

Submission on behalf of the Sandy Beach Action Group (Sandbag)

**Re: Sandy Beach North Residential Subdivision**

MP05\_0083 MOD 7

### ***Introduction***

Sandy Beach Action Group (Sandbag) strongly objects to Modification (Mod 7) of the Sandy Beach North Residential Subdivision (MP05\_0083) on a number of grounds. Firstly, these same plans were withdrawn in the past because of strong community opposition, based on evidence that the proposal would greatly diminish the cultural, ecological, recreational and aesthetic values of the area. The plan would bring about the loss of significant green space, threaten an important wilderness area, cause excessive traffic problems, and risks increased flooding and inundation to neighbouring properties, raising future liability issues for the State government. Broadly speaking this modification fails in terms of the principles of Ecological Sustainable Development.

This revised plan seeks to use biodiversity offsets (the creation of off-site habitat areas to compensate for the destruction of habitat at the site). However, this fails to recognise that Hearnese Lake, its surrounding areas and links with the Solitary Islands Marine Park, all form an integrated habitat for a wide selection of species. As such this wilderness site is much more than the sum of its parts, and therefore requires a very high level of protection.

### ***Regulatory issues***

It should be noted that this modification has come about because of an amendment to the *EP & A Act 2017* which came into force on March 1<sup>st</sup>, 2018. Under these changes the modification process for *Part 3A* applications now come under current regulations rather than the more flexible *section 75W* modification procedure that was in place under *Part 3A*. Future modifications of *Part 3A* projects will now come under *Part 4* and will apply to the project or concept plan when it becomes a 'State Significant Development', not as it was originally approved.

Elite lodged their Modification No.7 in February 2018. This is clearly a last-ditch attempt to take advantage of the old regulations because under current planning laws the old concept plan would not be approved.

Modification No.7 should be rejected for the following reasons:

- The original Concept Approval (2010) specifically discounted development in Stages 6, 2 & parts of Stage 1 east of extension of Ti-Tree road. These are the same areas included in Mod. 7 for development.
- The original Concept Approval states any modification to extend the lapse date has to satisfy the Director General that the project remains 'current, appropriate and reflective of the best use of site at the original lapsing date'. This reason was never addressed when Elite was granted a two-year extension to the Concept Approval under Modification No.4..
- This modification goes far beyond what was approved in the original Concept Approval. A similar modification has already been put to NSW Planning in 2013 as Mod 1 (formally known as Mod2) which received over 100 submissions against!

### ***Environmental and Other Issues***

This modification does not address the issue of **Ecological Sustainable Development (ESD)**. The Hearnese Lake wilderness area contains a rich diversity of estuarine habitats, including mangroves, salt marsh and fringing sedge lands. The location of this proposed urban development is on a low-lying floodplain and wetlands making it vulnerable to inundation from floods, sea level

rise, storm surge, rising water tables and coastal recession. State Government guidelines including ESD restrict development in such areas. The Precautionary Principle, states that where there is a risk of serious harm or damage to the environment, life, and property, the developer must demonstrate that those risks have been adequately assessed and that mitigating measures to address the risks are implemented. This development lacks adequate risk assessment in relation to its future inhabitants, existing residents and to the area's fragile environment containing Endangered Ecological Communities (EEC's).

**Flooding is a major issue.** Mod 7 covers an area where the risk of inundation is so high, the developer is obliged to produce detailed flood modelling. This must demonstrate that the development is not flood-prone, and will not increase the risk of flooding on existing homes including those in Pine Crescent, Maple Road and Ti-Tree Road. The increase in entrance berm heights at Hearn's Lake, sea level rises and storm intensities should all be addressed in a comprehensive flooding study of the catchment and the development site.

Flooding levels will increase with time when coupled with the predicted ravages of sea level rise, coastal recession and increased storm intensity. The proponent and any consenting authority has a duty of care (a principle of ESD) not to place properties and people in Pine Crescent, Maple Road and Ti-Tree Road at risk from even worse flooding. The key outcome of the 2006-31 Mid North Coast Regional Strategy states: *"Future urban development will not be located in areas of high risk from natural hazards including sea level rise, coastal recession, rising water tables and flooding"*. Why would a government be approving a development located in just such an area?

Mod 7 does **nothing to protect this very sensitive environment** from the impacts of urban development on this scale. Hearn's Lake is an environmentally significant ICOLL (intermittently open and closed lake or lagoon) that contains a remarkable diversity of terrestrial and aquatic ecosystems, including many locally rare, threatened and migratory species, such as the Little Tern and vulnerable marine turtles, a significance recognised by the inclusion of both estuarine and marine waters within the Solitary Islands Marine Park (SIMP). The Hearn's Lake Estuary Processes Study states that maintenance of the Lake's ecosystems should: *receive priority above development, if aiming to achieve long term sustainability of both the environment and economy of Hearn's Lake. Careful management to preserve the existing natural features, in terms of their ecological benefit as well as their aesthetic appeal, will be needed.* Throughout NSW approximately 60% of coastal wetlands have been lost through draining, filling for agriculture and urban development (DLWC, 2001).

Hearn's Lake wetlands area must be included in SEPP-14 Coastal Wetlands to protect and significantly increase the conservation potential extensive areas of salt marsh and mangroves growing on the fringe of the lake. If the floodplain land around Hearn's Lake is filled with soil as is proposed it will effectively form a wall preventing the landward migration of the salt marsh (and mangroves) communities as sea levels rise. This 'coastal squeeze' will result in a significant loss of salt marsh which is recognised as a Vulnerable Endangered Ecological Community and critical in maintaining a healthy marine environment. All ICOLL's and small estuaries are an important breeding and nursery areas for many fish species - commercial and recreational. It been known for many years as a good spot for king prawns.

A fauna survey of Hearn's Lake conducted by Conacher Travers found five species listed on the Threatened Species Conservation Act 1995; the Wallum Froglet, Black-necked stork, Osprey, Greater Broad-nosed Bat and the Eastern Freetail-bat and the Glossy Black – cockatoo.

The majority of Stages 6 & 5 along with parts of stages 4 and 3 contain and support the Endangered Ecological Community of Swamp Sclerophyll Forest containing Broad-leaved Paperbark, Swamp Mahogany and Swamp Oak. This Swamp Sclerophyll Forest is known to be a **koala and bird habitat** and must be allowed to regenerate by protecting from cattle, slashing and development.

Mapping prepared by BMT WBM in 2011 for the Coffs Harbour Coastal Processes and Hazard

Definition Study indicates that Stage 1 and Stage 2 of the proposed development will be significantly affected by both coastal inundation and coastal erosion/shoreline recession by 2100. The proposed Stage 1 (East) & Stage 2 development would have detrimental impacts on the Coffs Coast Regional Park. Sapphire Beach type development confirms these impacts where residents have opened up the dunes east of their properties within the Regional Park to obtain private beach accesses. Mod 7 lacks any detail regarding formalised beach access.

**Environmental buffers** must be used to achieve sustainable outcomes for biodiversity, estuarine and marine health. The Hearnese Lake Estuary Management Plan proposed to exclude development around the lake using a combination of two buffers: firstly, a vertical buffer of 3.5m Australian Height Datum (AHD) to allow for natural expansion and contraction of the Lake, to allow for a rise in sea-levels and to allow existing vegetation communities to migrate upslope without being inhibited by new infrastructure; and secondly, a horizontal buffer extending 50 metres landward of this 3.5m contour, effectively limiting development to 35 lots (CHCC DCP 2008)

In 2006 the NSW State Government through the Department of Planning commissioned Sainty and Associates to identify high conservation lands at the Hearnese Lake lower catchment. The Sainty Report supports the need for an environmental buffer at 3.5m AHD.

**Traffic** is another major concern among residents. The Mod 7 site has no vehicular access other than the existing streets (Ti-Tree Rd, Pine Crescent and Maple Rd). These streets are narrow, have no kerb and gutter (except Ti-Tree) and have intersections with Diamond Head Drive that have poor visibility limited sight distance. Trucks bringing in the huge quantities of fill and other heavy construction vehicles using these streets will have a catastrophic impact on air quality, road pavement, road safety, peace and quiet. An additional 280 homes will add about 1400 extra vehicle movements a day! A detailed traffic plan needs to be undertaken.

Hearnese Lake would be best left in the hands of OEH or NPWS. Our Northern Beaches Community is absolutely committed to saving Hearnese Lake and its environment from development. We are relying on NSW Planning & Environment to reject this re-hashed Modification

**A warning:** should properties in Sandy Beach be adversely affected by flood waters because of this development, members of Sandbag will be joining the community in mounting a Class Action to sue the NSW State Government.