intensity and the like. The plan shows all drainage works, including the inlet structure contained within the road reserve. Subject to detailed design, this may not be achievable without constraining the future upgrading of Fraser Drive, and some of this infrastructure may need to be provided on Sullivan's land, requiring owner's consent. This can be addressed in amendment to Condition B16 as follows:

"A signalised intersection must be installed and shall be clearly visible at the intersection of Fraser Drive and Road No.1. Details of the type, location and operation of the device must be in accordance with Australian Standards, Austroads and Council's Development Design Specifications. The horizontal and vertical design of the intersection must be compatible with Council's plans for future upgrading of Fraser Drive to four lanes. The stormwater drainage design of the signalised intersection shall comply with the Engineering Report prepared by VKL Consulting dated May 2010, except as varied by this consent. Piped drainage, including inlet design, must provide Q100 capacity for a future urbanised catchment east of Fraser Drive, with a factor of safety of 1.5 applied to rainfall intensities to account for blockages, obstructions to flow, and the potential impacts of climate change. Engineering details of the road design and stormwater drainage, including drainage capacity calculations prepared by a qualified professional, are to be submitted to the satisfaction of Council prior to the issue of the Construction Certificate for Stage 1A of the project."

### **Condition B1 - Local Shops**

Condition B1 requires the following:

*The subdivision layout shall be amended to provide for development of a convenience store in Stage 1A, 2A or 3A of the subdivision. The size and location of the shop shall be adequately justified by the proponent, having regard to Sections A5 and B3 of the Tweed Shire Development Control Plan. The amended plans are to be submitted to the Department for approval prior to the release of a Construction Certificate for any stage of the subdivision.*

The revised subdivision layout provides an L-shaped Lot 2 at the main entrance to the subdivision. It is considered that this lot has potential to be significantly constrained in terms of road access and servicing, due to its proximity to the Fraser Dr intersection, which is required to be signalised. The proponent has not adequately justified that the location and configuration of this lot is suitable for a local store in this regard. As such, future development applications for the site may not be able to be approved by Council.

A Retail Analysis has been provided in Annexure E. A critical assumption for the site is that it has road access from Fraser Drive. Direct access to Fraser Drive cannot be supported by Council in the absence of a traffic study for the store development. The report refers to "right in/right out" access, which does not make sense, and may have meant "left in/left out". Regardless, unless the proponent can support the location of the store with a traffic report that addresses access and servicing arrangements, including traffic generation and impacts on the surrounding road network, the site of the local store cannot be supported by Council.

### **B2 – Noise Attenuation**

The applicants reasoning to use a balanced acoustic treatment outcome to mitigate potential noise impacts is supported. The use of 3.3m – 7.0m high acoustic barriers alone would detract from the amenity of the area and would not be consistent with the existing built environment of the locality. Furthermore such barriers would themselves create other adverse amenity impacts such as overshadowing.

A combination of a 2.0m high acoustic barrier with the recommended building sound shell treatments and external open space orientations is supported for affected residential development as are the recommended acoustic treatments for the on-site commercial area.

The suggested amendment to Condition B2 as detailed below is considered satisfactory in respect to requiring compliance with the Environmental Noise Impact Report.

*The project shall be carried out in accordance with the Environmental Noise Impact Report prepared by CRG Pty Ltd and dated 17 February 2010.*

The proposed amendment to the Action Statement as indicated below is also supported.

#### **Action**

*Registration of a Restriction on Use pursuant to Section 88B of the Conveyancing Act requiring future dwellings on Lots 22 – 30, 71 and 125 – 134 to be constructed in accordance with AS3671:1989 "Acoustics – Road Traffic Noise Intrusion – Building Siting and Construction" to achieve the maximum internal noise levels*

*prescribed in AS/NZS2107:1987 "Acoustics – Recommended Design Sound Level and Reverberation Times for Building Interiors".*

It is recommended that consideration should be given to ensuring the acoustic fence is of a high quality design and incorporates mounding and landscaping to reduce visual impacts.

### **B30 – Park Adjacent to Seaview Street**

No objection is made to the proposed modification to this condition.

Notwithstanding, there is concern with the reduced size of park identified as Lot 57.

The proposed size of this park is significantly less than the minimum size specified by Tweed Shire Council. Recreation Services previous advice was in a review of the subdivision layout in the amended preferred project report submitted 3 September 2008. In this layout, the size of the park was given as 2,471m<sup>2</sup>. Council's comment at the time was we were prepared to accept an area 30m<sup>2</sup> less than the minimum.

However, somehow approval appears to have been given to a park that is 233m<sup>2</sup> smaller than Council's minimum park size. The latest application to modify the park proposes a further reduction of 50m<sup>2</sup>.

The progressive shrinking of the park to well below the minimum size is undesirable and accordingly this proposal is not supported. Clarification is sought as to how the approval was previously given to a park that is 233m<sup>2</sup> smaller than Council's requirements.

### **B34 – Asset Protection Zones**

No objection is raised with this modification.

### **E33 – Section 94 Monetary Contributions**

No objection is raised to amendment of contributions to reflect staging changes.

It is considered that the amount of local open space provided exceeds the amount required and no additional contribution is required for casual open space under s94 plan number 1 Banora Point / Tweed Heads South Open Space Contribution Plan.

It is agreed that contributions pursuant to the South Tweed Heads Master Drainage Contribution Plan is applicable to only part of the site. All lots within proposed stage 3B and stage 2 B (except for lots 156, 155 and 104) are within the drainage area and contributions are applicable to these stages.

### **E34 – Section 64 Monetary Contributions**

No objection to amendments to reflect modified staging.

### Statement of Commitments

No objections to the proposed modifications to statement of commitments.

For further information regarding this matter please contact Rowena Michel on (02) 66702468.

Yours faithfully



 **Lindsay McGavin**  
Manager Development Assessment

