



2 June 2014

Our Ref: 6096
Your Ref: MP-06-212

Ms K Masters
Industry, Key Sites & Social Projects
Planning & Infrastructure
Department of Premier & Cabinet
GPO Box 39
SYDNEY NSW 2001

Dear Kate,

Re: MP_06_212 – Environmental Assessment
Riverpark Sancrox Estate, Sancrox Road, Sancrox

I refer to our recent dealings relating to the abovementioned Major Project, and specifically to recent correspondence regarding our current application for modification to same.

As per our original submission, it is worth reiterating that the intended modification comprises:

- Re-ordering of the 13 stages of development in that the number of lots being released at each stage will differ from those on the original approved plans;
- A corresponding creation of additional development (residue) lots in the initial stage release;
- Shifting the entrance road some 25m west of the existing location. This is intended to increase sight distances at the intersection with Sancrox Road;
- Minor re-configuration of the pre-subdivision boundary adjustment (Stage A) to reflect the requirements of affected land-owners.

It is again stressed that no additional residential lots or stages are being created by this proposed modification. The modification to lot boundaries and stages is a common procedure in subdivisions of this scale and accounts for the results of the detailed design process. In this instance, the modifications also relate to financial arrangements necessary to manage the requirements and expectations of the multiple land-owners.



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Taking each of the Department's most recent queries in turn, we respond with the following comments:

1. *Further justification for the changes to the lot boundaries, re-ordering of stages and re-location of the entrance road (that is, the need for the modification);*

Comment: It must be understood that detailed design work (which can only be undertaken during the post-consent phase) will always result in minor adjustments to lot boundaries and should not be unexpected in subdivisions of this scale. Moreover, with over 80 individual land-owners involved in the parent property(s), it must be further appreciated that a number of unique financial circumstances need to be managed to enable this re-subdivision of an existing estate to occur.

The modified plan has created a number of additional "development lots" in stage 1 because of constraints imposed by banks which hold mortgages on the original titles of the owners of those lots. Development lots were produced (on plan) so that the bank could use those parcels as security for loans needed to implement the post-consent design phase.

The same principle was applied in the original approved subdivision layout. They were formed early in the subdivision stages and were deemed development lots, or "prohibited lots" for the purposes of the approvals and the accompanying VPA (i.e. they cannot be built upon). These were accepted as such by Port Macquarie-Hastings Council (PMHC) and the Minister's Department in the original Concept/Project Approvals.

During post-consent financial negotiations, additional development (prohibited) lots were created to respond to the abovementioned financial constraints imposed on the existing land-owners. The prohibited lots cannot be built upon or separately developed in any way. There have been no additional residential or "developable" lots created by this amended layout.

Similarly, the re-ordering of the "stages" has not resulted in any additional residential blocks being produced and was necessary for managing cash flow throughout the various staged releases of the subdivision. There is no greater impact to the physical environment, or on local traffic, or the social environment by these minor adjustments.

In that regard, the impact of the changes to boundaries/stages have been explained in the Environmental Assessment, and in the 2 Justification reports attached to the Concept and Project Approvals in our modification submission.

2. *Your cover letter dated 14 April 2014 refers to “A corresponding creation of additional development (residue) lots in the initial stage release”. Please identify the location of the residual lots and clarify whether they will be further subdivided. Particularly in terms of your statement that “no additional lots or stages are being created by this modification”.*

Comment: These stages and residual lots are clearly shown in the set of plans presented to DOP (Appendix A - Plans of proposed subdivision with all stages identified (Sheets 1-13)) a copy of which is again enclosed.

It will be noted that the original consent had large residual lots identified according to the stage in which they would be released. The approach we've now been required to follow is to have large residual development lots, some of which have a common owner, and those large development lots are to be sub-divided progressively as later stages are developed. However, the total number of “developable” lots has not changed.

Moreover, none of the changes to lot boundaries have any negative effect on environmental constraints (as is made clear in the Environmental Assessment). In fact, the only physical change “on the ground” is the relocation of the entrance road approx. 25m west. This was done at the suggestion of PMHC’s engineering staff to improve sight distances along Sancrox Road.

The additional positive effect of shifting this intersection is that the previously approved clearing adjacent the eastern riparian area in the vicinity of Lots 64, 63, 18, 102 & 157 will be reduced, as will the amount of filling needed in this location. These positive impacts are identified and addressed in the Environmental Assessment.

3. *Please confirm whether the proposed lot layout complies with the relevant provisions of Council’s Local Environment Plan and Development Control Plan and provide justification for any non-compliances;*

Comment: While we acknowledge this modification request is still to be assessed under the since repealed Part 3A legislation, Council’s assessment of the modification request is still highly relevant to the Department’s determination. It is to be noted that the Department previously devolved all assessment responsibilities to Council for the original Major Project in this regard (refer to the file notes that would have been left by Enguang Lee of your office).

Our comments regarding Council’s previously favourable (albeit mistaken) assessment of this very modification request under S.96(1A) of the EP&A Act demonstrate that the modified proposal is compliant with the Local Environmental Plan, Development Control Plan and related local planning policies applicable to the Port Macquarie-Hastings Council area. It is understood that the Department has since

received further written comments from Council to confirm this. We respectfully request that the Department consult directly with Council's Manager of Development Assessment, Dan Croft should there be any confusion in this regard.

4. *It is noted that lots previously known as lots 76, 77, 97, 87, 115 and 144 require filling as part of the approved project. The Environmental Assessment for the modification states that minor filling is required for lots 110-112 and lots 87-90. Please identify which lots require filling and provide any relevant details.*

Comment: Your email stated "It is noted that lots previously known as lots 76, 77, 97, 87, 115 and 144 require filling as part of the approved project". However, this should have stated "It is noted that lots previously known as lots 76, 77, 97, 143, 87, 115 and 114 require filling as part of the approved project".

Admittedly, there is an error in the text of our Environmental Assessment at 1.3.6, in that we did state "lots 110-112 and lots 87-90" (the original lot numbers) whereas it should have stated the current parcels, which are "lots 63, 64, 18, 102, 157, 99, 121 and 122". This was unfortunately an error on our part.

However these affected lots are clearly shown on sheet 5 of the set of Plans that were sent to the Department (Appendix B - Plans 1-10 as originally approved in the Concept-Project Approvals with the latest subdivision overlain) another copy of which is enclosed. Moreover, the area of filling required by this modified layout has not changed, apart from a slight reduction in fill disturbance proposed over Lots 63, 64, 18, 102 & 157 (refer to our response to Point 2 above).

5. *The Department notes that for the lots previously known as Lots 36 to 40 a cluster waste water system was proposed with a common disposal area on Lot 1. The proposed subdivision plan (Plan 6096) shows multiple Lot 1 (the road is also numbered as Lot 1). Please identify the lot proposed to be used as the common disposal area.*

Comment: As per linen registration requirements, Lot 1 in a Community Titled estate encompasses all Community Lands – e.g. roads, pathways, dams, recreation areas, as well as the common dispersal area. The proposed common dispersal area is that part marked "1" bounded on two sides by road and the other sides by lots 5 and 132.

This is clearly shown (and hatched) on Sheet 7A of the set of plans that were sent to the Department (Appendix B - Plans 1-10 as originally approved in the Concept-Project Approvals with the latest subdivision overlain) a copy of which is again enclosed. The common disposal area was also identified, and similarly numbered "1" in the original concept/project approvals from the Department.

Please note that original lots 36 to 40 are now numbered 38-40, 12 and 14 although in our Environmental Assessment lodged, at para.1.3.8 they were identified as 45-49 in error.

6. *There appears to be a lot layout error on Plan 6096 in relation to the previous lot layout of lots 130, 81 and 82.*

Comment: There is no lot layout error of lots 130, 81 and 82. It is to be remembered this modification request is for a minor adjustment to lot boundaries. Those 3 lots were replaced by lots 138, 84, 85 and 86. An additional lot was inserted here, but to compensate you will note that original lots 147-153 (7 lots) were replaced by lots 151-156 (6 lots), thereby ensuring that no additional lots had been created overall.

It is also to be noted that original lots 106-108, 116, 67-71, 88, 89 and 96 (12 lots) have been replaced by new lots 116-118, 124, 10, 11, 13, 20, 55, 58, 59, 98 and 105 (13 Lots). An additional lot was inserted but to compensate, you will note that original lots 135-138 (4 lots) have been replaced by lots 144 to 146 (3 lots), thereby ensuring that no additional lots have been created overall.

In addition it can be seen that old lots 16, 17, 91, 92 and 99 (5 lots) have been replaced with new lots 68, 69, 30 and 107 (4 lots) i.e. a lot has been relocated. To compensate, old lots 76, 77, 95 and 143 (4 lots) have been replaced by new lots 63, 64, 18, 102 and 157 (5 lots) thereby gaining that lot lost and ensuring that no additional lots have been created or lost overall.

7. *Please identify the lots to be dedicated for community amenities.*

Comment: As is the custom with Community Titled estates, the lots for community amenities are all designated as parts of "Lot 1". They are the dam and surrounds bounded by lots 35, 57 and 61; the roads, the pathways bounded by lots 6, 107 and 68 to 72, lots 161, 162 and 163 and lots 37 and 38; the Community Recreation area (on which will be located a tennis court and amenities block) bounded by the river, lots 3, 4, 22-24, 36, lots 74-77 and lot 131; and the previously mentioned (in answer to 5 above) common dispersal area.

This lot numbering of the community amenities is consistent with the concept/project that was assessed and previously approved by the Department.

8. *Please identify which condition requires the Neighbourhood Management Plan to be developed.*

Comment: There was no condition in the Concept or Project Approvals requiring a Neighbourhood Management Plan. However, since this is a Community Titled Estate then a Community &/or

Neighbourhood Management Plan is essential in order to register and administer it.

The draft Neighbourhood Management Plan was prepared and lodged with the original MP application as a courtesy to those assessing the project, but is not required until the time of linen registration.

9. *Please provide a site location map (including a north point and scale).*

Comment: By *site location map*, we presume you are asking for a map which shows the Department where this site is located in NSW? We would refer you to the original documentation lodged with the MP in 2008 as it contains all reference material relevant to locate the site. This is a modification to an existing approval, and so all information, reports, studies and documents previously supplied and exhibited for the original concept plan and project would be relevant to this assessment.

Following on from this final point, and as indicated in recent correspondence, we are still greatly concerned about the Department's apparent lack of understanding of this concept/project. Our previous comments regarding the need for Port Macquarie-Hastings Council's (PMHC) input to the Department's assessment relate to the fact that numerous face to face meetings regarding the project have been held with Council's Development Assessment Manager, Dan Croft and his staff over the last 7 years.

This regular contact with Council has been vital to gain a proper understanding of what is admittedly a very complex project from an administrative viewpoint. However, this complexity relates to the site's long development history and its multiple ownerships, not from any aspects related to environmental impacts. It was for this reason the Department previously delegated its assessment role to PMHC for the concept/project approval process.

Part 3A of the EP&A act was repealed, and it was repealed for good reason. Developments of this nature in regional areas were never intended to be captured by this flawed legislation. This was even acknowledged by Departmental staff at the time of the original application. In fact, the specific provision (of State Environmental Planning Policy No.71) which mistakenly captured this development in Part 3A has also since been repealed. As such, we should not have been required to undertake such a comprehensive environmental assessment for the original application, let alone for such a minor modification request.

What is currently sought by this modification application is a relatively simple and straight-forward change to lot & stage boundaries that is very common for all large-scale subdivisions. This again is a reason why, when mistakenly lodged as a S.96(1A) application, this request for a modification sailed through a public exhibition period and officer assessment managed by PMHC in late 2013. These comments should not be read as a slight on the Department's

abilities to assess this proposal. We are only trying to suggest that this application could have been determined many months ago had Council's input been sought earlier, or had the project been fully understood.

As a final point, the Department should recognise that subdivisions of this type have a life-span of well over 20 years from the date of consent. It is very likely that further modifications to the layout, conditions or other aspects of this approval will occur during that time. Given the dated relevance of both Part 3A and SEPP 71, we respectfully request that a formal delegation be issued by the Minister to PMHC in order to assess any future modifications to this concept/project approval. We find it unreasonable to accept that the Transitional provisions relating to Part 3A were intended to capture minor modifications to approvals of this nature, let alone attract quoted fees of ~\$10,000 in each instance.

Given the length of time that has elapsed since negotiations with the Department's various officers commenced in relation to this modification request, we would respectfully request that the application be determined as expeditiously as possible.

Please contact the undersigned should you wish to organise a teleconference with Council officers, or should there be any other way we can assist in clarifying the nature of this proposed modification to the concept & project approvals.

Yours faithfully



Andrew Lister
Senior Town Planner

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1. Plans of proposed subdivision as modified (Sheets 1-13)
2. Replacement sheet-set of approved plans with new layout updated
3. Plan of comparison between approved final layout and proposed modified layout
4. Block size comparisons between approved and proposed modified layout