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Submission Re: Sandy Beach North Residential Subdivision
MP MP05_0083 MOD 7

I would like to submit this letter as my rejection of the proposed development of the Hearn's Lake area listed as Sandy Beach North Residential Subdivision.

This latest proposal has already been rejected and the approved DA, to the best of my knowledge was not adhered to, thus making it null and void. Compensatory land was not transferred to the relevant authority nor was construction started in the specified time. If construction was started as declared by the Developer then this was in breach of the approved DA.

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 1st, 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 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. When the Concept Approval was given, the term 'best use' was specifically used by the decision maker having the knowledge that this project would take considerable time to develop and that NSW Coastal Protection would be a major obstacle to the planning decision makers.
- 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! If Elite want what is above and beyond the original Concept Approval then NSW Planning must ask them to submit a new Development Application.

The Northern Beaches Community is committed to saving Hearn's Lake and its sensitive

environment from development. We are relying on NSW Planning & Environment to reject this re-hashed Modification No.1 from 2013 and to ask the developers to submit a new Development Application (under current laws) if Mod. 7 is what they want.

Environmental and Other Issues

This modification does not address the issue of **Ecological Sustainable Development (ESD)**. The Hearn's 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 areas 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 produce detailed flood modelling. This must demonstrate that the development is safe from flooding and will have no detrimental impact on existing homes including those in Pine Crescent, Maple Road and Ti-Tree Road. The Hearn's Lake entrance berm heights are predicted to increase along with sea level rises and storm intensities; therefore, there is a critical need for comprehensive flooding modelling 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 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 an **important 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 Occupants of residences 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 concerns 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 which are narrow, have no kerb and gutter (except Ti-Tree) and have intersections with Diamond Head Drive that have poor visibility. 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 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. Council and the Community know this would clearly be a most desirable social and environmental outcome for the residents of Coffs Harbour and our unique Coastal Zone. 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

It is clear to the community that this Developer is trying to ride rough shod over the relevant Regulatory Authorities and is only interested in their vested interests.

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