



**Jindawalla Development Proposal
Lennox Head, northern New South Wales**

**Submission to Director General of NSW Department of Planning
November 2006**



22 November 2006

The Director General
NSW Department of Planning
23-33 Bridge Street
Sydney, NSW 2000

Dear Sir,

JINDAWALLA DEVELOPMENT, LENNOX HEAD
MINISTER'S OPINION - CLAUSE 6 OF SEPP (MAJOR PROJECTS)

Pursuant to Clause 6 of SEPP (Major Projects) 2005, we seek your determination that the proposed Jindawalla development at Lennox Head in northern New South Wales constitutes a Major Project.

The Jindawalla proposal presents an innovative project situated in a unique and high profile coastal location. The landowner, Ms Kristine Newton, is seeking to create a self-sufficient development that will contribute to establishing new standards for sensitive coastal development. The project team has been chosen for their specific (and proven) commitment to ESD principles.

The environmental investigations and planning have been rigorous with due respect to the sensitive nature of the site, its SEPP 26 Littoral Rainforest, threatened species, wetland and proximity to the coast. The Director-General's requirements for management of the SEPP 26 areas on site have been addressed in the initial Environmental Impact Statement (EIS) and we further seek the Director-General's requirements for environmental assessment of the overall project inclusive of its innovative sustainability planning.

In regard to the government's stated objectives under the Biodiversity Certification and Banking instruments (Threatened Species Legislation Amendment Act 2004) to be used in coastal and growth areas; this project offers the opportunity for biodiversity and environmental enhancement without the need for any 'trade-offs'. The project meets all of the policy objectives under those proposed amendments.

Community engagement for the project commenced early in the planning process. An open and constructive dialogue has been established between the project planners and consultants and the Lennox community. A series of community engagement meetings have already been held and community representatives have had direct and measurable input into the planning processes.

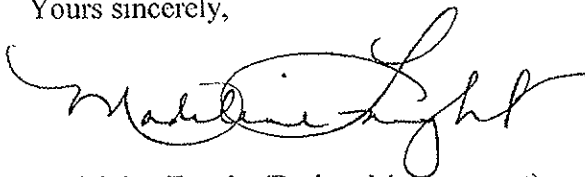
The attached submission provides details of the site and the development proposal. The Appendices contain more detailed information in relation to the following:

- environmental rehabilitation and management;
- overall cost estimates for the proposed development;
- visual interpretations of the architectural footprint; and
- legal and town planner letters of support for the project's inclusion under Major Projects.

We hope this presents you with an adequate amount of information for this initial assessment process. Please do not hesitate to contact the undersigned if you require further details or need further clarification of the proposal.

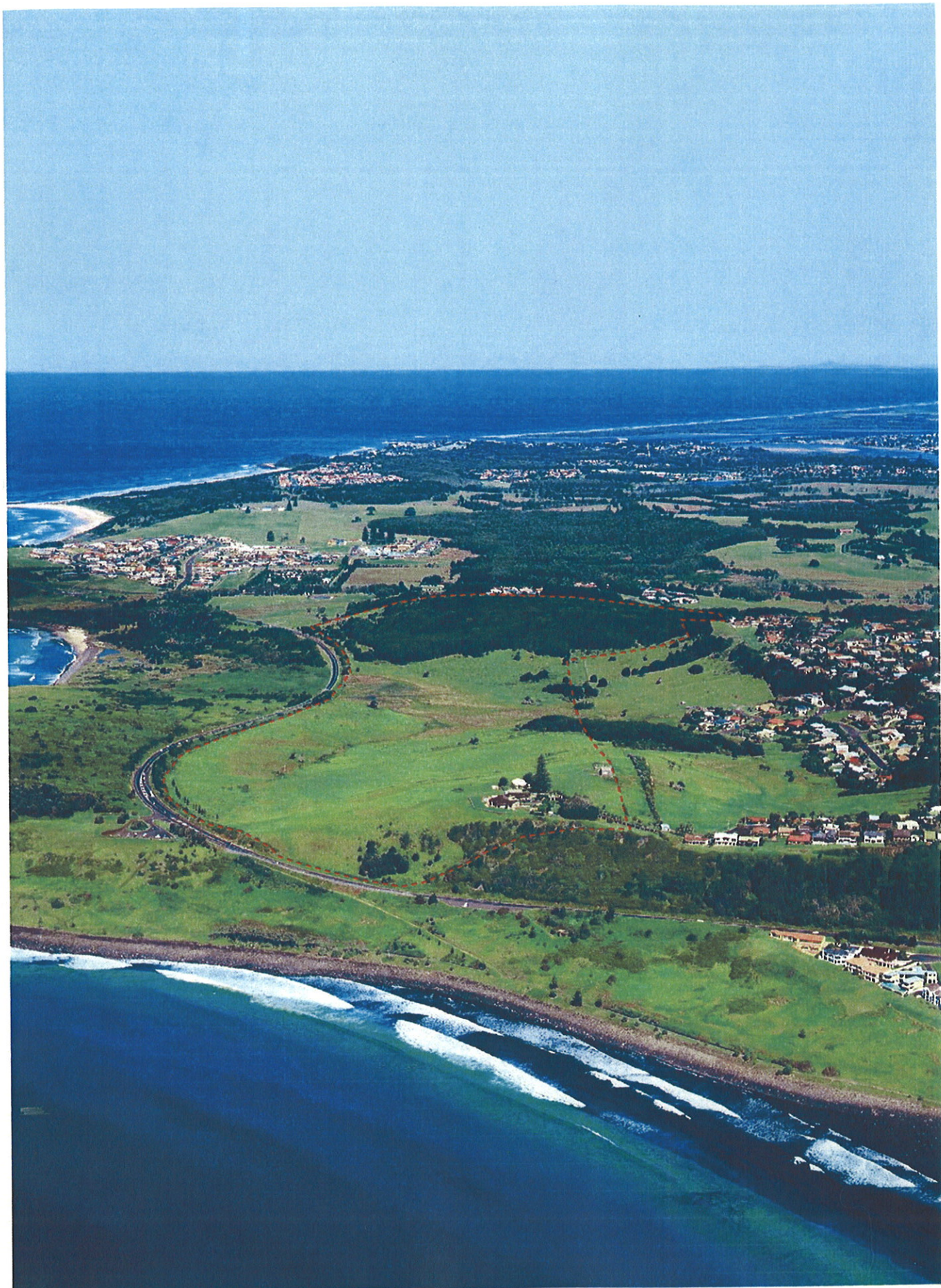
We look forward to your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Madeleine Faught', with a large, stylized flourish at the end.

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Earth Process Ecological Services
220 Dingo Lane
Myocum, NSW 2482
Ph: 02-66842806
Mobile: 0428 965 762

Chris Rodda (Project Management)
Gregory Burgess Pty Ltd Architects
10 York Street
Richmond, Victoria 3121
Ph: 03-94110600



Existing Conditions
Site & Context (view from North)

CA-02
24-11-06


Gregory Burgess Architects

**Jindawalla Development Lennox Head: Submission to the Director
General New South Wales Department of Planning**

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JINDAWALLA DEVELOPMENT LENNOX HEAD

STATE ENVIRONMENTAL PLANNING POLICY – MAJOR PROJECTS

It is submitted that the development proposal described below constitutes a Major Project pursuant to Section 75B(1)(a) of the NSW Environmental Planning and Assessment Act 1979 and pursuant to Section 6(1)(a) of State Environmental Planning Policy – Major Projects.

Specifically, the proposed development satisfies the provisions of:

- s 17(c) of Schedule 1 of State Environmental Planning Policy – Major Projects
- s 1(1)(f)(iii) of Schedule 2 of State Environmental Planning Policy – Major Projects

More generally, the proposed development site comprises a location of recognised environmental and regional significance.

A. THE SITE

The 52.2 hectare site is located within the Ballina local government area and lies south of the township of Lennox Head, directly opposite the Pat Morton Lookout (Lennox headland). The site comprises 3 adjacent allotments on the western side of the Lennox Head - Ballina Coast Road. A Locality Map, views of the site, and an aerial view of the site depicting the different lots are included as Attachment 1.

- Lot 2 DP 778022 (southernmost lot) 13.21 ha, is predominantly forested and is land to which State Environmental Planning policy No. 26 (SEPP 26– Littoral Rainforests) applies. The lot is located in the Zone 7(l) - Environmental Protection (Habitat).

- Lot 4 DP 592045 (central lot) is 7.472 ha. It contains SEPP 26 forest in its southern part and the SEPP 26 buffer extends across the lot from east-west in its central part. The lot is located in Zones 7(l) - Environmental Protection (Habitat) and 7(d) – Environmental Protection (Scenic/Escarpment).
- Lot 2 DP 587685 (northernmost lot) 31.52 ha is predominantly cleared with a small littoral rainforest remnant in the western central section. The lot falls steeply from level land in the north-western part. The majority of the lot is located in Zone 7(d) - Environmental Protection (Scenic/Escarpment) with a small area in the north-western corner located in the Zone 1(d) – Rural (Urban Investigation).

A site plan that identifies SEPP 26 areas and existing vegetation is appended as Attachment 2.

A Zoning Map is appended as Attachment 3.

B. THE DEVELOPMENT PROPOSAL

Introduction

The site sits in an iconic location with sweeping views of the Pacific Ocean, Seven Mile Beach, and Boulder Beach.

It is the intention of the landowner to achieve a financial return from tourist related development on limited areas of the site and to link this return to the protection and enhancement of the recognised environmental values of the site. The tourist elements of the development will provide the financial means for the environmental management elements of the development.

The overall project will set new standards for innovative and sensitive coastal development. All architectural designs are of high merit and blend with the topography to minimize visual impact. Environmental enhancement works will secure and enhance the ecological values of the site in perpetuity.

The built elements of the proposal incorporate tourist facilities, a health spa facility, an environmental facility and on-site sewage management.

The overall vision of the proposal is for the creation of a self-sufficient and sustainable infrastructure. Members of the project/design team have been specifically chosen for their commitment to 'best practice', ESD principles, and sensitivity to community values. The project/design team is identified in Attachment 4.

Details of the Proposal

- **Consolidation of Lot 2 DP 778022 and Lot 4 DP 582045**

These lots will be consolidated to enable the protection in perpetuity of the existing SEPP 26 land and the proposed enhancement of this land and adjacent land(s).

- **Luxury boutique tourist resort - Lot 2 DP 587685**

Twenty one (21) tourism apartments on the hill top site. A central facility servicing these units will offer the following guest facilities on the ground (main) floor:

1. foyer and reception area
2. restaurant
3. bar and patio areas
4. small cinema
5. library
6. craft rooms for children
7. conference rooms

Level two (2) of the central resort facility comprises the following:

1. manager's unit
2. large luxury apartment
3. large executive luxury apartment.

Master plans showing the location of the proposed development, infrastructure and architectural footprint are included as Attachment 5.

The Quantity Surveyor's Estimated Cost of the built development is appended as Attachment 6.

- **Strata Management of tourism units**

It is proposed that the resort apartments be strata titled in accordance with the Strata Schemes (Freehold Development) Act 1973 and managed accordingly.

Initial funding for the environmental works will be sourced from a capital contribution from the sale of the apartments and ongoing funding sourced from contributions required under the strata title management arrangement.

- **Spa Treatment Centre - Lot 2 DP 587685**

Located on the hill top site to the south of the tourist resort. Offering a variety of Li'tya TM spa therapy treatments for both on site tourists/visitors and for the general public. Five to seven small pavilions will be located in close proximity to the central spa facility for individual and specific treatments.

- **On-Site Sewage Management**

It is proposed that a suitable on-site sewage management system be designed and implemented. A letter from consultant water systems engineer Dr. Daniel Martens is appended as Attachment 7. This advises that the site has the capacity for on- site sewage management.

- **Environmental Education Facility (EEF) – Lot 2 DP 587685.**

Located on the western lower mid slopes, this small two classroom / workshop space will provide an operating base for coastal management training courses (as a Registered Training Office) focused on the environmental management elements described below. The Environmental Education Facility (EEF) will be accessed by a basic low key/low impact path/road that will conform to Bushfire Risk Assessment standards. It is

envisaged that access to and from the EEF site will be either via foot traffic or golf buggies or equivalent.

- **Land/vegetation management/enhancement –**

- Rehabilitation, maintenance, monitoring, management and protection of the existing SEPP 26 Littoral Rainforest community and threatened flora species *Fontainea oraria* on Lot 2 DP 778022.
- Revegetation to extend the Littoral Rainforest (Endangered Ecological Community) to occupy the majority of Lot 4 DP 592045 from the south-west, and into parts of Lot 2 DP 587685 to connect with the rainforest remnant and extend along the western boundary effectively improving landscape connectivity.
- Consideration of the establishment of a Nature Conservation Trust agreement pursuant to the Nature Conservation Trust Act 2001.
- Overall landscaping to focus on the use of local provenance, site suited Littoral Rainforest (endemic) plants with the exception of plantings directly surrounding resort and spa areas where a mix of natives and some exotics will be planted for colour and fragrance.

A Site Plan indicating proposed environmental management works and a letter from Ecologist Robert Kooyman describing same are provided as Attachment 8.

The built elements of the proposed development are located on Lot 2 DP 587685 and while there is no SEPP 26 land located on this lot, the proposal represents an integrated package in which the environmental management elements traverse all three lots and are critically related to the built elements of the proposal.

The proposed environmental management elements will enhance parts of Lot 4 DP 592045 not currently included under SEPP 26 to a standard that would warrant its inclusion into SEPP 26 by expanding the existing Endangered Ecological Community type (Littoral Rainforest) that

characterises SEPP 26.

The undertaking of the overall site environmental management elements will work in conjunction with the proposed Environmental Education Facility on the basis of the EEF's capacity to deliver the appropriate training in techniques relevant to the rehabilitation, monitoring and management of this sensitive environment.

The environmental enhancement works will be undertaken contemporaneously with the construction of the built elements. The imposition of reasonable conditions to a development consent will appropriately tie the environmental management works to the construction and operation of the built elements.

SUMMARY

The proposed development satisfies the provisions of s 17(c) of Schedule 1 of State Environmental Planning Policy – Major Projects as it includes a tourist facility with a capital investment value greater than \$5 million and is located in an environmentally sensitive area of state significance. The site incorporates land to which State Environmental Planning Policy No. 26 – Littoral Rainforests applies pursuant to S 4 of that policy and which land is included in the definition of an *environmentally sensitive area of state significance* pursuant to S 3(1)(b) of State Environmental Planning Policy – Major Projects.

Further, the proposed development satisfies the provisions of s 1(1)(f)(iii) of Schedule 2 to SEPP – Major Projects as it proposes tourist facilities providing accommodation for over 25 persons in the coastal zone that are not connected to an approved sewerage treatment work or system.

It is submitted that the development proposal described above constitutes a Major Project pursuant to Section 75B(1)(a) of the NSW Environmental Planning and Assessment Act 1979 and pursuant to Section 6(1)(a) of State Environmental Planning Policy – Major Projects.

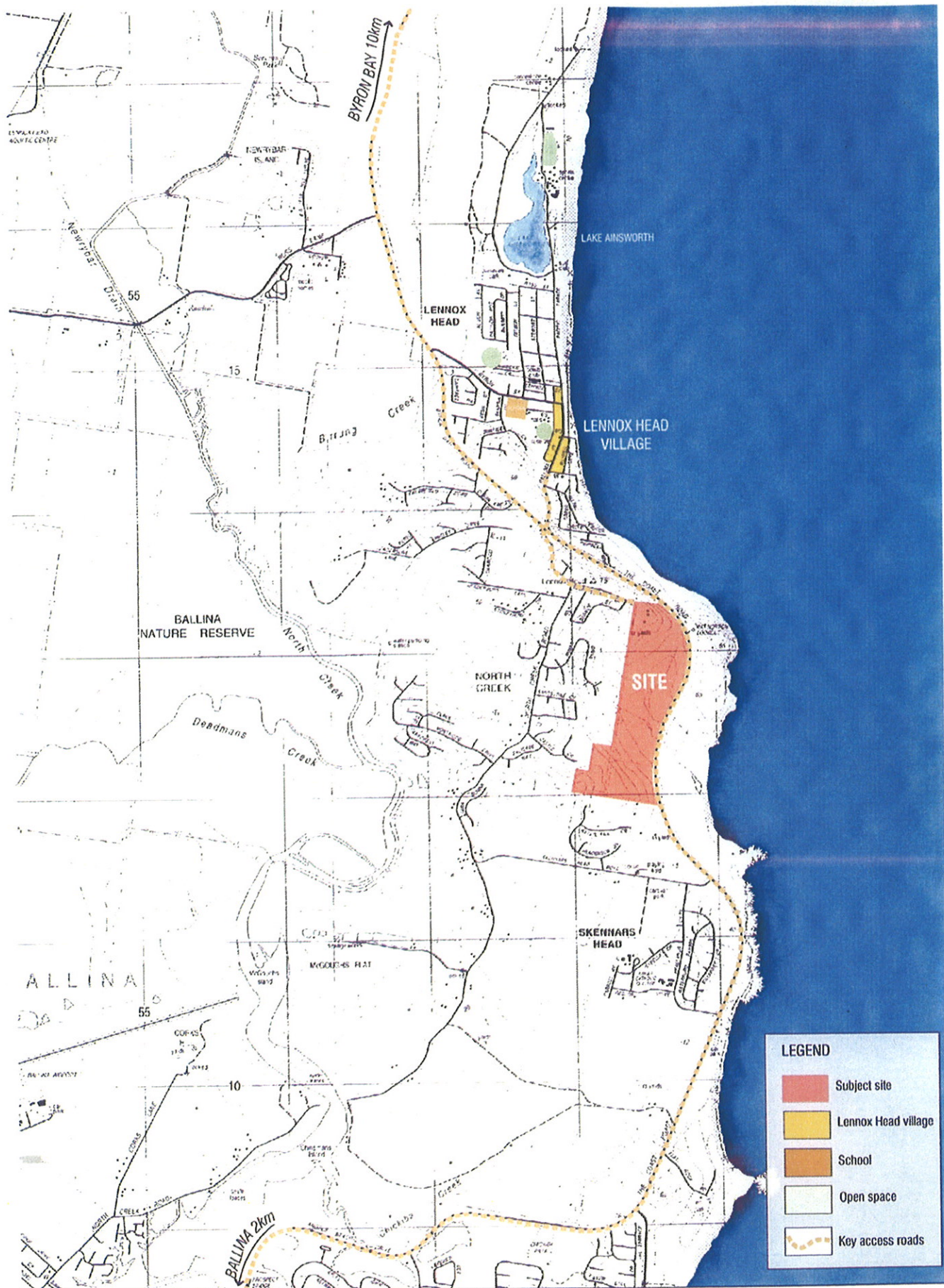
Correspondence from a Development and Planning solicitor, and from a practising Town Planner supporting the categorisation of the proposal as a Major Project are included as Attachment 9.

Attachment 1

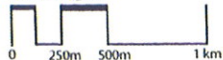
Locality Map

Locality views of the site

**Aerial view of property
with
existing titles**

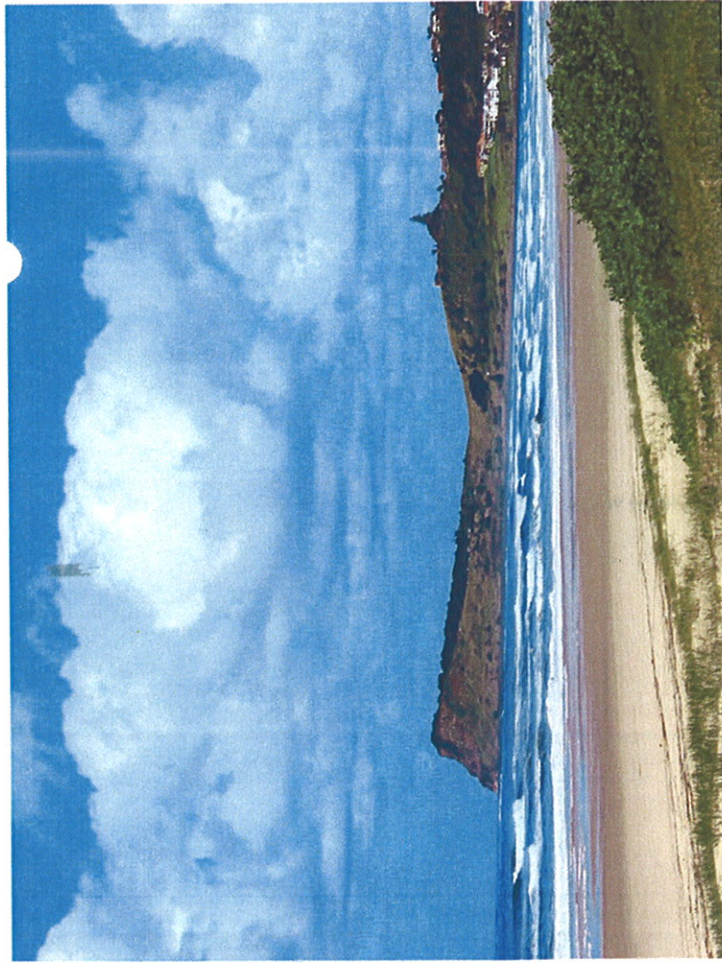


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JOB NO. PS9771 SK001 REV. A

LENNOX HEAD SITE ANALYSIS



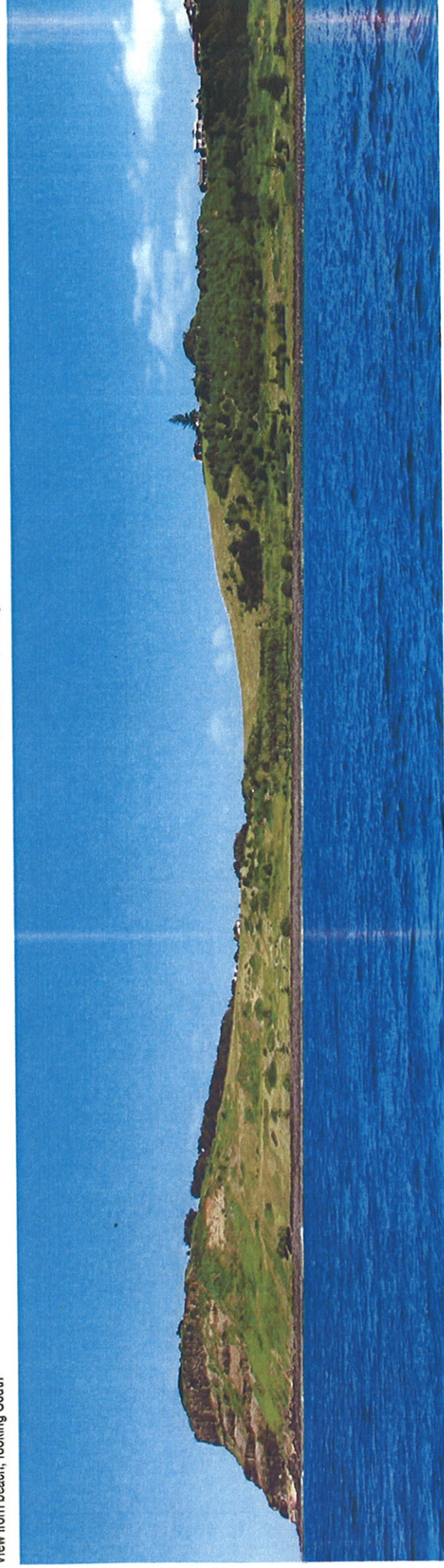
View from beach, looking South



View from site, looking North



View from site, looking North

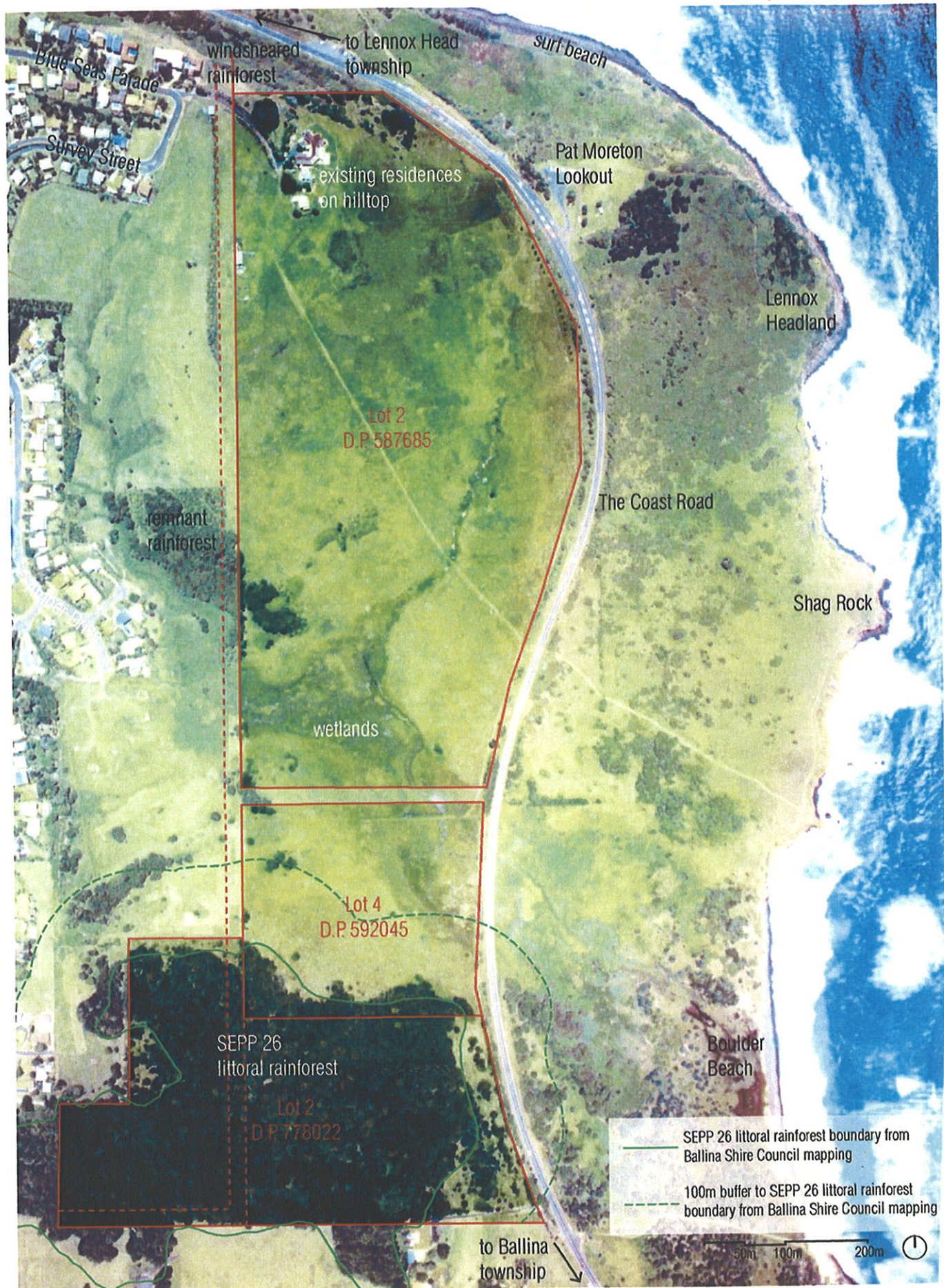


View from water, looking West

CA-01

24-11-06

Existing Conditions



Existing Conditions

Site with Title Details 1:6000 (@A4)

CA-03
24-11-06

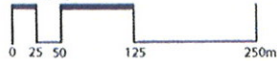

Gregory Burgess Architects

Attachment 2

**Current SEPP 26
&
Existing site vegetation**



1:5000 @ A3

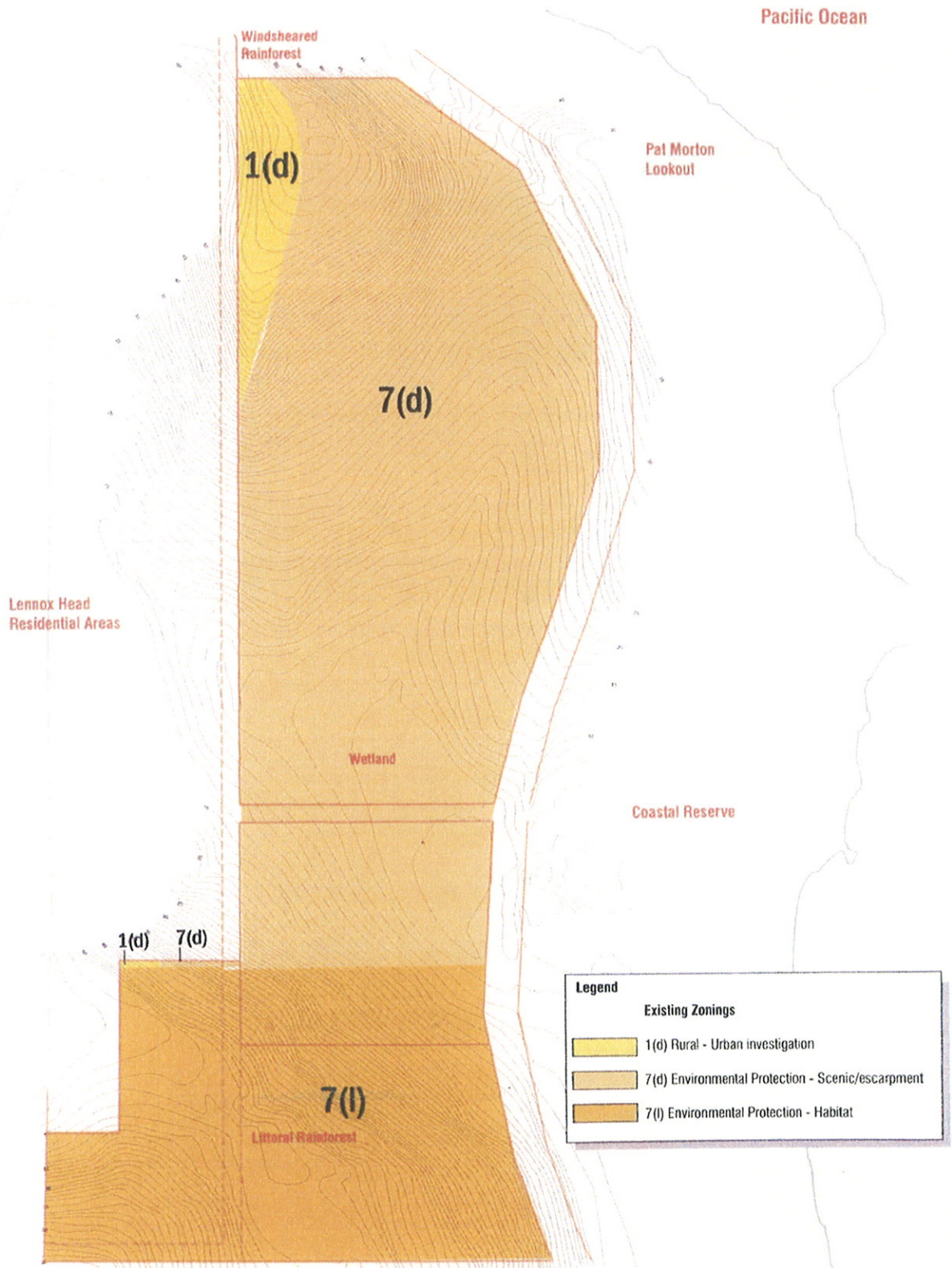


JOB NO. PS9771 SK001 REV. A

LENNOX HEAD SITE ANALYSIS

Attachment 3

Zoning Map



Attachment 4

Project Team / consultants

Jindawalla Project Team

Architect

- Gregory Burgess (Gregory Burgess Pty Ltd Architects), Richmond, Victoria

Landscape Architect

- Kevin Taylor (TaylorCullityLethlean), Adelaide, South Australia

Environmental Planning/Ecologist

- Robert Kooyman (Earth Process Ecological Services), Myocum, NSW

Waste Water Management Systems / geotechnical & civil engineering

- Daniel Martens (Martens & Associates), Hornsby, NSW

Co-project Management

- Madeleine Faught (Earth Process Ecological Services), Myocum, NSW
- Chris Rodda (Gregory Burgess Pty Ltd Architects), Richmond, Victoria

Planning

- Paddy Dawson (Town Planner), Mullumbimby, NSW

Legal Advisors

- Daniel Massey (Massey Bailey Associates), Sydney
- Graham Englefield & Terry Grace (Tress Cox), Sydney

Quantity Surveyor

- Greg Bengston (Davis Langdon) Sunshine Coast, Qld

Marketing

- Anthony Pavlakis (Cramer Associates), Sydney

Community Consultation/Engagement

- Madeleine Faught (Earth Process Ecological Services), Myocum, NSW

Structural Engineer

- Peter Felicetti, Melbourne

Geotechnical Engineer (initial investigations)

- Douglas Partners, Brisbane

Environmental education research & funding investigations

- Maria Matthes (Healing History), Bagotville, NSW
- Lois Cook (Aboriginal Cultural Concepts), Ballina, NSW

Attachment 5

**Master Plans with
Proposed Building Locations / Architectural footprint
Site Infrastructures**



Proposed Development
Master Plan - whole site 1:6000 (@A4)

CA-04
24-11-06


Gregory Burgess Architects



Proposed Development

Master Plan - northern part of site 1:2500 (@A4)

CA-05

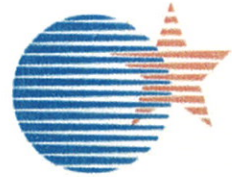
24-11-06

Gregory Burgess Architects

Attachment 6

Quantity Surveyor Costs summary

DAVIS LANGDON



21 November 2006

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Fax: +61 7 5479 5949

suncoast@davislangdon.com.au
www.davislangdon.com

Earth Process Ecological Services
220 Dingo Lane
MYOCUM NSW 2482

Attention: Ms Madeleine Faught

Dear Madam

RE: JINDAWELLA DEVELOPMENT, LENNOX HEAD – Stage 1 Revised Estimate

We refer to Kris Newton's request for an update of the Initial Estimate of the cost of the proposed stage 1 works for this development for inclusion with a report to the Minister to seek consent for the development.

In preparing our estimate, we have taken our previous estimate and updated it by applying the areas shown in Issue 9a of the Space and Area Schedule dated 30 October 2006.

We estimate that the total cost of constructing and fitting out this proposed development at current day prices is in the order of **\$27,000,000.00 (Twenty-Seven Million Dollars), excluding GST**. Please carefully note that as we have not received a revised site layout plan, we have not been able to assess the adjustment to the cost of certain works outside the buildings. Consequently, we have included the original allowances for most of these items.

In preparing this estimate, we had made numerous assumptions with regard to all elements of the works. We suggest that as the design for the works progress that further cost estimates are prepared to ensure that the design remains within the accepted budget amount.

Should you have any questions or desire further information, please do not hesitate to contact us.

Yours sincerely
DAVIS LANGDON


Greg Bengtson
Manager

EQSEstimates2006015_125017.epec.doc

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Kong, India, Indonesia, Korea, Malaysia, Philippines, Singapore, Thailand,
Vietnam, Egypt, South Africa, Botswana and the USA

Attachment 7

Water Management Engineer letter

22 November 2006

Earth Process Ecological Services
Madeleine Faught
220 Dingo Lane
Myocum, NSW 2482

Dear Madeleine,

RE: ON-SITE SEWAGE MANAGEMENT SYSTEM, PROPOSED TOURIST FACILITY, 'JINDAWALLA', LENNOX HEAD

Further to our discussions and my site inspection, I confirm that I can see no technical reason why an on-site sewage management system should not be included as part of the above development proposal. On the basis of my understanding of the proposed development, I see that the following infrastructure would be required to implement a 'self-contained' on-site sewage management system within the development footprint:

1. Internal sewer reticulation consisting of 100 and 150 mm PVC sewers.
2. On-site sewage treatment plant (STP). I envisage that the STP will be a relatively compact design and occupy a small footprint, utilising an IDEA or SBR process with tertiary filtration, nutrient removal and effluent disinfection. This would provide high grade reclaimed non-potable water for the site which could be utilised for a range of purposes such as toilet flushing, landscape irrigation, and other non-potable uses. On the basis of the preliminary site layout I envisage that the STP will have a capacity to treat at least 20-25 KL/d.
3. Reclaimed non-potable water storage tank / reservoir. This storage would store non-potable water prior to delivery to usage.
4. A non-potable water header tank (approximately 10-15 KL) to be located at the top of the site to enable gravity feed of non-potable water to the development.

If you require any further information, please do not hesitate to contact the writer.

For and on behalf of

MARTENS & ASSOCIATES PTY LTD



DR DANIEL MARTENS

BSc(Hons1), MEngSc, PhD, MAWA, RIEAust, CPEng, NPER

Manager, Principal Engineer

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Stormwater & drainage
Wetlands
Water quality
Irrigation
Water sensitive design

Wastewater

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MARTENS & ASSOCIATES P/L

ABN 85 070 240 890 ACN 070 240 890



Attachment 8

Proposed environmental work & Ecologist letter



Earth Process Ecological Services
Linking social and ecological systems

November 2006

To whom it may concern,

My name is ROBERT MICHAEL KOOYMAN and I am a partner in the environmental consultancy business, Earth Process Ecological Services (EPES).

Earth Process Ecological Services (EPES) was requested to undertake an assessment of the ecological and environmental values of Lot 2 DP 587685 (31.5ha), Lot 4 DP 592045 (7.42ha) and Lot 2 DP 778022 (13.21ha) at Lennox Head in northern NSW. The property is owned by Ms Kris Newton and encompasses three freehold titles and is 52.202 ha in area.

The EPES brief included flora surveys and flora and fauna habitat assessments, and the preparation of reports detailing the results. In addition the brief stipulated the following:

Please provide the information necessary to assist and guide the proponents in the establishment of a development proposal based on the repair and enhancement of the natural values and landscape and property scale ecological processes of the land. This is to be done in a manner that is consistent with the aspirations of the community and state planning agencies, and the legislative requirements, and delivers a guarantee to the community of improved environmental outcomes and protection of 'key' environmental assets in perpetuity.

To date, detailed environmental planning for the property has been undertaken in collaboration with several State Government departments. This has included the preparation of an Environmental Impact Statement (EIS) and Plan of Management (by EPES) for the management and rehabilitation of the SEPP 26 (No. 37) Littoral Rainforest (and associated buffers) and the implementation of the draft Recovery plan for Coastal Fontainea (a critically endangered rainforest tree species that occurs only in this location). All planning undertaken to date has been done in consultation with the NSW Department of Environment and Conservation, the NSW Departments of Planning and Natural Resources, and Ballina Shire Council.

In addition to the above the following has been completed in response to the legislative requirements to protect both the SEPP 26 area and associated buffers and wetland habitats, implement the species Recovery Plan, and protect and rehabilitate native vegetation.

1. Threatened species and ecological community assessments and associated 7-part tests to determine potential ecological impacts of the proposal.



2. Native vegetation conservation and habitat rehabilitation planning.
3. Recommendations for environmental enhancement, restoration, and rehabilitation based on the outcomes of detailed research of the site published in the peer-reviewed journal *Ecological Management and Restoration* (Kooyman and Rossetto 2006).
4. Species and habitat specific management planning, including for SEPP 26 (No. 37), and the threatened plant species *Fontainea oraria* (Coastal Fontainea) and *Arthraxon hispidus*.
5. Definition of ecological parameters for visual assessment and landscape design components.

The environmental planning done to date reflects the very high environmental significance of the site and the intent of the development proposal to fully integrate improved environmental and ecological outcomes with the development proposal and planning.

To that end, it is the stated intent of the property owner, and subsequently the focus of the development proposal, to link the potential to improve environmental outcomes to the proposal at every level. Naturally this includes both the protection and rehabilitation of the SEPP 26 littoral rainforest and associated buffers and the expansion of the rainforest habitat across substantial areas of the property.

The Recovery Plan for the endangered plant species Coastal Fontainea has identified weed invasion and the current lack of effective management of the species SEPP 26 habitat as the most significant threat(s) to the species. In that context, the status quo is regarded as the worst outcome.

Without creative and innovative solutions such as those outlined in the development proposal that link development to environmental enhancement in a substantive and ethical way, little progress could be made to secure a future for the SEPP 26 endangered ecological community or the endangered species for which the site provides critically important habitat.

On that basis, I am pleased to be involved with this proposal and to support it, and would suggest that it qualifies as significant coastal development.



Earth Process Ecological Services
Robert Kooyman – Ecologist / Botanist
Madeleine Faught – Social Ecologist / Project Management & Design
220 Dingo Lane
Myocum, NSW 2482
Ph: 02-66842806
Mobile: 0428 965 762
Email: Ecodingo@bordnet.com.au
ABN 19 650 848 772

Proposed native revegetation/rehabilitation



Robert M. Kooyman – Ecologist / Botanist
Earth Process Ecological Services



Attachment 9

Legal Advisor & Town Planner Supporting letters

MASSEYBAILEY

SOLICITORS & CONSULTANTS

L 12, 26 O'CONNELL STREET

SYDNEY NSW 2000

DX203

TEL: 61 2 9221 9500

FAX: 61 2 9221 5277

23 November 2006

BY EMAIL: krislennox@mac.com

No of pages: 1

Our ref: DJM

Kris Newton
42 Blue Seas Parade
LENNOX HEAD NSW 2478

Dear Kris

Seascope Settlements Pty Limited

You have asked me to advise you in respect of the proposed development at Lennox Head and specifically in relation to whether the development could be considered as falling under the provisions of the State Environmental Planning Policy - Major Projects.

This advice is given in light of your desire to seek from the Director General an acknowledgement that the Project you propose constitutes a Major Project for the purposes of the *Environmental Planning and Assessment Act*.

This project has some remarkable features, not the least of which is its commitment to sustainability. The ongoing funding of the preservation of the SEPP 26 land of the two southern lots by way of levies on the occupants of the northern lot is a unique approach with benefit for all concerned.

In my opinion it is not possible to consider the three lots separately, the entire parcel of land must be considered the Site and I do so for the purpose of this advice.

There are in my opinion two relevant provisions of SEPP (Major Projects) and I will deal with each in turn.

Schedule 1: Section 17(c)

The proposed development Site comprises three allotments. The two southern lots contain SEPP 26 land. Such land is defined as 'an environmentally sensitive area of state significance' pursuant to Section 3(1) of the SEPP. The Project consists of tourist development with a capital investment value of more than \$5 million. Such a

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Page 2.

development on SEPP 26 land comprises a Major Project pursuant to Section 17 (c) of Schedule 1.

It is important to consider here the link between the northern elements of the Site and the southern lots. Your intention is to require ongoing contributions from the owners of any lots in the northern portions of the Site to the upgrading and preservation of the SEPP 26 land in the south. You further intend to covenant that no development will occur in the rainforest area of the southern lots.

This methodology has the unique result that the owners in the north will protect in perpetuity their view and the important ecological areas in the south for the benefit of future generations.

Schedule 2: Section 1(1) (f)

The issue under this provision of the SEPP is the location of the Site.

Two matters arise. The first is whether this Site falls within the "coastal zone". The second is whether this Site is a "sensitive coastal location".

Both of these terms are defined. In my opinion the definition of "coastal zone" includes this Site.

Is the Site "a sensitive coastal location"? The term is defined and includes the provision that any land within an area 100 metres above mean high water constitutes a "sensitive coastal location".

Assuming that "above" means laterally distant then this Site does not technically fit the description by less than 50 metres. In my opinion the choice of 100 metres is arbitrary and is capable of being over-ridden in the discretion of either the Director general or the Minister.

There is however a view that "100 metres above" means vertical displacement if within the "coastal zone". If that is so then the Site clearly complies.

Since that is so then the provisions of Section 1 (1) (f) (i) apply and the Site fulfills the definition and the Project is thereby a Major Project.

If the argument above fails then in my opinion the Project and the Site need to be considered under Section 1 (1) (f) (iii). The question then becomes a consideration of sewage treatment allowing for the fact that the Project is to accommodate more than 25 persons.

Whatever scheme is approved for the Site it will contain an approved sewage system. In this case it is proposed that the "system" will be on site and that all sewage will be recycled on site. Since that is so then it can only have been the intent of the SEPP to

Page 3.

deal with connection to the external sewage system which is not the case here. I arrive at this position because it is hard to contemplate any development for the accommodation of more than 25 persons which would not in its approval be required to have a "system" approved for dealing with sewage.

Summary

The vast majority of the development is set to occur on the northern lot of the parcel. However, it is my view the entire parcel of three lots must be considered when looking to the fulfillment of the requirements for Major Project.

The concept of Major Project is in my view a matter where there is the ability for the Director General and the Minister to exercise discretion.

The combination of the proximity of this site (considered as an whole) to mean high water, the SEPP 26 portion of the Site, the obligation of the northern portion to contribute to the Sepp 26 and the obvious physical and geographical position make the Site in my opinion both "a sensitive coastal location" and "an environmentally sensitive area of State significance" when those descriptions are taken in their true context.

The requirements of SEPP (Major Projects) are in my view met by this proposal and it should receive acknowledgement as a Major Project by the Director General.

Yours faithfully



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MasseyBailey
Solicitors & Consultants

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22 November 2006

The Director General
NSW Department of Planning
23-33 Bridge Street
SYDNEY NSW 2000

Dear Sir/Madam

Re: Jindawalla Development – Lennox Head

This correspondence is submitted in support of the submission to which it is attached and which submission posits that the above development proposal comprises a Major Project pursuant to State Environmental Planning Policy – Major Projects.

Schedule 1: Section 17(c)

The proposed development site comprises three allotments. The two southern lots contain SEPP 26 land. Such land is defined as 'an environmentally sensitive area of state significance' pursuant to Section 3(1) of the SEPP. Tourist development of a capital investment value of more than \$5 million on such land comprises a Major Project pursuant to Section 17 (c) of Schedule 1.

The built elements of the proposal are contained within the northern lot that includes no SEPP 26 land.

Obviously, if the development was limited to the built elements, then it would not comprise a Major Project. However, the development incorporates substantial and significant environmental works on the SEPP 26 land, including the core SEPP 26 land and the SEPP 26 buffer. These works will extend the littoral forest areas to parts of the central and northern lots not affected by SEPP 26 and will bring these areas to a standard that would warrant inclusion in SEPP 26.

The built tourist elements and the environmental elements of the proposal cannot be separated. The environmental works rely on the built tourist works for their occurrence. If no built tourist development then no environmental works.

The nexus between the built elements and the environmental works is real and credible.

The upshot is that the proposed development satisfies Section 17 (c) of Schedule 1

Schedule 2: Section 1(f)(iii)

The existing development on the site is connected to the Council sewerage system. Further development on the site is likely to be capable of so connecting. On-site sewage management is proposed.

The determining factor in regard to whether the development satisfies this provision is whether the *facilities...are not connected to an approved sewerage treatment work or system and provide accommodation for 25 persons or more.*

Section 1(f)(iii) provides that a development proposal of the prescribed character and scale comprises a Major Project if that development, or facility, is intended to be serviced by on-site sewage management, rather than an existing *approved sewerage treatment work or system*, whether or not such an existing work or system is available.

I note that the provision refers to *facilities...that are not connected...*, as facilities that comprise a Major Project. The provision does not exclude from the Major projects category facilities on a site that is capable of connection to off-site sewage treatment in the circumstance that such connection is not proposed. I also note that any on-site system will obviously require *approval*, however if such was to preclude the inclusion of the development within the Major Project category, then there would be no development that could satisfy the provision.

It is clearly the intention of the provision to capture developments of the prescribed scale and character that utilize on-site sewage management.

Summary

The proposed development site is clearly one of significance and of substantial environmental and scenic significance. It is clearly a development of the kind that the introduction of the Major Project category is intended to include.

For the above reasons, I submit that it is reasonable for the Minister to form the opinion that the proposed development is, pursuant to Section 6(1)(a), *development of a kind that is described in Schedule 1 or 2.*

Yours Faithfully

Paddy Dawson

Bachelor of Arts (Sydney), Bachelor of Urban & Regional Planning (UNE)



Proposed Development
Master Plan - whole site 1:6000 (@A4)

CA-04
24-11-06


Gregory Burgess Architects



Proposed Development
Master Plan - northern part of site 1:2500 (@A4)

CA-05
24-11-06


Gregory Burgess Architects