



NSW GOVERNMENT

Department of Planning

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Our ref: 06_0269; file no S06/00814

Your ref: 5/2005

Mr Garry Warnes
Director
Synergy Environmental Planning Pty Ltd
40 Grey Gum Crescent
Thornton NSW 2322

Dear Mr Warnes,

Subject: MP06_0269 - 5 tourist cabins at 30 Lemon Tree Passage Rd Tanilba Bay

The Department has received your application for the proposed 5 tourist cabin development at 30 Lemon Tree Passage Rd, Tanilba Bay.

The Director-General's Environmental Assessment Requirements (DGRs) for the environmental assessment of the project application are attached to this correspondence at **Attachment 1**. These requirements have been prepared in consultation with the relevant government agencies including council and the Commonwealth Department of the Environment, Water, Heritage and the Arts.

Attachment 2 lists the relevant plans and documents which will be required upon submission of your proposal.

It should be noted that the DGRs have been prepared based on the information provided to date. Under section 75F(3) of the Act, the Director-General may alter or supplement these requirements if necessary and in light of any additional information that may be provided prior to the proponent seeking approval for the project.

If the EA is not exhibited within 2 years of the date of issue of these requirements, you should consult further with the Director-General in relation to the preparation of the EA.

Please contact the Department at least two weeks before you propose to submit the Environmental Assessment (EA) for the project to determine:

- the fees applicable to the application. Note that you will need to provide a signed statement from a Quantity Surveyor to verify the capital investment value of the project;
- consultation and public exhibition arrangements that will apply; and
- number and format (hard-copy or CD-ROM) of the EA that will be required.

A list of some relevant technical and policy guidelines which may assist in the preparation of the EA are attached at **Attachment 3**.

Prior to exhibiting the EA, the Department will review the document to determine if it adequately addresses the DGRs. The Department may consult with other relevant government agencies in making this decision. If the Director-General considers that the EA does not adequately address the DGRs, the Director-General may require the proponent to revise the EA to address the matters notified to the proponent.

Following this review period, the EA will be made publicly available for a minimum period of 30 days.

If your proposal includes any actions that could have a significant impact on matters of National Environmental Significance (NES), it will require an additional approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. It is your responsibility to contact the Commonwealth Department of the Environment, Water, Heritage and the Arts in Canberra (6274 1111 or <http://www.environment.gov.au>) to determine if the proposal is likely to have a significant impact on matters of NES and would require an approval under the EPBC Act. The Commonwealth Government has accredited the NSW environmental assessment process for assessing any impacts on matters of NES. As a result, if it is determined that an approval is required under the EPBC Act, please contact the Department immediately as supplementary DGRs will need to be issued.

Please note that under section 75U of the Act, Part 3A applications do not require certain permits/approvals required under other legislation. These matters are considered as part of the Part 3A assessment process. For example, Section 87 permits and Section 90 consents under the *National Parks and Wildlife Act 1974* are not required for Part 3A applications. Section 75U applies from the date of issue of the DGRs.

Notwithstanding, the Department still requires an equivalent level of information within the EA as would ordinarily be required for the issue of any such permit/approval to enable an assessment of the relevant works. Please notify the Department should any sub-surface testing be required during the preparation of your EA.

Copies of responses from government agencies to the Department's request for key issues and assessment requirements are enclosed at **Attachment 4**. Please note that these responses have been provided to you for information only and do not form part of the DGRs for the EA.

If you have any queries regarding these requirements, please contact Nicola Chisholm on 9228 6484 or email nicola.chisholm@planning.nsw.gov.au

Yours sincerely



27.1.09

Chris Wilson
Executive Director
Major Project Assessments
as delegate for the Director General

cc: N Kobra (owner) as per request.

Attachment 1

Director-General's Environmental Assessment Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number
06_0269
Project
5 tourist cabins and associated infrastructure
Location
Lot 11 DP 753194, 30 Lemon Tree Passage Rd, Tanilba Bay (Port Stephens LGA)
Proponent
Synergy Environmental Planning Pty Ltd on behalf of the owners Mr A. Shevket, Mrs N. Kobra and Mr N. Sahri (the proponents)
Date issued
January 2009
General requirements
<p>The Environmental Assessment (EA) for the Project Application must include:</p> <ol style="list-style-type: none"> 1. An executive summary; 2. A detailed description of the proposal. 3. A thorough site analysis including constraints mapping and description of the existing environment; 4. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans; 5. Consideration of the consistency of the project with the objects of the <i>Environmental Planning and Assessment Act 1979</i>; 6. Consideration of impacts, if any, on matters of National Environmental Significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>; 7. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project; 8. The plans and documents outlined in Attachment 2; 9. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and 10. An assessment of the key issues specified below and a table outlining where in the EA these key issues have been addressed.
Key Issues
The EA must address the following key issues:
1. Strategic Planning
<ol style="list-style-type: none"> 1.1 Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies. 1.2 Demonstrate consistency with the Sustainability Criteria set out in the relevant Regional Strategy (including draft Regional Strategies).

2. Urban Design and Sustainability	
2.1	Demonstrate suitability of the proposal with the surrounding area in relation to bulk, scale, amenity (including noise) and visual amenity having regard to the <i>Coastal Design Guidelines of NSW</i> (2003) and the <i>NSW Coastal Policy 1997</i> .
2.2	Provide a Design Statement and Access Review prepared by a registered Architect that outlines the development context, design objectives, uses proposed, GFAs, FSR, layout, scale, materials and finishes schedule, paths of travel, emergency egress and accessibility.
2.3	Demonstrate accessibility under the Building Code of Australia and Commonwealth Disability Discrimination Act 1992.
3. Visual Impact	
3.1	Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular address impacts on the amenity of the foreshore, overshadowing of public reserves, loss of views from public places and cumulative impacts.
3.2	Use visual aids such as scale model and photomontage to demonstrate visual impacts. Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.
4. Infrastructure Provision	
4.1	Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.
4.2	Address and provide the likely scope of any planning agreements and/or development contributions with Council/ Government agencies (including relevant community/state infrastructure contributions).
4.3	Prepare a wastewater management report. The report must assess all options for sewage collection and disposal and their potential impacts, having regard to the constraints of the site, including flooding and the presence of Ecologically Endangered Communities (EEC) and SEPP 14 wetlands. Further the report should consider the potential for groundwater contamination and adverse impacts on downstream aquaculture industries.
5. Traffic and Access	
5.1	Prepare a traffic impact study in accordance with Table 2.1 of the RTA's <i>Guide to Traffic Generating Developments</i> .
5.2	Protect existing public access to and along the beach and coastal foreshore and provide, where appropriate, new opportunities for controlled public access. Consider access for the disabled, where appropriate.
5.3	Investigate the impacts of the creation of a new road to replace the existing unsealed road. The new road will need to be constructed in accordance with Councils standards and located within the Road Reserve. The investigations should have regard to potential environmental impacts, including impacts on the SEPP 14 wetlands and the Koala habitat. Should your investigations identify that a better environmental outcome can be achieved by placing the road outside of the Road Reserve, then you should consult with the Department of Lands and Port Stephens Council, about a possible amendment to the Road Reserve.
6. Hazard Management and Mitigation	
<i>Coastal Processes</i>	
6.1	Address coastal hazards and the provisions of the <i>Coastline Management Manual</i> . In particular, consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms.
<i>Contamination</i>	
6.2	Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of <i>SEPP 55 – Remediation of Land</i> .
6.3	Provide a Preliminary Contamination Assessment, identifying any contamination on site and appropriate mitigation measures in accordance with the provisions of <i>SEPP 55 – Remediation</i>

	of Land.
	Acid Sulfate Soils
6.4	Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures. Identify the need for an Acid Sulfate Management Plan (prepared in accordance with ASSMAC Guidelines).
	Bushfire
6.5	Address the requirements of <i>Planning for Bush Fire Protection 2006</i> (RFS). Please note in the requirements provided by RFS, the proposed Asset Protection Zones does not comply with the acceptable solutions of <i>Planning for Bushfire Protection 2006</i> . The RFS will require evidence that the proposed performance solution is suitable for the development.
	Geotechnical
6.6	Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.
	Flooding
6.7	Provide an assessment of any flood risk on site (for the full range of floods including events greater than the design flood, up to probable maximum flood; and from coastal inundation, catchment based flooding or a combination of the two) and having consideration of any relevant provisions of the <i>NSW Floodplain Development Manual 2005</i> . The assessment should determine: the flood hazard in the area; address the impact of flooding on the proposed development, address the impact of the development (including filling) on flood behaviour of the site and adjacent lands; and address adequate egress and safety in a flood event.
6.8	Assess the potential impacts of sea level rise and an increase in rainfall intensity on the flood regime of the site and adjacent lands with consideration of <i>Practical Consideration of Climate Change – Floodplain Risk Management Guideline</i> (DECC, October 2007).
7. Water Cycle Management	
7.1	Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages.
7.2	Prepare a conceptual design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system.
7.3	Assess the impacts of the proposal on surface water hydrology and quality during both construction and occupation of the site.
7.4	Consider the nature and profile of the groundwater regime under the site, including any hydrologic impacts which would affect its depth or water quality, result in increased groundwater discharge, impact on the stability of potential acid sulfate soils in the vicinity, or affect groundwater dependent native vegetation.
8. Heritage and Archaeology	
8.1	Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. The assessment must address the information and consultation requirements of the draft <i>Guidelines for Aboriginal Cultural Heritage Assessment and Community Consultation</i> (DEC 2005) and <i>Interim Community Consultation Requirements for Applicants</i> (DEC 2004)
8.2	Identify any items of non-indigenous heritage significance and, where relevant, provide measures for the conservation of such items. A Heritage Assessment of the non-indigenous heritage values of the site is to be submitted, including any built, archaeological, landscape and moveable items of potential significance. A draft Statement of Heritage Impact is to be submitted detailing and evaluating any impacts that the development concept would have on the non-indigenous heritage significance of the site.
8.3	Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the EPBC Act.

9. Flora and Fauna	
9.1	Assess the potential direct and indirect impacts of the development on flora and fauna taking into consideration impacts on any threatened species, populations, ecological communities and/or critical habitat and any relevant recovery plan in accordance with DECC's <i>Guidelines for Threatened Species Assessment</i> (2005), having particular consideration for Swamp Schlerophyll Forest EEC and Swamp Mahogany – Paperbark EEC. Provide measures for the conservation of flora and fauna, where relevant.
9.2	Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.
9.3	Address measures to protect and manage the riparian corridor and adjacent aquatic habitats.
9.4	Assess the impacts of changes to the ecosystem from the on-site effluent systems.
9.5	Address impacts on migratory species, RAMSAR wetlands and species listed under Section 18 and 18A of the EPBC Act.
9.6	The provisions of <i>State Environmental Planning Policy No.44 (Koala Habitat Protection)</i> must be assessed.
10. Noise	
10.1	Address potential noise impacts, in particular road traffic noise, for future residents and appropriate mitigation measures.
11. Socio-economic Impacts	
11.1	Provide a social impact assessment for the development. Address the social and economic context of the development (for both the tourist and residential components) in terms of infrastructure requirements, public transport, community services and facilities (including schools and medical services).
12. Aquaculture	
12.1	Assess the impacts of the development on downstream aquaculture operations and recreational fishing with regard to NSW Oyster Industry Sustainable Aquaculture Strategy.
Consultation	
<p>You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:</p> <p>(a) <i>Agencies or other authorities:</i></p> <ul style="list-style-type: none"> • Commonwealth Department of the Environment, Water, Heritage and the Arts; • Port Stephens Council; • Department of Environment and Climate Change; • Department of Primary Industries; • NSW Rural Fire Service; • Department of Water and Energy; • Roads and Traffic Authority; • Department of Lands; • NSW Police Service; • State Emergency Service; • Hunter-Central Rivers Catchment Management Authority; • Port Stephens – Great Lakes Marine Park Authority; • Local Aboriginal Land Council/s and other Aboriginal community groups; and • Infrastructure providers. <p>(b) <i>Public:</i></p> <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment.</p>	
Deemed Refusal Period	
60 days	

Attachment 2

Plans and Documents to accompany the Application

Plans and Documents of the development	<p>The following plans, architectural drawings and diagrams of your proposal as well as the relevant documents will be required to be submitted for your application:</p> <ol style="list-style-type: none"> 1. The existing site survey plan is to be drawn to 1:500 scale (or other appropriate scale) and show: <ul style="list-style-type: none"> • the location of the land, the measurements of the boundaries of the land, the size of the land and north point; • the existing levels of the land in relation to buildings and roads; • location and height of existing structures on the site; and • location and height of adjacent buildings and private open space. 2. An aerial photograph of the subject site with the site boundary superimposed. 3. A Site Analysis Plan must be provided which identifies existing natural elements of the site (including all hazards and constraints), existing vegetation, property dimensions, footpath crossing levels and alignments, existing pedestrian and vehicular access points and other facilities, slope and topography, natural features such as watercourses, rock outcrops, utility services, boundaries, orientation, view corridors and all structures on neighbouring properties where relevant to the application (including windows, driveways etc.). 4. A locality/context plan drawn to 1:500 scale (or other appropriate scale) should be submitted indicating: <ul style="list-style-type: none"> • significant local features such as parks, community facilities and open space, water courses and heritage items; • the location and uses of existing buildings, shopping and employment areas; • traffic and road patterns, pedestrian routes and public transport nodes; and • The existing site plan and locality plan should be supported by a written explanation of the local and site constraints and opportunities revealed through the above documentation. 5. A zoning plan must be provided which shows the existing zoning overlaid with the proposed development layout. An extract of the land use table or relevant clauses from the subject LEP is required. 6. The Architectural drawings are to be drawn to scale and illustrate the following general features: <ul style="list-style-type: none"> • the location of any existing building envelopes or structures on the land; • the floor plans; • the location of lifts, stairs and corridors; • adaptable housing requirements; • section plans; • fenestrations, balconies and other features; • communal facilities and servicing points; • the height of the proposed development in relation to the land; • significant level changes; • parking and vehicular access arrangements; and • pedestrian access to, through and within the site.
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	<p>7. Elevations – of the proposed buildings drawn to the same scale as the architectural drawings. The elevations are to indicate height and key datum lines, building length and articulation, the composition of the façade and roof design, existing buildings on the site, building entries (pedestrian, vehicular and service), and profile of buildings on adjacent properties.</p> <p>8. Stormwater Management Plan - illustrating the concept for stormwater management from the site and must include details of any major overland flow paths through the site and any discharge points to the street drainage system. Where an on-site detention system is required, the type and location must be shown and must be integrated with the proposed landscape design. Site discharge calculations should be provided;</p> <p>9. Erosion and Sediment Control Plan – plan or drawing that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site;</p> <p>10. Landscape Concept Plan – showing planting design and plant/tree species to be used, listing botanical and common names, mature height and spread, number of plants to be utilised in relation to the treatment of communal/public open space areas, footpaths, driveways and the public domain including details of street trees, furniture, signage, lighting and surface treatments (i.e. pavers).</p> <p>11. Construction Management Plan – a plan which outlines traffic and pedestrian management during construction and management of impacts on amenity of adjoining properties and appropriate mitigation measures including noise, dust and sediment and erosion controls;</p> <p>12. View analysis – artist's impression, photomontages, etc of the proposed development in the context of the surrounding development.</p> <p>13. Shadow Diagrams – diagrams showing solar access to the site and adjacent properties, including the public reserve, at summer solstice (Dec 21), winter solstice (Jun 21) and the equinox (Mar 21 and Sept 21) at 9am, 12 midday, 3pm and 6.30pm.</p>
Specialist advice	<p>Specialist advice, where required to support your Environmental Assessment, must be prepared by suitably qualified and practising consultants in relation to issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Planning; • Flora and Fauna; • Bushfire; • Landscaping; • Geotechnical and/or hydrogeological (groundwater); • Stormwater/drainage; • Urban Design/Architectural; • Contamination in accordance with the requirements of SEPP 55; and • Acid Sulfate Soils.
Documents to be submitted	<ul style="list-style-type: none"> • Both hard copy and electronic versions of the Environmental Assessment will be required to be submitted. Please contact the Department prior to submitting your Environmental Assessment to determine how many copies will be required. • If the Environmental Assessment is bulky, you will be required to package up each Environmental Assessment ready for distribution by the Department to key agencies.

Electronic Documents	<p>Electronic documents presented to the Department for publication via the Internet must satisfy the following criteria:</p> <ul style="list-style-type: none"> ▪ All files should be approximately 5 Mb. ▪ Large files of more than 5 Mb will need to be broken down and supplied as different files.
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Attachment 3

State Government technical and policy guidelines

The following list provides relevant technical and Policy Guidelines which may assist in the preparation of the Environmental Assessment. It should be noted, however, that this list is not exhaustive as other documents and policies may need to be reviewed. It is also important to note that not of all of these guidelines may be relevant to your proposal.

The majority of these documents can be found on the relevant Departmental Websites, on the NSW Government's on-line bookshop at <http://www.bookshop.nsw.gov.au> or on the Commonwealth Government's publications website at <http://www.publications.gov.au>.

Aspect	Policy /Methodology
Biodiversity	
	Draft Guidelines for Threatened Species Assessment (DEC & DPI, 2005)
	Draft Threatened Biodiversity Survey and Assessment Guidelines (DEC, 2004)
	Why do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (NSW Fisheries, 2003)
	Policy and Guidelines: Aquatic Habitat Management and Fish Conservation (NSW Fisheries, 1999)
	Threatened Species Management Manual (NPWS, 1998)
Coastal Planning	
	NSW Coastal Policy 1997 - A sustainable Future for the New South Wales Coast, NSW Government, 1997
	Coastal Design Guidelines for NSW, PlanningNSW, February 2003
	NSW Wetlands Management Policy (DLWC, March 1996)
	Coastline Management Manual (NSW Government 1990)
Community Consultation	
	Guidelines For Major Project Community Consultation, (NSW Department of Planning, 2007) http://www.planning.nsw.gov.au/assessingdev/pdf/Dr3%20DOP%20GuideMajProjComConsult%20BRO.pdf
Bushfire	
	Planning for Bushfire Protection 2006 (NSW Rural Fire Service)
Contamination and Soils	
	Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land (DUAP & EPA, 1998)
	Best Practice in Contaminated Sites (Commonwealth DEH, 1999, ISBN 0 642 546460)
	Contaminated Sites: Sampling Design Guidelines (EPA, 1999)
	NSW Acid Sulfate Soil Management Advisory Committee - Acid Sulfate Soil Manual (ASSMAC, 1998).
Environmental Management Systems	
	NSW Government Interim Water Quality and River Flow Environmental Objectives (DEC)
	Guidelines for the preparation of Environmental Management Plans (DIPNR, 2004)

Aspect	Policy /Methodology
Hunter Rivers Catchment Action Plan (Hunter-Central CMA)	
Heritage	
Aboriginal	Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DEC, 2005)
	Interim Community Consultation Requirements for Applicants (DEC, 2004)
Non-Indigenous	Assessing Heritage Significance Update for Heritage Manual, NSW Heritage Office, 2000
	Statements of Heritage Impact, NSW Heritage Office 2002
	NSW Heritage Manual, NSW Heritage Office 1996
Noise	
	Environmental Criteria for Road Traffic Noise (EPA, 1999)
	Acoustics - Road traffic noise intrusion - Building siting and construction (Standards Australia, 1989, AS 3671-1989)
Safety and Hazards	
	Electrical Safety Guidelines (Integral Energy)
Traffic & Transport	
	Guide to Traffic Engineering and Guide to Geometric Design of Rural Roads (Austroads, 2003, AP-G1/03)
	Guide to Traffic Generating Developments (RTA, 2002)
Urban Design: Cycleway/Pathway Design	
	Guidelines for the Design and Construction of Paths and Cycleways along Watercourses and Riparian Areas (Version 2) (DIPNR/DNR)
Water	
Water Quality	Water quality guidelines for the protection of aquatic ecosystems for upland rivers. (ANZECC, 2000)
	Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC 2000)
	Water Management Act 2000 – Objectives and Water Management Principles.
Effluent Reuse	Environmental Guidelines for the Utilisation of Treated Effluent by Irrigation (NSW DEC 2004)
Floodplain	NSW Government Floodplain Development Manual - the Management of Flood Liable Land (DIPNR, 2005)
	Practical Consideration of Climate Change – Floodplain Risk Management Guideline (DECC, October 2007)
Groundwater	NSW State Groundwater Quality Protection Policy (DLWC, 1998, 0 7313 0379 2)
	NSW State Groundwater Quality Protection Policy (DLWC 1998)
	NSW Groundwater Dependent Ecosystem Policy (DLWC 2000)
Stormwater	Managing Urban Stormwater: Soils & Construction (NSW Landcom, March 2004) - "The Blue Book"
Waterways	Waterways Crossing Design & Construction (Version 4 – DIPNR/DNR Draft Guidelines)
Wetlands	NSW Wetlands Management Policy (DLWC 2000)
EPBC Act	
	Commonwealth Environment Protection and Biodiversity Conservation Act 1999: Guide to implementation in NSW: March 2007

Attachment 4
Agency Responses to Request for Key Issues
- For Information Only