

F - Department of Lands Correspondence

F - DEPARTMENT OF LANDS CORRESPONDENCE

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7th October 2008

Attention Kersten Tuckey

Department of Lands

PO Box 291J

Coffs Harbour Jetty NSW 2450

Dear Kersten,

RE: THE MOONEE WATERS DEVELOPMENT (LOT 66 DP 551005, PACIFIC HIGHWAY, MOONEE)

We are still seeking Owner's Consent from the Department of Lands (DoL) towards opening of the Crown Road Reserve between The Pacific Highway and the south eastern corner of our proposed development to provide access to the Southern Precinct.

Following our meeting of 30 September with yourself and David McPherson we re-iterate the following points:

- We do not propose using the causeway track through the SEPP14 wetland for vehicular access, and would support the concept of an enhanced pedestrian pathway (within reasonable costs) to the beach. Appropriate location and size of parking areas would be subject to negotiation.
- The south eastern corner of our development has been relocated away from the SEPP14 wetland boundary.
- Rutile Road can be transferred to Council. This can be finalised prior to DA approval and we will support that.
- Location and standard of walking tracks through the Conservation Area will be negotiated with Council, DoL and DECC, along with locations, type and management of local parks, picnic areas, parking *etc*, after *Concept Approval* and prior to DA approval. It should be recognised that there are different positions held by (and within) the different government authorities on some of these issues.
- Hillview Heights is prepared to transfer areas of the Moonee Beach Reserve – Green Point walking track currently on our private land to government at no cost as part of the larger transfer/dedication proposed (on the basis that the Concept Plan for Northern and Southern Precincts are approved).
- Further consultation is required between authorities relating to perceived burdens of new development versus provision of substantial additional environmental assets/resources and management of the same. This should include provision of local parks, picnic areas, lookouts, parking *etc*, as well as access tracks, paths and boardwalks through the Conservation Area, and management of the reserve, APZs *etc* in appropriate detail as part of future DA (s).

- A Management Plan will be prepared for the Conservation Area, APZ's etc prior to DA's in consultation with relevant authorities

It was generally agreed at the September meeting that:

- the Department of Lands would consider transfer of the Crown Road Reserve to Council to allow the construction of the access road to the Southern Precinct. The final resolution of the extent of the road is to be determined prior to DA in consultation with Council, Department of Lands and DoP;
- the area of road reserve crossing the SEPP14 wetland be further discussed as potential pedestrian access to the beach. This discussion to address potential works, costs, funding, responsibilities, parking areas etc, and be agreed to prior to DA;
- walking tracks, local parks, picnic areas, orientation/interpretation areas, parking areas etc are to be further discussed upon *Concept Plan* approval towards finalising access/ movement systems and management prior to DA;
- in principle, dedication of the "Conservation Area" (to be finally delineated) to public ownership, subject to approval of appropriate and fair development opportunities is acceptable; and
- whilst we have proposed management of the Conservation Area under Community Title, we are happy to dedicate land (in exchange for development rights) to Council and/or the State Government for inclusion in the Coastal Reserve System as an alternative.

We reject the notion that the Northern Precinct is part of a significant "wildlife corridor", and suggest that the corridors as proposed by us in the amended *Concept Plan* are the optimal corridors and cannot be substantially improved by denial of development of the Northern Precinct.

This is primarily due to the 'catastrophic' impact of the Pacific Highway upgrade (as described by Sainty), the severance of connectivity for other than 'nimble species', the narrowing of any corridor by the upgraded highway and the need for fencing of the Highway, and as consequence of substantial land clearing west of the highway.

The 'Moonee Waters' proposal provides the most substantial corridors in the vicinity leading to fauna underpasses north and south of the Northern Precinct and creek line corridors west of the Highway

Other minor matters raised by DoL can be addressed in DA documentation.

We therefore repeat our request for Owners Consent to the opening of the Crown Road Reserve as previously outlined. We would be pleased if conditional agreement could be provided at this time subject to resolution of issues outlined above between Concept Plan Approval and lodgement of future DA's for development of the lands.

Yours Sincerely,



Peter Biasotto



Department of Lands

*Land Administration & Management
Property & Spatial Information*

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Our Reference: GF06H44
Your Reference:

Date: 24 November 2008

Dear Mr Biasotto

Re: Moonee Waters Development, Lot 66 DP 551005 Pacific Highway Moonee.

Thankyou for your letter dated 7 October 2008 seeking owners consent from the Department of Lands for the opening of the Crown Road reserve located to the south of Lot 66 DP 551005.

As a Crown road reserve the road in question is already "open" and available for access in its current state. However, as previously advised in our letter dated 24 October 2007 the Department of Lands is not a road construction authority and as such can not authorise the construction of the subject road to the standard required for your proposed development. The road would either need to be closed and purchased or transferred to Council. To date no road closure application has been received and Council have not requested that the road be transferred. However, if an application for purchase were received by the Department, or Council requested that the road be transferred, the Department would consider such a request subject to resolution of a number of matters as discussed in our meeting held 30 September 2008. These issues are outlined below.

- Public access along the subject road needs to be maintained.
- The portion of the road which may be available for purchase or transfer for the proposed development would need to be negotiated with the Department. It may be appropriate to stage the transfer.
- The area of road which traverses the SEPP14 wetland would not be included in any transfer or purchase associated with the development other than for inclusion in a publicly managed conservation area.
- The area of road which traverses the SEPP14 wetland requires rehabilitation works and would only be available for formal pedestrian access for the development if appropriate restorative works were undertaken.
- Appropriate buffers to the SEPP14 wetland on the Crown road need to be established.
- Public parking needs to be provided to the west of the SEPP14 area to facilitate public access to the beach.
- Public access to Green Point over Lot 66 DP 551005 needs to be established.

Regarding other matters raised in you letter concerning the meeting held on the 30th September 2008 the Department provides the following feedback.

- The Department of Lands strongly supports the transfer of the Conservation Area into public ownership, however, there was no reference by the Departmental representatives that this should only occur "...subject to approval of appropriate and fair development opportunities...".
- The Department of Land supports the preparation of a management plan for the Conservation area to be prepared in consultation with Council, the Department of Environment and Climate Change and the Department of Lands. Such a management plan should include the identification of infrastructure, restoration and rehabilitation works, ongoing maintenance arrangements, monitoring and funding arrangements.
- The Department of Lands supports the provision of public access over Lot 66 DP 551005 to provide access to Green Bluff but is of the opinion that this access should be provided conditional to any approval for the subject site not on the proviso that both the Northern and Southern Precincts are approved.
- While it is recognised that the Pacific Highway provides a barrier to east/west fauna movement the Department is of the opinion that development of the Northern Precinct will also impact on this habitat corridor and hence the viability of Crown land to the east. As such the Department would support any appropriate measures to mitigate impacts on this corridor. Whilst the retention of hollow bearing trees within the Northern precinct lots was discussed, it is unclear how these trees will be retained once the lots have been developed and sold. Hollow bearing trees within individual lots may be viewed as a safety hazard and would require removal on these grounds and as Councils tree preservation order only applies to lots greater than 2000m² permission to remove these trees would not be required. It is recommended that alternative mitigation measures are investigated.

If you would like to discuss any of the matters discussed above please contact me on 0266919616.

Yours sincerely



Kersten Tuckey
Senior Environmental Officer
Department of Lands