

SHOALHAVEN CITY COUNCIL

SUBMISSION TO THE NSW DEPARTMENT OF PLANNING PART 3A, ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

COUNCIL's SUBMISSION to the applicants RESPONSE to SUBMISSIONS REPORT

MAJOR PROJECT APPLICATION CONCEPT PLAN MP09_0088

PROPERTY: Land within the Shoalhaven local government area.
Part Lot 5, Part Lot 6 and Part Lot 7 in DP 1065111 and Portion
61 DP 755971

APPLICANT: John Toon Pty Ltd for Realty Realizations Pty Ltd

OWNER: Reality Realizations Pty Ltd

DEPARTMENT OF PLANNING REFERENCE: MP09_0088

COUNCIL REFERENCE: 3A10/1003

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1. Introduction

Council provided a submission to the exhibited EA Report dated 21 June 2013 and the applicant has submitted a Response to Submissions Report (RTS). This has been reviewed in respect of the issues raised in the Council's initial submission.

In summary, Council believes that proposed RTS amendments require further changes to address Council's concerns. Council requests further consideration by the Department.

2. Strategic Planning Matters

a) Masterplan

Council's EA submission recommended that a masterplan be prepared for the areas under the same ownership as this development so an overall strategic overlay of potential could be considered. This has not been provided.

b) General comments:

- i. The development will need to ensure connectivity by providing adequate linkages via the proposed cycle/footpath throughout the development to the existing Culburra Beach village.
- ii. Adequate buffers need to be provided between the industrial zoned area and sewerage treatment plant (STP) to residential areas while still providing visual amenity and connectivity throughout the entire development site. This has not been demonstrated.
- iii. If the intention is to dedicate the foreshore land to Council, further discussions need to occur between Council and also Crown Lands in this regard. Despite the possible future dedication of land, any consent should require the preparation of a conservation management plan over the 7(a) land that includes details of conservation works to be undertaken and the ongoing management of the land.
- iv. Amendments are required to the design so as to ensure residential development does not encroach into 7(a) zoned land (see Stage 4 of plan).
- v. In the event of the 7(a) land being rezoned to E2 Environmental Management under draft SLEP 2013, the proponent will need to seek consent if they wish to vary the development proposed within this zone. (referring to paragraph 1 on pp 14 of applicants RTS)

Note: Council resolved to defer the Halloran land through the draft SLEP 2013 process. This deferment will not be confirmed until SLEP 2013 commences and therefore emphasis on compatibility with Shoalhaven LEP 1985 is assumed.

c) Shoalhaven LEP 1985 and draft SLEP 2013 zoning advice. (referring to Part Two of Response to Submissions)

1) Foreshore - 7(a) Environmental Protection (Ecology)

(i) LEP 1985

- Council supports the removal of the water quality elements and children's play areas from 7(a) zone.
- Support for cycle/walkway within the 7(a) zone and believe this is permissible with consent. Any development including the mentioned range of embellishments will need to ensure consistency with the objectives of the 7(a) zone. Further the design and location of the cycle/walkway and embellishments will need to adhere to the requirements / comments submitted by the Office of Environment and Heritage (OEH) and Crown Lands in this regard.
- Advice should be sought from Crown Lands in regards to any proposed development on the Crown foreshore strip (7309//1163571).
- Council does not support substantial clearing of vegetation in the 7(a) for the purpose of creating vistas. This is contrary to the objectives of the 7(a) zone. If proponent believes otherwise, adequate justification of how clearing for the vista meets the objectives of the environmental zone needs to be provided.

(ii) Proposed SLEP 2013

- Council does not support substantial clearing of vegetation in the E2 zone for the purpose of creating vistas. This is contrary to the objectives of proposed E2 zone. The Department is requested to consider the impacts and the capability of the proposal to meet the objectives on the zone

2) Stage 1 – Development - Southern side of Culburra Rd

(i) LEP 1985

- Small-lot dwellings within the current 2(c) zone will provide a diversity of lot size options.
- Access road to residential development is shown within the 5(a) zone. Details of future plans for the 5(a) zone will need to be conducive with the location of this road.
- The applicant will need to demonstrate that drainage of development will be towards Crookhaven catchment and not impact on Lake Wollumboola.

- More detail needs to be provided on the proposed reserve area. Is it intended to be a drainage reserve or dedicated to Council as public reserve?

(ii) Proposed SLEP 2013

- The current 2(c) zoned land is proposed to be rezoned to E2 Environmental Conservation and the 5(a) component to R1 General Residential under draft SLEP 2013. The proposed small-lot dwelling development would not be permissible in the E2 zone.

3) Stage 2 – Residential and mixed development

(i) LEP 1985

- The current 2(c) zoned land permits the residential component of Stage 2. Small-lot residential will need to be consistent with Councils integrated housing requirements within DCP 100 – Subdivision Code.
- The mixed use component is permissible with consent.
- The proposed café is permissible with consent.

(ii) Proposed SLEP 2013

- This land identified as Stage 2 is proposed to be zoned R1 General Residential under draft SLEP 2013. Under R1 small lot residential will need to concur with Clause 4.1C Exceptions to minimum lots sizes for certain residential development.
- Uses proposed in the mixed use component will need to comply with objectives and permitted uses in the R1 zone. Cafes are prohibited in the R1 General Residential zone.

4) Stage 3 – Residential lots, including recreational open space.

The proposed uses are consistent with the zonings under the SLEP 1985 and proposed SLEP2013.

5) Stage 4 – Residential and Leisure hub

In addition to the proposed residential component, the EA Report (March 2013, pp 20) identifies a proposed “leisure hub” in Stage 4 to include uses such as motels, hotels, cafes, restaurants, gift shops and the like.

(i) LEP 1985

- While the residential component is permissible in the 2(c) zone, the concept of the ‘leisure hub’ will have to demonstrate consistency with the objectives of this zone in regards to the proposed uses of motels, hotels, café, restaurants and gift shops.

- Further details for the 'leisure hub' concept are needed to demonstrate how this type of use is consistent with the objectives of the 7(a) zone.

(ii) Draft SLEP 2013

- The proposed use of motels and hotels (associated with the proposed leisure hub) is permissible in the R1 zone. However uses such as separate cafes, restaurants and gift shops are not permissible as a stand-alone use in the R1 zone. The applicant would need to demonstrate how these proposed uses are consistent with the R1 zone.
- Further details for the 'leisure hub' concept are needed to demonstrate how this type of use is consistent with the E2 zone

6) Stage 5 – Industrial Estate

(i) LEP 1985 and Draft SLEP 2013

- Any proposed uses in Stage 5 will need to comply with LEP 1985 4(d) Industrial General zone or the IN1 – General Industrial.

d) Section 94 Comments

Section 94 comments remain the same as Councils initial submission in 2013, however, the open space and community facility requirements of the site will need to be confirmed.

The Council's Contribution Plan 2010 provides a number of projects and a "per lot" estimate is attached as Appendix 2 for the 2013-14 financial year. This is updated in subsequent years and payable at the time of the release of lots by stages.

3. The amended plan 25405-37 Rev 02 and 26068-02-Rev 0

It is noted in the amended layout plan 25405-37 that:

- (a) There are three "viewing platforms" within the waterway and there is limited justification included in the RTS. Such structures could adversely impact the waterway and its vegetation and therefore require further investigation.
- (b) The plan does not indicate what the "blue shaded" areas represent. They appear to be a buffer but are not described. This needs to be included in the legend so it can be commented on and considered by the Department.
- (c) The plan relocates the electricity substation following discussions with the electricity authority and this is acceptable with landscape screening .

- (d) The plan east of the industrial area adds a “hotel site” and “community uses” area without explanation in lieu of the previously termed “future development zone”.

The strategic overlay previously mentioned could put such land use in context, however in absence of this information the previous designation of “future development” should be reinstated to avoid latter assumptions of potential uses.

4. Development Control Plan 100

Council’s controls for residential subdivision are in Development Control Plan 100 (DCP100) –Subdivision Code. Council requests that compliance with DCP100 be included into the Concept and subsequent Project approvals.

The following specific comments are provided:

- (a) Stage 1 – small lots south of Culburra Road:
- (i) The use of the public land to provide a required APZ is not supported.
 - (ii) The lot areas are less than the standard lot within DCP100 without analysis and development guidelines as required for integrated lots.
 - (iii) The small pocket parks are inadequate in area and are not acceptable as dedicated public reserve. (DCP 100 specifies a minimum area of 3000 m²). Smaller areas are a liability in maintenance and usability. Should the proposed subdivision be via Community Title the open space areas may be within the community use land and the responsibility of a management plan.
 - (iv) A buffer that separates the main Culburra Road and the internal service road is required to avoid an apparent wide single road reserve.
- (b) Stage 5 Industrial:
- (i) A legal access is to be shown between the road and the electricity substation land.
 - (ii) The proposed expanded industrial subdivision and the existing access road with Culburra Road should be designed for a single safe intersection to Austroad standards.
 - (iii) As mentioned before, the “blue” strip between the industrial land and the mixed residential has not been designated. This should be a significant buffer to improve the amenity of the residential development.
- (c) 25m Collector Road
- (i) There is no response to the issues raised by Council’s EA submission. The appropriate width and design for the Collector road will depend on the potential for additional development that will be adjacent to this road or contribute vehicle movements to the road. It is likely that a preferred design that may arise with future Project applications will require intersections with roundabouts and a central median for improved traffic flow. There is no provisions made for this treatment in the concept application and Council requests this inclusion.
- (d) The mixed development – “The Circus”

- (i) The concerns about a lack of delivery vehicle parking have not been adequately addressed.
- (e) Stages 3 and 4 Residential
 - (i) A fire trail system is to be integrated with the road system.
 - (ii) Council does not support the proposed irregular and triangle shaped lots, as they can be very difficult to develop.
- (f) Small areas proposed as open space or drainage
 - (i) Council's concerns have not been adequately addressed. The narrow strips may be considered as combined drainage and shared pathways subject to designs complying with DCP 100.
 - (ii) The small areas within the road system are unacceptable as open space as mentioned earlier and in the EA submission.
- (g) Sports recreational oval
 - (i) The proposed layout conforms to Council's standard layout. Drainage should be conveyed towards the northern catchment,

5. Traffic and Transport

- (a) Road network impacts

Council considers that some consideration of the accumulated traffic impacts at Kalindar Street, Nowra and the road network to the development should be included in traffic studies. This has been omitted and Council requests that this matter be considered.
- (b) Intersection with Culburra Road.

Culburra Road is a local road with Council as roads authority. Council supports a rural standard roundabout being designed for the intersection with Culburra Road. The comments of RMS are noted but Council does not support the RMS position. There are considerable benefits in providing a roundabout for safe traffic movements. The proposed residential development south of Culburra Road, the expanded industrial area as well as the proposed development north of Culburra Road will lead to greater urbanisation of this section of the road between the Collector Road and the current urban interface. The road west of a roundabout will be assessed for the transitions between the 100 kph speed zone and an appropriate speed reduction over time.

The provision for a roundabout and a threshold for construction should be included in the Concept approval.

A copy of the Council's Traffic Units comments are attached as Appendix 1.

6. Shoalhaven Water – water and sewer.

Council's Shoalhaven Water group has provided its comments separately to the Department dated 17 December 2013. These are:-

- a) General issues

In accordance with the requirements under the Water Management Act 2000, Shoalhaven Water require the following statements to be included within the development consent/approval -

b) Prior to Commencement of Any Works.

Upon receipt of an operational consent/approval the applicant/developer is to apply under Section 305 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 for a Certificate of Compliance from Shoalhaven Water.

Relevant conditions/requirements, including monetary contributions (where applicable) under the Water Management Act 2000, can be provided under Section 306 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000. A Development Application Notice (pursuant to Section 306) issued by Shoalhaven Water will outline all conditions/requirements to be adhered to.

A Certificate of Compliance shall be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and prior to the issue of an Occupation Certificate, Subdivision Certificate, as the case may be.

In the event that development is to be completed in approved stages or application is subsequently made for staging of the development, separate Compliance Certificates shall be obtained for each stage of the development.

7. Conclusion

Council requests the Department consider the Council's submission.

A handwritten signature in black ink, appearing to read 'Tim Fletcher', with a long horizontal line extending to the right.

Tim Fletcher
Director Planning and Development Services Group.
14 February 2014