

## **A - DoP Letter of Advice / Government Submissions**

# A - DOP LETTER OF ADVICE / GOVERNMENT SUBMISSIONS



NSW GOVERNMENT  
Department of Planning

Mr Peter J Biasotto  
Hillview Heights Estates Pty Limited  
PO Box 9  
DRUMMOYNE NSW 1470

Contact: Paula Tomkins  
Phone: (02) 9228 6397  
Fax: (02) 9228 6540  
Email: paula.tomkins@planning.nsw.gov.au  
Our ref: MP05\_0064  
File: 9040786

Dear Mr Biasotto,

**MP05\_0064, 'Moonee Waters' Residential Subdivision, Pacific Highway, Moonee Beach – Issue of Submissions following exhibition of the Environmental Assessment**

I refer to your Environmental Assessment (EA) for residential subdivision of Lot 66 DP 551005 lodged with the Department on 26 November 2007.

Following a review of the EA and considering issues raised in the public and agency submissions, the Department advises that it can not support the proposed development in its current form. The Department's concerns relate specifically to the following key areas:

- **Ecology** – the site has ecological value either as an endangered ecological community, high conservation value vegetation, habitat for threatened flora and fauna or a wildlife corridor or a combination of these values. The EA does not satisfactorily document the potential impacts on these values or provide appropriate mitigation measures for likely impacts. Specifically, the justification provided for development outside the potential development boundaries in the Sainty Report does not support the level of development proposed.
- **Access** – both the RTA and Council do not support the two proposed temporary accesses to the Pacific Highway and state that access to the site should be via the collector road identified in the Moonee DCP.
- **Owner's Consent** – the Department of Lands has not provided owner's consent for use of the Crown Road reserve on which the development relies for access.
- **Conservation Area Management** – the EA proposes the management of the 'Conservation Area' under a community title arrangement. However, Council have advised that they are willing to take ownership of the 'Conservation Area'. The Department considers that it is preferable that the area of the site to be conserved is transferred to public ownership.
- **Climate Change and Predicted Sea Level Rise** – the EA does not consider the latest scenarios for predicted sea level rise for the NSW coast.
- **Bushfire** – the regime for ongoing maintenance of bushfire risk mitigation measures is not clear and the width of perimeter roads is not compliant with Planning for Bushfire Protection 2006.

Further detail regarding the Department's concerns in these key areas is provided at **Attachment 1**. The Department has also identified additional information that is required to complete an assessment of the application (refer **Attachment 2**).

We would like to meet with you to discuss the issues raised and will therefore be in contact with you to arrange a mutually convenient time. In the meantime should you have any queries regarding this letter, please contact Paula Tomkins on 9228 6397 or via email to [paula.tomkins@planning.nsw.gov.au](mailto:paula.tomkins@planning.nsw.gov.au).

Yours sincerely



28.2.08

Chris Wilson  
**Executive Director**  
**Major Project Assessments**

cc Mark Hannon, Coffs Harbour City Council

## ATTACHMENT 1 - DEPARTMENT OF PLANNING – KEY ISSUES

### KEY ISSUES

#### 1. Ecology

The Department is concerned that the Environmental Assessment (EA) does not adequately reflect the extent of impacts on the ecological attributes of the site. Accordingly, the Department requires further consideration and assessment to be undertaken in a number of areas as set out below:

- a) Consideration should be given as to how this proposal maintains or improves the biodiversity values of the site.
- b) Further consideration should be given to how the proposal will impact on the sub-regional wildlife corridor given that the proposed Pacific Highway Upgrade identifies this corridor as an area for a fauna crossing to ensure connectivity (refer to attached diagram).
- c) Further consideration needs to be given to how the proposal limits the following key threatening processes (KTPs):
  - Loss of Hollow Bearing Trees – a map showing the location and relative habitat value of stags and hollow bearing trees should be provided with further consideration of how the loss of these trees will impact on site biodiversity.
  - Clearing of Native Vegetation – The EA does not fully consider the potential impacts of the following aspects of the proposal:
    - Clearing for proposed walkways through the conservation area;
    - Clearing for the asset protection zones up to 10m into the conservation area;
    - Management of areas up to 50m wide as 'fuel-managed corridors' along the roads to both precincts;
    - Clearing for local parks within the conservation area;
    - Disturbance for installation of the sewer rising mains;
    - Clearing required for the construction of sewer pumping stations;
    - Clearing for the bio-swales and 'cleaning ponds', proposed as part of the water cycle management plan; and
    - Construction of noise mitigation measures (refer to (i) below).

It should be noted that much of this disturbance and clearing is within the identified Endangered Ecological Communities (EECs) on the site. Therefore, in Table 2 of Appendix B, the figures of areas of vegetation to be removed and retained should be updated to reflect these areas of disturbance and clearing outside the identified development boundaries. Any further impacts identified should be used to update relevant assessments of significance as required.

  - Predation by the Red Fox – Please elaborate on the statement 'the proposed development of the subject site at Moonee Beach will not exacerbate the impacts of predation by this introduced predator'.
  - Predation by the Feral Cat – Please elaborate on how responsible pet ownership will be promoted within the development to minimise the impacts of this KTP.
- d) Further consideration and assessment needs to be given to the following threatened fauna species whose habitat will be partially or substantially modified, disturbed or removed:
  - Green-thighed Frog – Information should be provided that indicates how the local population of this species is likely to respond to the removal and modification of habitat.

- Osprey – Please provide further information on how the proposal may impact on potential Osprey nest trees within the site including identification of the numbers and locations of these trees.
  - Koala – The areas of the site where Koala feed trees occur should be identified and the area of these trees to be removed should be stated. Further comment is sought on the likely effect of Welsh's survey of heavy rain prior to the Koala SAT method being carried out and the flooding of the Swamp Forest. The map showing Welsh's koala transect should also be provided.
  - Glossy-Black Cockatoo – Please provide a map detailing the location of *Allocasuarina littoralis* and *Allocasuarina torulosa* on site.
  - Swift Parrot – Please provide an assessment of significance for this species that takes into account the potential hazards presented to this species by the proposal such as wire netting fencing, windows, cars and cats.
  - Common Blossom Bat – The EA states that this species 'forages over distances of up to 6km in one evening'. This statement is not supported in the literature (refer Law, B.S. 1993. Wildlife Research 20 pp419-431).
  - Microbats – For some of these bats recorded on the site, it is likely that the site constitutes their entire home range. Further consideration is required as to how these species are likely to respond to removal and modification of their habitat.
  - Yellow-bellied Glider – The site has the potential to be the territory for a family group. This should be considered in the assessment of significance for this species. The Recovery Plan for this species should also be considered.
  - Common Planigale – Please provide further consideration of the potential impact of domestic animals, foxes and people on the habitat of this species.
  - Forest Owls generally – Welsh states that owl pellets were found and were being identified. What was the result of this identification?
  - Please provide assessments of significance for the following species which have a moderate to high potential to occur on site:
    - Stephens Banded Snake
    - Giant Barred Frog
    - Powerful Owl
    - Masked Owl
    - Sooty Owl
    - Grass Owl
    - Red-tailed Black Cockatoo
    - Double-eyed Fig Parrot
    - Wompoo Fruit-dove
    - Rose-crowned Fruit-dove
    - Barred Cuckoo-shrike
    - Brown Treecreeper
    - Squirrel Glider
    - Brush-tailed Phascogale
    - Spotted-tail Quoll
    - Eastern Pygmy-possum
    - Wallum Froglet
- e) Further detail should be provided quantifying the buffers provided and how this differs from the 50m buffer recommended by Sainty (2006). Further, Figure 3-16B shows that there is no buffer to lands identified by Sainty (2006) as of high conservation significance in two separate places (one in northern precinct and one in southern precinct). In one area in the southern precinct the development encroaches into land of high conservation

significance. Further detailed justification as to why no buffer will provide an acceptable outcome is required.

Additionally, Development Precinct B will result in development approximately 30m from the boundary of the SEPP 14 wetland. Furthermore the Swamp Sclerophyll Forest on Coastal Floodplain EEC, which is directly associated with the SEPP 14 wetland is approximately 15m from development in Precinct B. Further justification is required as to why such a small buffer is provided to this wetland and associated EEC.

- f) The conservation value of Dry Blackbutt Open Forest and Turpentine Forest require further consideration and assessment. Reference should be made to the Coffs Harbour Vegetation Management Study and the NPWS Comprehensive Regional Assessment for the North Coast Bioregion.
- g) The EA is not clear regarding the direct and indirect impacts of the development on Moonee Quassia (*Quassia sp. Moonee*) and Rusty Plum (*Amorphospermum whitei*). A detailed map of the location of these species and their preferred habitat is required.
- h) Further information is required in regard to the survey effort expended for *Cryptostylis hunteriana*, *Phaius australis*, *Lindsaea incisa*, *Masdenia longilobia*, *Senna acclins*, *Lygodium microphyllum*.
- i) The Noise Report suggests that noise criteria are exceeded and recommends further monitoring on the site to determine site specific noise criteria. This site specific monitoring should be undertaken so it can be determined what mitigation measures will be required for the development. Should noise walls or mounding be required, the construction of these structures has the potential to require additional vegetation clearing and these impacts will need to be documented in the EA. Further, the noise report states that noise walls should extend a certain distance past affected residences. In the case of Precinct A, any construction of acoustic barriers has the potential to create an obstruction within the identified sub-regional wildlife corridor.

## **2. Access**

The RTA has advised that they do not support the two proposed temporary accesses onto the Pacific Highway. Instead, the RTA supports the implementation of the collector road system outlined in the Moonee Development Control Plan (DCP) 2004. The Moonee DCP states the following:

*'It will be the responsibility of the developer to extend road access to the identified collector road system' and 'Where the collector road has not been constructed at the time the developer wishes to proceed, it will be the developer's responsibility to forward fund road acquisition and construction'.*

It is unclear from the EA why access to the site via the proposed collector road is not proposed. If access via the collector road is not proposed, sound justification is required. Further, additional consultation is required with the RTA to ensure that temporary access to the Pacific Highway will be granted. If temporary access is granted, measures to ensure that the access remains a temporary measure will need to be proposed.

## **3. Owner's Consent**

In its submission dated 25 January 2008, the Department of Lands has stated that they object to any development of the Crown Road unless formal discussions are undertaken by the proponent and agreement reached on a number of issues. Please note that owner's consent is required for development within the Crown Road reserve. Pursuant to Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), owner's consent is necessary prior to determination of the application.



#### **4. Conservation Area Management**

Moonee DCP requires dedication to Council of lands identified as 'protected'. The EA states that the level of development proposed is required 'to generate sufficient funds to provide for the rehabilitation, protection, maintenance and long term management of the Conservation Area at no cost to the public purse'. Council state in their submission dated 7 February 2008 that they will accept dedication of the land outside any agreed development boundaries. The level of development on site should be reviewed in light of this statement by Council.

#### **5. Climate Change and Predicted Sea Level Rise**

The Water Management Report appended to the EA states that 'the generally accepted prediction of the sea level rise in the next 100 years ranges from 0.2m to 0.5m'. However, this does not account for the full range of Intergovernmental Panel on Climate Change (IPCC) and CSIRO projections to 2100. In the *Floodplain Risk Management Guideline: Practical Consideration of Climate Change* (October 2007), DECC recommends undertaking sensitivity analyses for sea level rises to 2100 of 0.18m (low level ocean impacts), 0.55m (mid range ocean impacts) and 0.91m (high level ocean impacts).

The Water Management Report should also consider impacts relating to increased rainfall intensities and the effect on ARI and flooding. DECC's *Floodplain Risk Management Guideline: Practical Consideration of Climate Change* (October 2007), provides a framework for such an assessment.

Measures to mitigate impacts should also be considered and detailed.

You are advised liaise with Doug Lord or Duncan McLuckie of DECC to obtain a copy of '*Floodplain Risk Management Guideline - Practical Consideration of Climate Change*'.

#### **6. Bushfire**

- a) The EA is not clear regarding the size or the necessary management measures for the proposed 'fuel-managed corridors'. Appendix B states that the proposed fuel-managed corridors along access roads are up to 50m wide. Appendix G states that the north-south fuel-managed corridor will be 20m wide and the east-west corridor will be 30m wide. The Bushfire Protection Assessment requires these areas to be managed in accordance with 'Bushfire Environmental Assessment Code for Asset Protection and Strategic Fire Advantage Zones'. Will the 'fuel-managed corridors' be managed as an APZ or a SFAZ? What ecological impacts will the management of these corridors have on the conservation area?
- b) Planning for Bushfire Protection (PBP) 2006 states that urban perimeter roads must have a minimum carriageway width of 8m kerb to kerb. However, the bush edge streets shown in the EA only have a width of 7.2m. Further PBP states that public roads 6.5m – 8m wide are to have 'No Parking' on one side of the street, but the cross section for bush edge streets in the EA indicates parking on both sides of the street.
- c) The Bushfire Protection Assessment at Appendix G of the EA states that emergency egress is available from Precinct B to the adjacent North Sapphire development. Has the adjacent landowner accepted this arrangement?
- d) The Bushfire Protection Assessment states that the emergency access link from Precinct A to the Pacific Highway will be fitted with locked bollards. How will the unlocking of these bollards be managed during a bushfire emergency?



## **ATTACHMENT 2 – DEPARTMENT OF PLANNING - COMMENTS**

### **ADDITIONAL INFORMATION REQUIRED / COMMENTS**

#### **1. Statement of Commitments**

- The Statement of Commitments includes commitments to adopt all recommendations in the relevant specialist reports. The Statement of Commitments should reproduce each of the recommendations from specialist reports to be adopted by the proposed development. This is to allow the Statement of Commitments to be read as a stand alone document.
- The Statement of Commitments does not include any commitments with regard to the provision of infrastructure (e.g. water, sewer) to the development. The Statement of Commitments should be definitive about what infrastructure works will be required and whose responsibility it will be to implement them.

#### **2. Access to Conservation Area**

- While Appendix B states that features such as bioretention swales, bollards, low fencing and exclusion fencing will be provided that identify the physical edge of the conservation area, the cross section of the 'Bush Edge Street' in the EA indicates people within the conservation area. Where will these features to exclude access be provided? Where these features are not provided, what are the potential impacts of human access on the ecological attributes of the conservation area?
- Figure 4-6 of the EA identifies 'potential pedestrian connections' through the subject site, including connections around the outside of each development precinct. How will these pedestrian connections be implemented? Is it proposed to construct formal footpaths within the conservation area around the 'Bush Edge Streets'? If so, these should be included in the road cross sections.

#### **3. Urban Design**

- The density of the proposed development does not comply with the control in the Moonee DCP. Further justification is required for the development exceeding the density control. Specifically, consideration should be given as to how the proposed lot types and sizes will fit with existing and proposed surrounding development.
- The design controls provided for the development should be specific for each lot type proposed for example, setbacks and amount of open space should be provided for each lot type proposed. Diagrams indicating how future housing may meet these design controls should also be provided. It is noted that Section 7 of the EA provides some figures of the lot types proposed. These figures could be modified to show further detail to accompany the design controls.

#### **4. Section 94 Contributions**

- Section 8.4 of the EA states that section 94 contributions will be negotiated with Council following the approval of the concept plan. Although section 94 contributions will be payable with future approvals, some indication of the quantum of contributions required, or a commitment that they will be paid in accordance with the Moonee Developer Contributions Plan 2007 or through a Voluntary Planning Agreement with Council should be made.

#### **5. Water Cycle Management**

- The Water Management Report at Appendix D states that the swales around the perimeter of the development should be 10m wide. However, the cross section of the bush edge streets in the EA shows the bio-swale as 8.8m wide.

- The Water Management Report at Appendix D requires a raingarden of approximately 4m width to be provided in the low point of each lot. What are the requirements for ongoing management of these raingardens and how will this be ensured if they are located on private land?
- The caption to Figure 2-4 of the EA states that 'all proposed development is above RL 5.0m'. This is not what is indicated by the accompanying figure. The figure indicates that some of the proposed lots may be flood prone, although it is noted that this is difficult to determine as the line indicating the 1 in 100 year flood level is not shown where it intersects with the development areas.

#### **5. Earthworks**

- The engineering report states that bulk earthworks will be generally limited to road reserves. However, parts of both precincts of development are below the 1 in 100 year ARI flood level on the site and will require filling. Please provide a map showing the areas of the site proposed to be filled for the development. Where areas of fill extend past the currently identified development boundaries, there will be additional impacts on the conservation area that will need to be assessed.

#### **6. Infrastructure**

- While the text of the Engineering Report identifies that up to six sewer pump stations will be required, Figure SK-01 accompanying this report identifies four stations. All four sewer pump stations are outside the identified boundaries of development and will therefore result in additional impacts on the conservation area. These impacts need to be quantified and addressed in the ecological assessment of the proposal. Figure SK-01 also shows sections of the proposed rising main outside the identified development boundaries. What impacts will the construction and ongoing maintenance of these rising mains have on the conservation area?
- The sewer pumping stations are required to be above the 1 in 100 year ARI flood level. It appears that some of the proposed pumping stations may be below this level and areas of the site would therefore require filling. Please indicate the likely magnitude and extent of the filling and document any potential impacts on the conservation area.
- The figures accompanying the Engineering Report show small rectangular shapes outside the identified development boundaries. What do these shapes depict?

#### **7. Landscaping**

- Please provide a landscape concept plan that identifies the landscaping proposed throughout the site and the species proposed to be used. It is noted that the Bushfire Protection Assessment at Appendix G of the EA states that 'careful attention shall be given to species selection of landscaping'.

#### **8. Figures**

- Please provide a copy of each of the figures at Appendix J at A1 size.



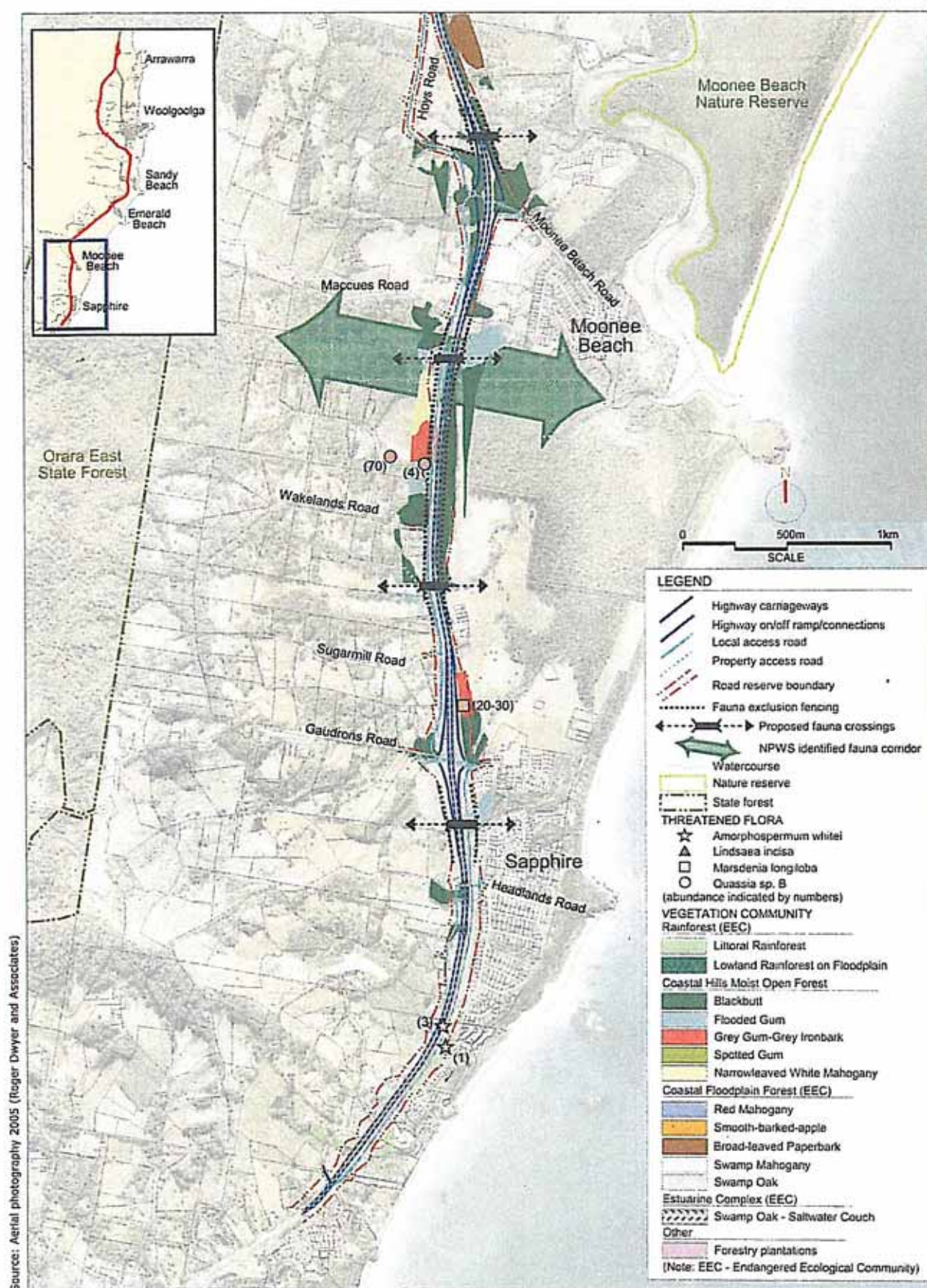


FIGURE 17.1a FLORA AND FAUNA (SAPPHIRE TO MOONEE BEACH)



File No: 110.5395/N01195 07/2503  
Greg Sciffer

Heau

15/2/08.

Joanna

Batopas.



Director, Coastal Assessments  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

COASTAL ASSESSMENT  
RECEIVED

14 FEB 2008

Department of Planning, MP 05\_0064. Proposed 300 Lot Community Title Subdivision.  
Lot 66 DP 551005. Moonee Beach

Dear Sir

You are advised that the Regional Development Committee (RDC) met on 31 January 2008 at Tweed Shire Council Chambers.

The proposed development was considered by the RDC and the following comments are made in relation to the impacts on road safety and traffic management:-

- i. The development's proposed two temporary accesses will have a significant impact on this section of the Pacific Highway. The highway has a speed limit of 100km/h and an overtaking lane for northbound traffic.
- ii. The RTA would not give concurrence to any new access or approval to road works for the proposed two temporary accesses due to the impact they would have on the safety and efficiency of the Pacific Highway. Alternative access is available through either Moonee Beach Road to the north or Split Solitary Road to the south.
- iii. Any proposed development must be undertaken in accordance with the Moonee DCP.
- iv. The proposed development's traffic will have a significant impact on the existing highway junctions such as Moonee Beach Road and Split Solitary Road. This will need to be assessed as the potential lot yield was not catered for in the DCP or assumptions used in recent investigations by the RTA regard potential impacts on the Pacific Highway.
- v. The proposed development is within the noise envelope for the future upgrade of the Pacific Highway. The residences will have to be designed and constructed to meet DEC guidelines for the mitigation of road traffic noise for the existing and/or future upgrade of the highway depending on when the development is approved.
- vi. No consideration has been given for facilities or connection to encouraging alternative transport modes such as bicycles, town and school bus services.
- vii. Provisions need to be provided for pedestrians connections through the development.
- viii. Connections to the local collector road need to be minimised. Provisions for left and right-turning traffic at all road junctions need to be assessed in accordance with AUSTROAD's guidelines to identify any improvements required for turning traffic.

Roads and Traffic Authority



31 Victoria Street  
Grafton NSW 2460

PO Box 576  
Grafton NSW 2460

T 02 6640 1300

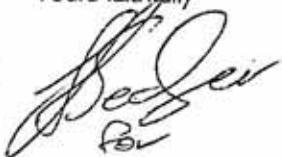
www.rta.nsw.gov.au

- ix. The use of cross-intersections needs to be avoided.
- x. The internal road network needs to be designed to manage speed and to provide the appropriate traffic calming treatments at road user conflict points.
- xi. Road infrastructure and landscaping should be designed so that safe intersection sight distances are provided.

In view of the impact that the proposed development will have on the safety and efficiency of the Pacific Highway and the local road network the Regional Development Committee recommended that a more detailed traffic impact study is required for further consideration of the development's impacts before the proposed development is approved.

Should you wish to discuss this matter further please do not hesitate to contact Greg Sciffer, Development Assessment Officer, Northern Regional Office on 6640 1344 or email [land\\_use\\_northern@rta.nsw.gov.au](mailto:land_use_northern@rta.nsw.gov.au).

Yours faithfully



12 FEB 2008

David Bell  
Regional Manager, Northern Region







All communications to be addressed to:

Headquarters  
NSW Rural Fire Service  
Locked Mail Bag 17  
GRANVILLE NSW 2142

Headquarters  
NSW Rural Fire Service  
15 Carter Street  
HOMEBUSH BAY NSW 2127

Telephone: (02) 8741 5555  
e-mail: developmentcontrol@rfs.nsw.gov.au

Facsimile: (02) 8741 5550



Coastal Assessments  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Attention: Ray Lawlor

COASTAL ASSESSMENT  
RECEIVED

15 FEB 2008

Your Ref: MP 05\_0064

Our Ref: S06/0004

G07/3887

*KLW*  
*19/2/08*  
*To Joanna Balloupa*  
5 January 2008

Dear Sir/Madam,

**Re: Request for Environmental Assessment Requirements for 66//551005,  
PACIFIC HIGHWAY, MOONEE BEACH NSW**

I refer to your letter dated 5 December 2007 seeking the NSW Rural Fire Service environmental assessment requirements regarding bushfire protection for the above property in accordance with section 75F (4) of the *Environmental Planning and Assessment Act 1979*.

The following environmental assessment requirements shall be included in the Director-Generals environmental assessment requirements:

**General**

1. The development proposal is to comply with the concept plan of proposed subdivision, Fig i - I, as contained within "Moonee Waters - Environmental Assessment of Coastal Village Concept Plan", dated November 2007, as prepared by Annand Alcock Urban Design Pty Ltd.
2. The development proposal is to comply with the Bushfire Protection Assessment report as prepared by Australian Bushfire Protection Planners Pty Ltd, issued 14/11/2007. All recommendations detailed within Section 6 of the aforementioned report shall be implemented within the proposed development except where modified or exempted below.

### **Asset Protection Zone**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

3. A restriction to the land use pursuant to section 88B of the *Conveyancing Act 1919* shall be placed on all lots within the subdivision that the lots cannot be sold until they are hazard reduced so that all proposed lots have the vegetation managed as an outer protection area (OPA) as outlined within *Planning for Bush Fire Protection 2006* and the Service's document 'Standards for asset protection zones'. The restriction to the land use shall also require that the land be maintained as an asset protection zone (APZ) until development occurs that removes the hazard.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

4. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.

### **General Advice – Council to Note**

Recommendations 2, 5 and 10 contained within the Bushfire Protection Assessment report as prepared by Australian Bushfire Protection Planners Pty Ltd, issued 14/11/2007, are not relevant for implementation at this concept approval stage. Whilst the Service is in agreement with the intent of these recommendations, the need for such requirements will be further assessed as part of subsequent development applications. Any further development application for class 1, 2 & 3 buildings as identified by the Building Code of Australia must be subject to separate application under section 79BA of the EP & A Act and address the requirements of *Planning for Bush Fire Protection 2006*.

The Asset Protection Zones (APZ) required as part of the development will encompass land that will be located within coastal wetlands and ecologically sensitive areas. Ecological management of these areas may conflict with the requirements for APZ management. In this regard the applicant may need to liaise with the NSW Department of Natural Resources and the NSW Department of Planning to identify their management requirements do not conflict with those required for the APZ's by the NSW Rural Fire Service.

For any enquiries regarding this correspondence please contact Daniel Copland on 8741 5555.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Mika Fomin', written over a circular stamp or seal.

**Development Control Co-ordinator**

The RFS has made getting additional information easier. For general information on *Planning for Bush Fire Protection 2006*, visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under *Planning for Bush Fire Protection 2006*.

Att: Ray Lawlor

Director  
Coastal Assessments  
Dept of Planning  
GPO Box 39  
Sydney NSW 2000

Dear Ms Warton

**Re: Major Project 05\_0064 Concept Plan Approval Lot 66 DP 551005 - Moonee.**

We refer to your letter of 29<sup>th</sup> January 2008 and thank you for the invitation to make a submission.

The NRCMA consider the decision on the proposal has the opportunity to strongly support, or strongly detract from, the objectives and targets of the State Plan 2006.

Specifically, Priority E4, where targets E4.1, E4.2, E4.3, E.9 and E4.13 would all clearly be adversely affect by the proposed concept plan.

The State Plan also clearly announces its commitment to implementing the Catchment Action Plans produced by the NRCMA after very broad consultation and engagement. (This CAP for Northern Rivers was signed off by State Cabinet in 2006.)

In this context we refer the decision makers to the document, specifically the Landuse Planning Target (page 49), the Biodiversity Target (page 65). Our view is the concept plan will negatively impact on these targets and their values, especially but not exclusively, management targets B1, B2 and B5.

Futhermore, the Dept of Planning led the development and consultation on the Far North and Mid North Coast Planning Strategies, which will guide the future of LEP Planning activities. These plans clearly endorse the objective that any development on the North Coast should be part of a concept of limiting ribbon development along the coast and consolidating urban development in village type environment. The strategy actually takes into account this Lot is "unlikely to be developed" and is not part of any strategic "village".

The decision on this development has the potential to clearly identify the limit of Sapphire and Moonee as distinct coastal villages, on the other hand, if the development concept is accepted, to endorse the ribbon development continuing from Coffs Harbour north and Corindi south.

Our submission does not propose to enter into the detail of environmental assessment but would support the extensive information provided in the development of the Coffs Harbour Moonee development control plan (DCP) which

endorsed the whole Lot as "protected land", and the independent Sainty Report 2006.

The concept plan appears to try to mitigate the impact of the proposed development on the environmental and community values, which further confirms there will be a negative environmental outcome, the argument is simply the extent.

The NRCMA understands that the landholder has submitted more than one plan over time, and that ownership of the title may have been based on the premise that a return would be made on the investment from urban development. We also appreciate that the unique environmental value of this area has been sharply increased due to the urban development already approved to the North and South, and its proximity to the very limited coastline corridor at Green Bluff. It is also noted the plan intends to place a large area under in perpetuity protection mechanism.

Never the less, the decision on this concept plan is an irreversible opportunity for State and Local Government to secure and maintain the complete area of coastal vegetation community which would be impacted by the concept proposal as presented. Perhaps Government could consider the purchase of the lands in total to add to the reserves system, rather than enter into a compromise?

Whilst the NRCMA would be disappointed at any development consent, if a compromise had to be sought, the major limits that could be considered:

- Only a small development, within the identified area in the south, be considered, adjacent to already approved housing.
- That all vehicle and human access be only allowed from the North Sapphire current development area.
- That all the other land become part of the State reserve system (National Park) and any access to the reserved area only be permitted from the North East Green Bluff area and not connect directly to any of the proposed or adjacent developments. This would help the concept of a "barrier" to degradation (see Sainty report regarding this important issue).

Hope this assists the decision process.

Yours sincerely



Michael Pitt  
General Manager  
21<sup>st</sup> February 2008



Your reference : MP 05\_0064  
Our reference : FIL07/2233-03 DOC07/51565  
Contact : Krister Waern, 02 66402503

COASTAL ASSESSMENT  
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14 FEB 2008

*Ka hr  
15/2/08  
To Joanne  
Bakopans.*

Ms Heather Warton  
Director, Coastal Assessments  
NSW Department of Planning  
GPO Box 39  
SYDNEY, NSW 2001

12 FEB 2008

Dear Ms Warton

**RE: CONCEPT PLAN APPROVAL FOR 300 LOT COMMUNITY TITLE RESIDENTIAL SUBDIVISION - LOT 66 DP551005 PACIFIC HIGHWAY, MOONEE BEACH - MAJOR PROJECT MP05\_0064.**

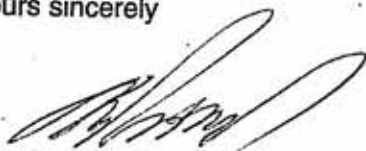
I refer to the Environmental Assessment and accompanying information provided for the above proposal received by the Department of Environment and Climate Change (DECC) on 17 December 2007.

DECC has reviewed the information provided and has determined that it is able to support the proposal subject to the Department of Planning seeking the amendments to the draft Statement of Commitments, identified in Attachment 1. Attachment 2 contains DECC's assessment of the proposal, including justification for the amendments.

It is expected that DECC will be given an opportunity to review the draft Director-General's Environmental Assessment Report for this proposal. If the amendments to the draft Statement of Commitments are not included to the satisfaction of DECC, we will be recommending that they are included as Conditions of Approval, if approval is recommended by the Department of Planning. It should be noted that these amendments are important for DECC's ongoing support of the proposal.

Should there be any other matters, or should the Department of Planning be in possession of any further information of interest to the DECC associated with the proposed development, please contact Jon Keats on (02) 6640 2506.

Yours sincerely



**ALEX PURVIS**  
Manager North Coast Region  
Environment Protection and Regulation



## **ATTACHMENT 1 - DRAFT STATEMENT OF COMMITMENTS**

### **Biodiversity Conservation**

#### **Additional Statements of Commitment**

- The development layout will be redesigned to reflect the "Sainty Report" conclusions and recommendations.
- Any detrimental impact upon threatened species, ecological communities and their habitats that may result from any development on the property shall be adequately compensated for and detailed in a compensatory plan.
- A detailed rehabilitation management plan for the open space areas will be prepared and approved prior to release of construction certificate.

### **Aboriginal Cultural Heritage**

#### **Additional Statements of Commitment**

The specific recommendations for the identified sites of tangible Aboriginal cultural material as outlined in section 9.1 of the "Aboriginal and Archaeological Survey and Assessment of Lot 66 DP 551005, Moonee Beach, NSW" (Umwelt Aust. Pty Ltd, December 2006) are considered appropriate given the following conditions are met:

- The reference to a *possible contribution to the construction of a retaining wall* (recommendation 5 section 9.0) to aid the long term preservation of site 22-1-0051 be changed to making such a retaining wall a condition of consent. The methodology for the construction of said retaining wall should be designed to minimise impact to the midden proper during and after construction. This can be achieved by extending the lateral span of the retaining wall to an appropriate distance either side of the midden lens to allow for required stabilisation to be applied without impacting on the midden proper.
- The suggestion regarding a *possible contribution* to upgrading the existing walking track to protect/conservate site 22-1-0051 (recommendation 6 section 9.0) be changed to a condition of consent requiring that the existing walking track be assessed for the level of existing and potential impact to the midden and appropriate non-invasive steps taken to minimise any future impact due to the development.
- Recommendation 7 (section 9.0) should be revised to *prior to any removal of vegetation within the 7A zone adjacent to site 22-1-0051 consultation should be carried out with the Aboriginal community stakeholder groups to determine the appropriateness of any such disturbance and should be carried out in a manner that minimizes ground disturbance.*
- Clear indication has been given by CHLALC that prior to any works being conducted at either of the identified PAD sites. The results of sub-surface investigations must be assessed in order to determine the significance of these loci to the Aboriginal community before management decisions are finalised. This should be a condition of consent.

Further, the following conditions are also to be included

- Vegetation species to be kept and planted during the development are be chosen using knowledge of traditional custodians on the area.
- If human remains are located during development associated works, the works are to halt in the immediate area to prevent any further impacts to the

## **ATTACHMENT 2 – DECC'S ASSESSMENT**

### **Biodiversity Conservation**

In providing this response the DECC has considered the Sainty and Associates Environmental Constraints Analysis Report ("Sainty Report") as well as the Environmental Assessment information submitted by the applicant.

The DECC generally agrees with the findings and recommendations of the Sainty Report. It is understood that since the Sainty Report, the applicant has made some minor amendments to the previously submitted development proposal. Although these amendments reduce the size of the total development footprint by approximately 12%, the findings and recommendations within the Sainty Report are still considered valid.

It is noted that the Figure 1: Plan of Bushfire Protection Measures of the Bushfire Protection Assessment indicates that some vegetation outside of the development footprint will need to be affected by fuel management activities. It is unclear what these fuel management activities will entail and how this may impact on the environmental values of the site.

The development proposal in its current form would not be an acceptable outcome for the DECC considering the impacts on threatened species and communities and the wildlife corridor network.

The applicant should be aware that the DECC is working towards finalising the BioBanking scheme by July 2008. BioBanking is a market-based scheme, encouraging development to move away from areas with high biodiversity value, while providing incentives for landowners to protect and secure these areas. The scheme provides a transparent, consistent and robust framework for the assessment of biodiversity values and for the long-term management of biodiversity offsets. More information about BioBanking can be accessed at [www.environment.nsw.gov.au/threatspec/biobankscheme.htm](http://www.environment.nsw.gov.au/threatspec/biobankscheme.htm)

### **Aboriginal Cultural Heritage**

The site is the only lot left with all of the endangered ecological communities linked together in the Coffs Harbour local government area. This has significance to the local Aboriginal community due to the connection of food resources (e.g. middens), ceremony sites (e.g. ceremonial grounds) and other important areas located in the region. As this is the last place where assessment and this connection with the landscape is possible, this site has important social and historical significance to both indigenous people and society as a whole not found anywhere else.

It is noted that one of the Environmental concept plan principles includes "Care taken to retain indigenous vegetation species within development areas". While the sentiment is appreciated, there seems to be no such list of what species are or are not included in this reference. There is also no indication if the species for garden plants will be native or non native and potentially invasive and detrimental to the longer term survival of the flora and fauna of the area.

It is also noted that the concept plan implies that the development will be a sustainable outcome. This may not be possible if there are losses to the Aboriginal cultural landscape that are not represented any other area.

Due to the fact that the various ecological communities present form an unbroken chain of variation between the hinterland and coastal heath and that this is representative of the landscape traversed by traditional Aboriginal people travelling to and from the ceremonial area represented by Green Bluff, this variation in vegetation is likely to be culturally significant to Aboriginal people per se. As this site houses values that are not represented anywhere else, loss

find or finds. The local police and the DECC are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, the DECC is to be contacted and notified of the situation. Works are not to resume in the designated area until approval in writing from either the Police or the DECC.

- If Aboriginal cultural evidence is uncovered due to the development activities, the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) managed by the DECC, and the management outcome for the site also included in the information provided to the AHIMS. It is recommended that the community representatives for the development be included in any management outcome decided for the site with all information required for informed consent being given to the representatives for this purpose.



NSW DEPARTMENT OF  
PRIMARY INDUSTRIES

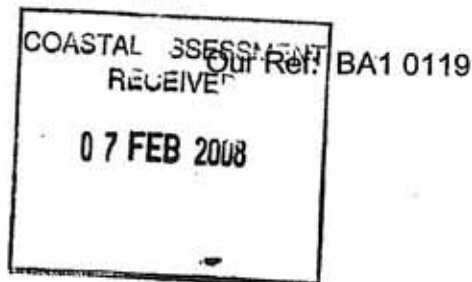
Now incorporating NSW Fisheries  
ABN 51 734 124 190-002

*KLW 7/2/08*

*to Joana*

*Balopano*

Ms Heather Warton  
Director, Coastal Assessments  
Planning NSW  
GPO Box 39  
SYDNEY NSW 2001



25 January 2008

Attention: Mr Ray Lawlor

Dear Mr Lawlor

**Re: Major Project 05-0064 – Concept plan approval for 300 lot community title residential subdivision, lot 66 DP551005, Pacific HWY, Moonee Beach**

Thank you for your letter of 5 December 2007 inviting comment from the NSW Department of Primary Industries (DPI) on the environmental assessment for the above mentioned proposal.

The NSW Department of Primary Industries (NSW DPI) has been formed by the merger of NSW Fisheries, Department of Mineral Resources, State Forests and NSW Agriculture.

NSW DPI has both statutory and advisory responsibilities in relation to development and land use planning matters. The Department is an advocate of sustainable development and profitable and sustainable primary industries through appropriate access to and wise management of natural resources. NSW DPI through Forests NSW also has a commercial and operational interest in land use planning matters.

DPI's responsibility also covers managing fish (including aquatic invertebrates), and fish habitat throughout NSW. In addition, the department works to provide quality commercial and recreational fishing, and aquaculture opportunities.

The proposal raises no agricultural, forestry or mineral matters. The Aquatic Habitat Protection Unit is generally satisfied with the assessment and proposal in specific regard to the proposals impacts on key fish habitats contingent upon all watercourse crossings adopting fish friendly design ensuring free passage.

FISHERIES MANAGEMENT DIVISION  
AQUATIC HABITAT PROTECTION BRANCH

1243 Bruxner Highway  
WOLLONGBAR NSW 2477

ABN 51 734 124 190  
www.dpi.nsw.gov.au  
Tel: 02 6626 1269  
Fax: 02 6626 1377

*The original copy of this letter has been printed on both sides of the page to reduce waste of valuable natural resources*



NSW DEPARTMENT OF  
PRIMARY INDUSTRIES

Now incorporating NSW Fisheries  
ABN 51 734 124 190-002

With regard buffers, DPI concur and support Sainty's position that the asset protection zone buffers for bushfire protection should be located beyond 'environmental buffers'. The management objectives and consequently actions undertaken to achieve objectives for APZ or mosquito buffers such as under scrubbing and ensuring a non-contiguous canopy are in conflict with buffers managed for environmental benefit and protection.

For further enquiries please contact me on (02) 6626 1397.

Yours sincerely

Patrick Dwyer  
Fisheries Conservation Manager (North)

FISHERIES MANAGEMENT DIVISION  
AQUATIC HABITAT PROTECTION BRANCH

1243 Bruxner Highway  
WOLLONGBAR NSW 2477

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[www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)  
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Fax: 02 6626 1377

*The original copy of this letter has been printed on both sides of the page to reduce waste of valuable natural resources*



kelm  
23/1/08 To Joanne  
Bakopas

DOC07/5094

NSW Department of Planning  
Office of Sustainable Development Assessments and Approvals  
GPO Box 39  
SYDNEY NSW 2001



Solitary Islands Marine Park  
PO Box J297  
Coffs Harbour Jetty  
NSW 2450

Telephone: 02 6652 3977  
Facsimile: 02 6651 1440

16 January 2008

COASTAL ASSESSMENT  
RECEIVED

23 JAN 2008

Attention: Ray Lawlor

Dear Ray

**MAJOR PROJECT APPLICATION 05-0064 - PACIFIC HIGHWAY,  
MOONEE BEACH**

Thank you for the opportunity to comment on the environmental assessment for the above major project. The MPA has reviewed the environmental assessment and the following comments highlight our concerns with the assessment.

**Climate Change**

It does not appear that the most recent forecasts for climate change have been used to produce the environmental assessment. Recent indications are that climate change is likely to be more significant than previously thought. As Patterson Britton & Partners state in their report on Coastline Hazards, it is important to review issues relating to climate change "as more information develops in the scientific community".

In addition to most recent global climate change predictions, the CSIRO in its report "Climate Change Projections for the Wooli Wooli Estuary and Batemans Bay" 2007 indicate that sea level rises in this region may be 0.08 to 0.12 metres higher than the predicted global average mean sea level rise.

The Patterson Britton & Partners reports on Coastline Hazards Definition and Water Management Report use conservative estimates of sea level rises in determining the impacts of climate change on the proposal. The MPA acknowledges, as do Patterson Britton & Partners, that it is difficult to determine exactly what climate changes will actually occur and as such it is appropriate to invoke the precautionary principle and use the worst case scenarios.

The precautionary principle is a moral and political principle which states that action should be taken to prevent serious or irreversible harm to public health or the environment, despite lack of definitive scientific certainty as to the likelihood, magnitude, or causation of that harm.



The MPA requests that the most recent information regarding climate change be used and that a precautionary approach be taken when using the data when determining the likely impacts of climate change.

### **Environmental Buffers**

The MPA has consistently asked for buffers to be provided between urban development and the Solitary Islands Marine Park (SIMP). The purpose of the buffers is to protect the marine park from the direct impacts of urban development and to promote the natural functioning of the waterway and the riparian zone.

The MPA suggests a horizontal buffer of 100 meters when measured from the mean high water mark. In addition to the horizontal buffer the MPA requests a vertical buffer to allow for the natural expansion of the waterway over time. The vertical buffer should correspond with the predicted sea level rise over the next 100 years. This approach has already been applied to the Hearn Lake DCP.

The tidal influence on Sugar Mill Creek extends to approximately the middle of Lot 1 and is adjacent to Lot 3. The development as proposed on Lot 3 is within 100 metres of the marine park boundary. If this proposal is approved the MPA requests that all development and clearing connected with the development be conducted outside the buffers describe above.

### **Stormwater Management**

The Water Sensitive Urban Design (WSUD) components described in the environmental assessment can reduce the level of pollutants entering waterways. However, the choice of WSUD components needs to be carefully matched to the site constraints to ensure that they can operate effectively. For example, are the soils suitable for WSUD methods that rely on infiltration.

Additionally, the WSUD components will need ongoing maintenance to ensure that they are working properly. The environmental assessment does not indicate who will be responsible for the ongoing maintenance. It is important that responsibility for the maintenance be determined and that the responsible body is committed to the ongoing maintenance. The MPA is concerned that without a clear indication of responsibility and a strong commitment to ongoing monitoring and maintenance, the WSUD components will over time fail to function. This is likely to impact on water quality and the Solitary Islands Marine Park.

### **Sediment and Erosion Control**

There does not appear to be any reference to sediment and erosion control during the construction phase. Due to the proximity of the development to Sugar Mill Creek and the extent of the likely site disturbance, the MPA requests that a suitable sediment and erosion control plan is developed for the site. This should include component designs, maintenance and monitoring and a clear indication of who is responsible for the maintenance

and monitoring. Designs should reflect the proximity of the proposal to Sugar Mill Creek, which forms part of the Solitary Islands Marine Park.

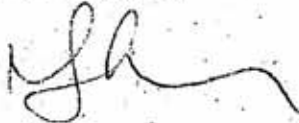
**Structures within the SIMP**

The MPA would like to advise that if structures such as the proposed walkways and bridges are located below the mean high water mark then consent from the MPA is required prior to their construction.

*- Marine Parks Act 1997*

If you would like to discuss this matter further please contact David Greenhalgh on 6652 0915.

Yours sincerely

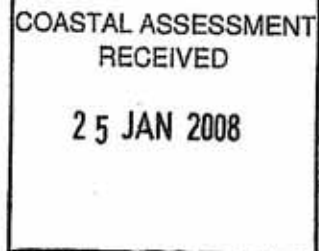


**NICOLA JOHNSTONE**  
Marine Park Manager  
Solitary Islands Marine Park  
NSW Marine Parks Authority

Our reference : 101468 Major Applications Moonee.  
Contact : Joshua Chivers (02) 6653 0113  
josh.chivers@dnr.nsw.gov.au

The Director  
Coastal Assessments  
Department of Planning  
Attn Mr Ray Lawlor  
GPO Box 39  
SYDNEY NSW 2001

*rec hwy .  
29/1/08  
To Joana  
Bahapanos.*



Dear Mr Lawlor

**MP 05\_0064 – Proposed Moonee Waters Residential Subdivision Lot 66 DP 551005, Pacific Hwy, Moonee Beach.**

Thankyou for the opportunity to comment on the Moonee Waters Residential Subdivision Proposal. The Departments Coast and Floodplain section provides the following comments in relation to, SEPP 14, SEPP 71, Native Vegetation Act, Coastal Protection Act, Coastal Management Policy, Moonee Creek Estuary Management Plan, Coffs Harbour Councils Vegetation Management Plan and Moonee DCP and the Draft Mid North Coast Regional Strategy.

#### **Regional Planning**

The Regional Strategy will guide sustainable development of the Mid North Coast Region over the next 25 years. It aims to "protect high value environments, including significant coastal lakes, estuaries, aquifers, threatened species, vegetation communities and habitat corridors by ensuring that new urban development avoids these important areas and their catchments."

The proposed development is contrary to government direction in the area of ecological sustainable development (ESD).

#### **Coastal Development**

The Beachside precinct is not proposed to be dealt with in the current 3a development application. It should be flagged, however, that the Coastal Planning section of DECC (old DNR) previously opposed the development of the nearby Beachside Precinct of North Sapphire. In the North Sapphire proposal, the beachside precinct was deferred and a subsequent development application to Coffs Harbour City Council has permitted development of the Coastal Precinct. It is assumed that developers for the Moonee Waters proposal may pursue a similar path.

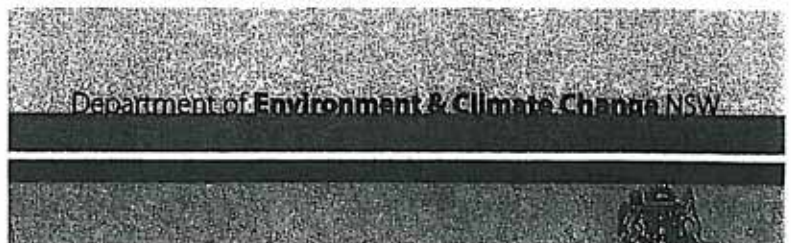
There is a strong ecological argument for the inclusion of the coastal precinct into the lands handed over to Council for conservation. Air photography for the Moonee Waters Coastal Precinct shows vegetation on the site and that it provides a link between the beach and the local SEPP 14 wetland.

In terms of coastal hazards it is noted that the report by Patterson Britton and Partners shows the Coastal Hazard Line is seaward of the subject property.

The space available for development of the Coastal Precinct is limited due to buffers to the wetland and the Regional Park.

The Department of Natural Resources Coast and Floodplain Directorate is now a part of  
the Department of Environment and Climate Change NSW

PO Box 582, Coffs Harbour NSW 2450  
AMP Centre  
24 Gordon Street, Coffs Harbour NSW  
Tel: (02) 6653 0100 Fax: (02) 6653 0144  
www.environment.nsw.gov.au



without replacement is not considered a sustainable outcome. To be considered a sustainable development, it is recommended that there are no values destroyed that are not represented anywhere else in the landscape. Any value that can not be replaced brings the developments sustainability criterion into disrepute.



## **Vegetation, Habitat & Buffers**

Councils Vegetation Management Plan, the assessment by Redpath (DECC Attached), and the 3A application clearly demonstrate the site has considerable local and regional habitat value and that endangered species rely on the successful functioning of the ecosystem and the preservation of habitats.

Perusal of departmental spatial data bases and previous visits to the Moonee Beach area confirm that there is ample cleared land available for further subdivision. Therefore there is no need for development and clearing of the Moonee Waters site.

Whilst the Native Vegetation Act does not apply to lands zoned for residential development it does establish a policy direction that requires vegetation values to be maintained or improved as an outcome of any vegetation clearing arrangements. The Coastal Policy, SEPP 71 and the Draft Mid North Coast Regional Strategy support this direction with requirements for ecologically sustainable use and management of lands and natural resources.

The North Coast Interagency Agreement for buffers to waterways is 50m. 100m is preferred for high conservation areas. The Coffs Harbour City Council's "Moonee Creek Estuary Management Plan" requires a buffer of 100m to protect estuarine related habitats and estuarine functioning. The Rivers and Foreshores Improvement Act requires the Department of Water and Energy to assess the impacts of development within 40m of a drainage line and to regulate activity within this zone. SEPP 71 has its focus in environmentally sustainable development, as does the Coastal Protection Act and Coastline Management Plans. A coastline management plan is currently being prepared by Council for the Coffs Harbour City LGA.

The southern extent of the Northern Precinct falls in close proximity to the estuary and the drainage line running west to east. It is difficult to ascertain the distances between development and environmental features. It appears that there is little information in the proposal that depicts distances etc. However, Fig 3-9 Revised Proposal (Plan C) reveals that the Northern Precinct will be constructed immediately adjacent to the high bank of the drainage line.

Development adjacent to the tidal areas and lower wetland areas will need to take into account potential sea level rise and the future re definition of vegetation community boundaries. This means that mangroves, salt marshes, wetlands and riparian vegetation will adjust position. It is inappropriate to allow development that could be affected by sea level rise and that could effect the future distribution of ecological communities upon sea level rise. This is a minor issue for Moonee Waters and relates mainly to the drainage line adjacent to the Northern Precinct and possibly the future migration of the SEPP 14 wetland east into the Coastal Precinct.

## **Landuse planning**

The neighbouring North Sapphire development has considered and incorporated the local environment and ecology and other issues into its design and layout - an award winning subdivision. The layout of the North Sapphire development suggests that it was not envisaged that vegetation on lot 66 (Moonee Waters) would be cleared. There has been no attempt to integrate with the North Sapphire development or to compliment this development. There is a definite clash between the layout, style and environmental considerations and amenity of the proposed Moonee Waters development and the approved North Sapphire development.

There are other more suitable lands zoned for development, some the subject of current development applications. There are also potentially other more suitable development opportunities outside of land that is zoned.

## **Recreation**

Provision of tracks through the 7a/proposed conservation area is undesirable and stands to introduce people, weeds and pests and other issues to the conservation area and its flora and fauna. However, if approved, tracks will be an essential part of the development. Consideration will need to be given to regulating and managing access into the surrounding bushland and directing people traffic to these tracks.

Are the facilities included at the North Sapphire Beachside Precinct able to meet the demand created by the combined resident populations of the new Moonee Waters and North Sapphire developments. The North Sapphire Park and Café is already proving popular with vehicles overflowing the small car park.

## **Summary**

There are no convincing arguments for the development. There is ample cleared land that is more suitable to development at other sites in the Moonee area.

Whilst the location would be highly sought after because of the subdivision design and the amenity it provides future residents, the overall impact is negative. The wider local and regional community would suffer the loss of vegetation and longer term impacts on both the local ecology and the natural and recreational amenity the area provides.

The current proposal is at odds with current ecologically sustainable development principles. The proposal impacts on vegetation and endangered species. The site is of high conservation value and is locally and regionally significant.

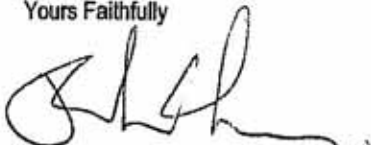
The proposal is in conflict with principles/recommendations of the Coastal Policy, SEPP 71, Moonee Estuary Management Plan, Council's Moonee DCP and Council's Vegetation Management Plan.

Finally with regard to the Coastal Precinct it is unsatisfactory to allow significant environmental impacts for such a small gain in residential housing.

#### Recommendations

- 1) The proposal is at odds with current State Government direction and policy. The lands in total would be best devoted to nature conservation.
- 2) The following recommendations are offered in the event the development be permitted in whole or in part.
  - If for some reason the site can not be brought under conservation, the Southern Precinct is preferred for development. It is difficult to choose between sites, however, the Northern and Coastal Precinct appear, on balance, to have the highest conservation value of the three sites. The Southern Precinct should be redesigned to complement the neighbouring North Sapphire development. Some consideration could also be given to increasing the lot density and allowing units or townhouses within the Southern Precinct in recognition of the range of constraints across the remainder of the site.
  - Maintain a vegetated 100m buffer to the estuary and wetlands and a 50m buffer to freshwater drainage lines above the estuary. Stormwater management devices and cleared asset protection/fuel reduction zones must be outside this buffer.
  - The number of access points and pathways through the 7a/wetland area should be rationalised to a single link between the Northern Precincts and Moonee Village/Moonee Creek and a single link between the Southern Precinct and the Coastal Precinct. Whilst these walkways are undesirable from an ecological point of view, it is unreasonable to develop the area and deny community access to the terrific natural assets to the east. Detailed designs must be provided outlining the construction methods for the pathways/cycleways and their intended route.
  - Recreation facilities at Moonee Beach and North Sapphire to be reviewed with the view of enhancing recreational facilities to accommodate for an increase in population.
  - Earthworks within 40 metres of drainage lines will need to be referred to the Department of Water and energy. This mainly relates to road construction linking to the North Sapphire development.
  - A compensatory plan and a vegetation rehabilitation plan are to be provided. These plans must address the loss of a significant regional corridor and other natural assets. The plan to adopt the "maintain and improve philosophy". Consideration may need to be given to off site compensatory measures.

Yours Faithfully

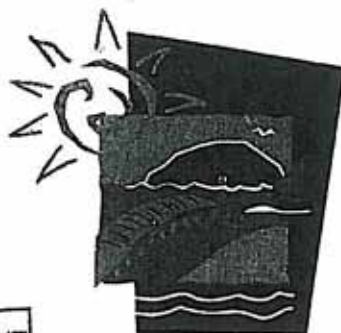


Senior Natural Resources Officer  
Coastal Management

22-1-08



# COFFS HARBOUR CITY COUNCIL



Our ref: 1848495 (DA 791/06)

7 February 2008

rec'd  
15/2/08

To Joanne  
Bakopoulos

Mr R Lawlor  
Coastal Assessments  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

COASTAL ASSESSMENT  
RECEIVED  
14 FEB 2008

Dear Mr Lawlor

**Major Project Application MP05-0064 - Concept Plan  
300 Lot Community Title Residential Subdivision – Moonee Waters  
Lot 66, DP 551005, Pacific Highway, Moonee Beach**

Council refers to the above application and to the Department's referral of 5 December 2007.

The site the subject of this application is currently zoned 2E, 7A and 7B under the Coffs Harbour City Local Environmental Plan (LEP) 2000.

Draft LEP Amendment No. 24 proposes the rezoning of the site to 7A and 7B. The 2004 Moonee Development Control Plan (DCP) designates the site as "protected land".

Council, at its meeting of 16 September 2004, when adopting the Moonee DCP and Draft LEP Amendment No. 24, also resolved that it negotiate with the owner of this land regarding the potential dedication of land containing native vegetation in exchange for some clearing to allow housing development and, upon completion of these negotiations, a report be brought back to Council.

Whilst a number of meetings were held between Council and the developer to negotiate a housing development outcome for the site no agreement has been determined. The developer has pursued the residential development of the site separate to Council by way of Major Project Application MP05-0064 lodged with the Department of Planning on 23 December 2005.

In response to MP05-0064 Council acknowledges the Department's engagement of Sainty & Associates in 2006 to, in summary, determine areas of the site suitable for environmental protection and those areas of the least constraints suitable for future residential development.

Whilst Council's adopted Moonee DCP and Draft LEP Amendment No. 24 support no development of the site Council notes the Director General's Environmental Assessment Requirements that the proposed subdivision be consistent with the September 2006 Sainty Report (key issues 1, 1.1; 2, 2.2; 3, 3.1), and that should development be proposed beyond the Sainty "future development potential area" then suitable justification is required.

- Communications to: The General Manager, Locked Bag 155, Coffs Harbour 2450 • Administration Building, 2 Castle Street, Coffs Harbour • Tel: (02) 6648 4000
- Fax: (02) 6648 4199 • DX: 7559 • ABN 79 126 214 487
- Email: [coffs.council@chcc.nsw.gov.au](mailto:coffs.council@chcc.nsw.gov.au)
- Website: [www.coffsharbour.nsw.gov.au](http://www.coffsharbour.nsw.gov.au)

Council does not support the residential subdivision proposed for the "northern precinct" as firstly it does not accord with the Moonee DCP, Draft LEP Amendment No. 24 or the 2006 Sainty Report and secondly the justification for this area is unsatisfactory. - Why.

Any development of the "southern precinct" should satisfy relevant planning criteria including environmental buffer zones, bushfire risk, stormwater management, access and servicing. Council also acknowledges that a comprehensive flora and fauna impact assessment is required to evaluate the "southern precinct's" capability for development. A Species Impact Statement may be required for this purpose.

Upon determination of this application (and other Part 3A applications in this urban release area) any components of the approved development that do not accord with the current Moonee DCP and Draft LEP Amendment No. 24 will be reported to Council recommending revision to these planning documents to achieve consistency of these statutory and planning controls.

Council raises specific concerns with respect to the south east portion of the site. This application should propose a development concept for the entire site and not reserve an area (i.e. the south east portion) as subject to a future application. This arrangement is considered by Council to be contrary to the aims and considerations of State Environment Planning Policy No. 71 Coastal Protection and the aims of State Environment Planning Policy (Major Projects) 2005.

Appended to this letter is a list of issues relevant to the application focusing on the "southern precinct". It is reiterated that Council does not support the "northern precinct", such development being contrary to Draft LEP Amendment No. 24, the Moonee DCP and the 2006 Sainty Report.

**For further information please contact Mark Hannon on 6648 4631.**

Yours faithfully



Mark Salter  
Director  
Land Use, Health and Development

MSH:cts

## APPENDIX

### Access – Southern Precinct:

- The development should be accessed via the collector road and not via temporary Pacific Highway intersections. Access to the development should extend from Moonee Beach Road via the planned collector road or from Split Solitary Road via the planned collector road. Note, Development Application 130-05-2005, determined by the Minister for Planning for subdivision of land immediately to the south of the subject site provides for the extension of the collector road from Split Solitary Road to the southern boundary of the subject site. Construction of part of the collector road has commenced on this adjoining southern property. Construction of the collector road and staging of the development requires the preparation of a Traffic Impact Assessment.
- Where access to the site is proposed via an extension of the collector road from the north over Lots 210 and 211 DP 1044292 (and not via the approved collector road route from Split Solitary Road) the concept application should include the relevant environmental assessment for this part of the development. *Note*
- Extension of the collector road to the site over adjoining land parcels will require necessary agreements from relevant landowners.
- The concept application should provide for the collector road's construction from the south boundary of "the site" to the north boundary of "the site" to provide for the orderly development of the release area. The proposal details the collector road stopping short of the north boundary.
- The Department of Lands should consent to the construction of the collector road as a public road, private internal roads, pedestrian pathways and fire trails upon the Crown Road that forms part of the concept application.

### Connectivity – Southern Precinct

- The road system in the southern precinct should provide for the future connection to the adjoining approved subdivision to the west.
- The southern precinct should provide for pedestrian connection to the adjoining approved subdivision to the west. *?*
- The southern precinct should limit its pedestrian connection to the east (beach) to via the Crown Road (to satisfy any relevant Department of Lands requirements) and to via a walkway connecting to Moonee Headland. Adequate visitor carparking is to be provided at the start of both walkways. *Note.*

### The Conservation Area – Ownership and Management

- The application (3.18 Project Impacts) in part justifies the development footprint (and yield) "to generate sufficient funds to provide for the rehabilitation, protection, maintenance and long term management of the Conservation Area on the subject site at no cost to the public purse." *Note.*

It is advised that Council will accept the dedication at no cost of the conservation area (specific boundaries and area to be agreed to) as public reserve / part of the Regional Park, thus negating this funding consideration.



- Where the conservation area is dedicated at no cost to Council as public reserve / Regional Park a Vegetation Management Plan for this area should be prepared as part of the application to cover rehabilitation and revegetation works, initial and follow-up works, bushfire management, access arrangements, water management, etc.

#### **Environmental Buffers – Southern Precinct**

- More detailed justification of proposed environmental buffers to the southern precinct should be provided to address the cumulative impacts of asset protection zones, services, perimeter swales, stormwater discharge points, sewerage pumping station, topography (steep slopes), retaining walls, etc on adjacent environmentally sensitive areas.

The development footprint of the southern precinct may need to be adjusted in response to any adverse cumulative impacts.

#### **Developer Contributions**

- The statement in the application that "the site is not subject to any of Council's Section 94 Contribution Plans" is incorrect (see 8.4). Page 4 "The Area to which the Plan applies" of Council's Moonee Developer Contributions Plan 2007 provides: "The plan applies to all land within the Moonee Area as shown in Map 1". Map 1 – Locality includes the site the subject of this application.

#### **Subdivision Design – Southern Precinct**

- 4 way intersections, laneways, central islands and road widths also do not comply with Council standards for public roads. The layout would need to change if there was a proposal to dedicate the roads as Public Roads. ✓
- There does not appear to be sufficient space for the 10 metre wide perimeter swales.
- A concept earthworks plan is required with sections and details where road construction is proposed near low lying land and/or watercourses.
- All residential lots are to be filled above a minimum of 5.0m AHD. –
- Bridges/culverts over waterways are to be designed to have a capacity to convey the 1:100 year flood flows, with no adverse impact on adjoining properties. ✓

#### **Acid Sulfate Soils – Southern Precinct**

- The proposed construction of services / roads / excavations / drainage / retaining walls through the low lying areas of the site requires further assessment for the presence of any acid sulfate soils (ASS). The assessment needs to comply with the relevant ASS manual. ✓

#### **Waste Management – Southern Precinct**

- The Community Title Neighbourhood Management Statement should provide for Council access, its servants and agents to have the full and free right at all times to enter upon Neighbourhood Property for the purposes of waste management services. ✓

#### **Acoustic Impact – Southern Precinct**

- A detailed acoustic report is required to evaluate noise impacts from Pacific Highway traffic. ✓

#### **Small Local Parks**



- No support is given to the establishment of proposed perimeter "small local parks" (see 3.8.3 Management Regime) as these facilities will require the removal of established native vegetation. Adequate neighbourhood parks on cleared areas are to be provided in the adjoining south western development.

#### **Housing Typology, Vegetation Retention and Holiday Usage – Southern Precinct**

- Small lot housing designs should form part of the project application approval to achieve an integrated, compatible and functional urban form. The preparation of Design Guidelines as proposed in the Concept Plan are endorsed for all housing typologies including the traditional lots.
- The proposal's guiding principle (4.6) to focus on the retention of mature trees within this precinct is unlikely to be achieved having regard to landform modification works, civil infrastructure, asset protection zones and the minimal lot sizes (100 of the 134 lots and the 34 traditional lots are typically less than 500m<sup>2</sup> in area).
- The proposal makes some reference to holiday use of the development (7) e.g. ancillary dwellings "may provide additional holiday letting opportunity"; traditional lots have "the opportunity to create family sized housing, or dwellings to suit a variety of residential and holiday users ..... " and "many of the dwellings will be 'tourism-oriented' and will not be occupied all year round (particularly in non-school holiday periods)" (page 9 of the Traffic Report). This aspect of the proposal requires clarification and justification.

#### **Biodiversity Considerations**

- Proposed buffer zones to adjoining environmentally sensitive areas are considered inadequate, resulting in adverse edge effects.
- Proposed clearing for the "northern precinct" will change wind circulation patterns. Variation to wind patterns will likely impact on large canopy species located on the edge of this precinct and is likely to destabilise these trees. A cumulative effect on tree destabilisation is likely to result, impacting on the viability of environmentally sensitive areas on the site.
- The current location of the Rusty Plum and Quassia "Moonee" on the eastern side of the Pacific Highway relative to the current proposal is not adequately defined or indicated on the threatened species maps. The "northern precinct" is likely to impact on these species, in particular due to its proximity to waterways and inadequacy of buffers.
- The proposed removal of greater than one half of the Blackbutt / Turpentine plant communities in the "northern precinct" is inadequately justified, as no scientific assessment of the status of this community has been provided. The assessment should include scientific reference to known studies based on regional, state and federal significance.
- The impact of the loss of hollow bearing trees on the site requires further assessment.
- Proposals to remove part of any swamp sclerophyll forest on the Coastal Floodplain are not supported.
- Buffers to SEPP 14 areas are considered inadequate.
- The significant east-west corridor, supported by the 2006 Sainty Report, is a primary consideration in the development of the site. The "northern precinct" jeopardises the function of this link.

- The clearing of the site will likely impact on resources for the following fauna:
  - Black Cockatoo;
  - Grey Headed Flying Fox;
  - Common Blossum Bat;
  - Microbats;
  - Yellow Bellied Glider;
  - Regent Honey Eater;
  - Planigale
  - Green Thighed Frog;
  - Swift Parrot;
  - Forest Owls
  - Phascogale;
  - Quolls
  - Stephens Banded Snake;
  - Squirrel Glider.
- The proposal impacts on osprey habitat located south of the development site.
- Species Impact Statements may be necessary due to the significance of clearing, locational aspects and impact on threatened species.