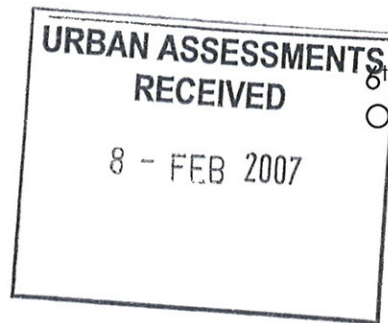


Department of Planning
Urban Assessments
GPO Box 39
SYDNEY NSW 2001

Attention: Mr David Mutton

Dear David

Re: **Minister's Opinion under Clause 6 of Major Projects SEPP
Proposed Residential Subdivision within the Coastal Zone
Lot 12 DP 806204 Thrush Street Bawley Point for Marshall**



8th February 2007
Our Ref: #200637

John Arnold
pl
8/2/7

I write to seek the Minister's Opinion under Clause 6 of the Major Projects SEPP, as to whether a subdivision resulting in the creation of more than 5 residential allotments over Lot 12 DP 806204 (Thrush Street Bawley Point) is likely to constitute a matter to be dealt with under Part 3A of the Environmental Planning & Assessment Act, 1979.

In the first instance, the possible subdivision of the abovementioned land would seem to be a development in accordance with Schedule 2 – Coastal Areas 1(h)(i) where the development would **not be connected to an approved sewage treatment** or work and the land is **partially within a sensitive coastal location**.

Proposal: The intention for this land at this time is to subdivide it pursuant to the provisions of the Community Land Development Act 1989, where it is likely that the roads and effluent management system will be part of the common lot. The density of the development will be low with the creation of approximately **25 residential allotments** anticipated.

Zoning: Under the provisions of the Shoalhaven Local Environmental Plan 1985 the subject land is zoned **Residential 2(c) Low Density Living Area** and **Environmental Protection 7(a) Ecology**. The Environmental Protection Zone straddles Bawley Point Road to the foreshore. Subdivision is permissible within both zones (see attached zone map) subject to LEP requirements or DCP 100 – Subdivision Code.

Site & Location: The land is currently in the ownership of Mrs Patricia Marshall, **where the land is vacant**. It is situated on the western fringe of Bawley Point within the village boundary, and the land has a total area of **16.35 hectares** severed into two parcels by Bawley Point Road. The site's northern boundary is the estuary of Willinga Lake, while the land immediately surrounding the

lake and part of the estuary is SEPP 14 Coastal Wetland, the site's frontage to the estuary is not part of an identified SEPP 14 wetland. A large area of the site is located below the 10m AHD contour, which would correspond with the Environmental Protection 7(a) zone and the remainder of the site is located between the 10 – 30m AHD contour.

The adjoining land to the west is also owned by Mrs Marshall, however it is zoned partly Rural and Environmental Protection, not residential and has a valid subdivision approval issued over it for three concessional allotments and a rural residue. Construction on that subdivision has commenced as evidenced on the below aerial photograph with road works having been completed. The lots are yet to be released by Council for registration at the Land & Property Information Office; however, each of the four lots will have the lawful entitlement for a dwelling house under the provisions of the Shoalhaven Local Environmental Plan, 1985.

Capital Investment: The total capital investment of the completed subdivision is expected to be in the vicinity of \$2,000,000 where civil works are required for access provision including road construction, along with electricity and telephone services. It has not been determined at this time whether house construction on any allotment will be included as part of the Community scheme subdivision proposal.

Council Discussions: The proposal has not yet been discussed with Council staff – the provisions of the Shoalhaven Local Environmental Plan, 1985 permit low density residential development of the land and the likely proposal is not seeking to vary any existing Council policy to facilitate the subdivision.

Justification for the Major Project: The proposed subdivision is on land that is a specified site under Schedule 2 being within the coastal zone and it is within sensitive coastal location. The resultant subdivision will create more than 5 residential allotments, which will not be connected to an approved sewage reticulation scheme. Under the provisions of State Environmental Planning Policy No. 71 a development of this nature would be likely to require a Master Plan unless a MP waiver was supported on the grounds that development was consistent with Council's planning policies for the locality. As urban zoned land is a limited resource, it is intended to develop this property in accordance with its constraints while increasing the land stock in the village.

Key Issues: The physical constraints associated with developing the land include:

- The site is within the coastal zone and is partly within a sensitive coastal location.
- The site is within 100 metres of an identified SEPP 14 Coastal Wetland. Stormwater management and effluent treatment and disposal must be

appropriate for the site and have a neutral or beneficial impact upon water quality of the estuary and SEPP 14 wetland.

- The site is mapped by Council as bushfire prone land (see following map) and mitigating measures for the protection of life and property must be taken into consideration and provided within the subdivision in accordance with current best practice methodologies.
- Part of the site is within a sensitive coastal zone, and part of the land is likely to be flood liable (adjacent to the estuary of Willinga Lake).
- The land has been identified as prime crop and pasture land as identified on the Department of Agriculture maps – Class 3 despite it being located within the village boundaries.
- There is high potential for acid sulfate soils as mapped, likely to be found within 1 metre of ground surface.
- The site is partially vegetated and flora and fauna investigations need to be undertaken to ascertain if the site contains any endangered ecological communities, threatened species, populations or their habitats.
- Aboriginal archaeological sites have been identified in the vicinity of Willinga Lake and further investigation may need to be undertaken with regard to this site.
- Domestic effluent must be treated, managed and disposed of on site as there is no likelihood of a reticulated sewage scheme being provided to the village. This provides for an opportunity for the treated effluent to be reused within the community scheme subdivision for landscaping and fire fighting purposes, reducing potable water usage for ancillary domestic purposes.
- Council is the road authority and access provisions are to be arranged with Council consent, access from Bawley Point Road is not considered to be appropriate due to traffic speed, sight distance issues and the potential conflicts with the environmental protection zoning.

Legislative Constraints for this proposal include the provisions the following Environmental Planning Instruments:

- Environmental Planning & Assessment Act;
- SEPP 71 – Coastal Protection;
- SEPP Major Projects;
- Illawarra Regional Environmental Plan, 1986;
- Shoalhaven Local Environmental Plan, 1985;

Other relevant legislation includes:

- Shoalhaven City Council - DCP 78 – On Site Sewage Management
- Shoalhaven City Council - DCP 100 – Subdivision Code
- National Parks & Wildlife Act;
- Native Vegetation Act;
- Roads Act;
- Rural Fires Act & Regulations;
- Threatened Species Conservation Act

Non Statutory provisions include:

- South Coast Regional Strategy;
- Shoalhaven City Council – Bawley Point – Kioloa Planning Policy;
- NSW Coastal Policy;
- Coastal Design Guidelines for NSW.

It is considered that the site has the potential for a suitable low key and low density residential development which is best achieved through a community scheme subdivision enabling the enhancement of the site's natural attributes through appropriate management and development integration.

Thank you for your time and assistance with this request for the Minister's Opinion as to whether this proposal constitutes a major project under the provisions of Part 3A of the EP & A Act. If you require any additional information to assist in the consideration of this matter for the Minister's Opinion, please do not hesitate to contact the undersigned.

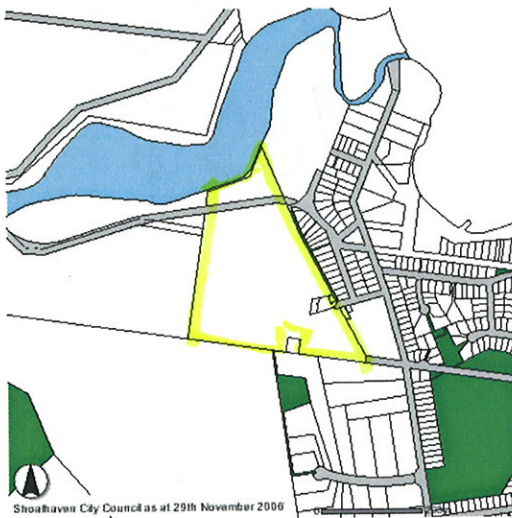
Yours faithfully



Kerry Rourke – MPIA
Certified Practising Planner



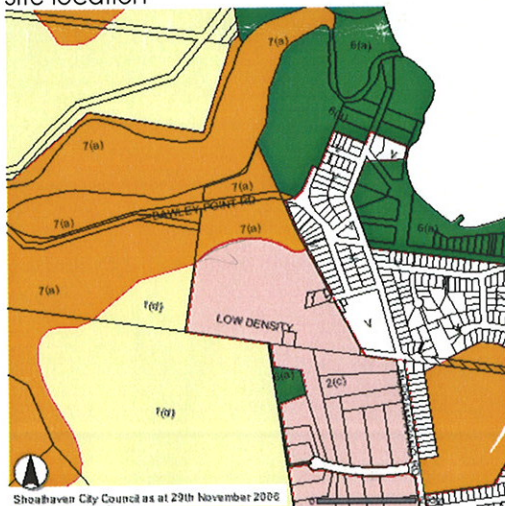
Google Earth Pro image used under license



Site location



SEPP71 coastal zone & sensitive coastal location



SLEP85 Zones



Shoalhaven City Council bushfire prone land