



27 July 2009

Our Ref: 6096  
Your Ref: MP06-0212

Port Macquarie Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Attention: Mr Dan Croft

Dear Dan,

Re: Response to Preliminary Comments – Preferred Project Report  
Major Project – 06-212 Re-subdivision  
Riverpark Sancrox, Sancrox Road, Sancrox

We refer to the Preferred Project Report (PPR) lodged with Council 3 March 2009 and to subsequent meetings, consultations and discussions held with yourselves and relevant Government Authorities regarding the content of said report.

This letter serves as an addendum to the PPR lodged with Port Macquarie Hastings Council (PMHC) and responds to those key issues raised during post lodgement discussions. This advice is designed to compliment the reports, studies, and plans contained within the PPR and is to be annexed at **Appendix M** of same. Note that references to lot numbers in this correspondence relates to the most current plans of subdivision, a copy of which is annexed at Attachment 1 to this letter.

The key issues to which this advice formally responds to are highlighted below:

## 1. Water Supply

Much of the consultation occurring since lodgement of our PPR revolved around securing a commitment from Council's Water Supply Section for water entitlements beyond the existing credit of 83 lots (plus the credits applicable to the Think Inc units) that Le Clos Verdun is recognised with (now referred to as Riverpark Sancrox). Recent consultations have had regard to the timing of augmentation of existing water-mains within the larger Sancrox precinct and future upgrade of the Sancrox water reservoir.



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Council's last position was presented to us on 1 July 2009 from Tim Molloy and has formed the basis of a Voluntary Planning Agreement which we have since initiated with relevant Council staff. This Voluntary Planning Agreement (VPA) will see the realisation of 109 Lots (equivalent tenements) within Stages 1-7 of the proposed subdivision, but a limitation on the number of lots upon which dwellings can be constructed in these early stages. The conditions applicable to the agreement form the VPA.

This has resulted in the preparation of a revised staging plan for the proposed re-subdivision. Lot numbers within the intended subdivision layout have also been modified. The revised staging plan and Stage 1 layout are included as Attachment 1 to this letter, as are a full set of subdivision plans illustrating the new lot numbering. It is important to note that the layout, lot sizes and subdivision configuration itself have not otherwise changed from that represented in the original PPR.

It is understood that drafting, public exhibition and signing of the draft VPA will be occurring during formal assessment of the Preferred Project Report, including this addendum report.

## **2. Local Roads Contribution**

Negotiations have occurred with Council's Contributions Planning Officer with respect to the current absence of a local roads contribution for the Sancrox precinct. The landowners recognise the need for a local contribution plan for this locality but are unwilling to wait for the length of time anticipated for PMHC to draft, exhibit and adopt a formal contributions plan for the local area.

To that end, the landowners are willing to enter into a VPA for the payment of a local roads contribution in the amount of \$10,750 per lot to be created over and above the existing 83 lot credit. As per point 1 above, the preparation and drafting of a VPA for this contributions payment has been initiated with Council staff.

## **3. Existing Rural Tourist Facility on Lot 39 DP791199**

Consultations with Council staff post-lodgement of the PPR determined that clarification was required in relation to the continued use of the existing Rural Tourist Facility located on Lot 39 DP791199. It is the landowners' intention to continue that use within the re-subdivision of Riverpark Sancrox.

To enable this to occur, a minor modification to the original consent for the Rural Tourist Facility was deemed necessary as conditions of that consent referred to a specific site area upon which the facility was to be established. The modification recognises the amended site area for the development resulting from the re-subdivision (now located on proposed Lot 66).

This modification to Development Consent DA1989/0079 is currently before Port Macquarie Hastings Council for their assessment.

#### **4. Existing Storage Shed on existing Lot 86 (now Lot 125)**

Similarly to point 3 above, Council sought clarification on the intentions for the existing machinery storage shed located on Lot 86 DP791199. This shed provides housing for necessary grounds-keeping equipment and machinery associated with the upkeep of the existing Rural Residential Estate.

It is anticipated this shed will serve to provide similar storage capabilities for construction vehicles during the establishment of necessary infrastructure for Stage 1 and beyond. There is therefore no intention to demolish and/or decommission the use of this shed in the early stages of re-subdivision.

The revised staging plan annexed to this advice (attachment 1) confirms that this lot (proposed Lot 125) will be retained as a development lot and is not included within the initial 109 “residential” lot release. The parcel will thus not be created and/or released as a separate residential parcel until Stage 8. At that time the shed would be decommissioned as a storage facility for construction vehicles and would either be retained for domestic storage purposes and/or demolished by the eventual purchaser of this parcel.

#### **5. Mapping of 1 in 100 Year Flood Level**

The revised plans in Attachment 1 also include updated flood maps of the subdivision, taking into account advice from Council’s Environmental Engineer regarding the previously assumed 1 in 100 year flood level of 4.5m AHD over the Estate. This advice indicates that while this would be an average, some areas of the site within the upper reaches of Haydons Creek are actually in excess of 4.5m, with 4.8m being the maximum estimated level adjacent to Sancrox Road. Indeed other areas of the site downstream are designated levels of less than 4.5m, in the range of 4.3m to 4.2m AHD.

Those areas where the 1 in 100 year flood level exceeds 4.5m and reach up to 4.8m AHD upstream in Haydons Creek have been specifically mapped on the attached plans in Attachment 1 (Sheets 7B-7C).

The minor extent of filling for those lots upstream has been adjusted accordingly on the annexed plans. In each case, the additional fill represents an additional depth of between 100mm to 300mm and is placed further west within the residential parcel. This additional fill is thus located further west from the edge of vegetation in Haydons Creek.

Therefore no increased impact to the neighbouring watercourse is proposed by this adjustment to 1 in 100 year flood levels.

## 6. Climate Change

Our original position in relation to climate change (as represented in our PPR) was to recognise recent studies and investigations which alluded to a possible rise in sea levels of 800mm within the next 100 years. Our original Statement of Commitments adopted an 800mm freeboard for all new dwellings within the re-subdivision accordingly. This 800mm figure is consistent with the adopted freeboard standard for all dwellings in flood affected lands east of the Pacific Highway within the PMHC Local Government Area. This standard had been adopted some 10 years ago by PMHC to account for future sea level rise resulting from climate change impacts.

During the period from which the PPR was lodged with Council to the time of writing, further investigations have been undertaken by the DECC including consultations with other peak bodies, resulting in a revised estimate of likely sea level rise over the next 100 years. This latest evidence, presented in the *Draft NSW Government Sea Level Rise Policy Statement*, suggests a sea level rise in the order of 900mm by 2100 for the NSW coastline.

This is estimated to have an impact of between 300 and 400mm for the 1 in 100 year flood level in the Sancrox locality. Accordingly, it was a recommendation of the Department of Planning (31<sup>st</sup> March 2009) that a 900mm freeboard be adopted for all new dwellings within this subdivision.

The landowners wrote to PMHC in April of this year confirming their acceptance of the recommendation from the Department of Planning and that the Statement of Commitments for this subdivision would reflect a 900mm freeboard for all new dwellings.

Since that advice, further comments have been received from Council's Environmental Engineer indicating that the 900mm sea level rise, and subsequent 400mm increase in the 1 in 100 year flood level for this site is reasonable in lieu of actual modelling. However, this advice went on to say that this climate change adjusted 1 in 100 year level should now be the design constraint and be reflected on all plans. While this means the State-standard 500mm floor level freeboard can be maintained for all dwellings (i.e. consistent with the 900mm freeboard accepted by the landowners), Council's advice suggests that all roads, bridges etc.. need to be raised to reflect the climate change adjusted 1 in 100 year levels.

We refute this requirement and consider it inappropriate to design infrastructure to an as yet un-defined and non-adopted standard. We

believe that climate change assessment is still one of conservative consideration only and is not intended to introduce new design standards ahead of formal modelling, particularly for costly infrastructure.

Moreover, we submit that current data is still not definitive and while based on scientific research, cannot be guaranteed over a 100 year forecast. It is noted that other State authorities, including Queensland and Victoria, have adopted a *smaller* potential sea level rise over the next 100 years as their standard. This reflects the largely speculative nature of climate change planning, and current legislation requires only that conservative consideration be given to its likely effects accordingly.

Council's current 1 in 100 year flood level for the locality is based on real property data from previously modelled flood events. We do not believe it is appropriate to adopt a *potential* figure relevant to such a dynamic factor based on long-term forecasting for the purpose of infrastructure design. We submit that the application has demonstrated appropriate regard to the possible effects of climate change.

## **7. Open Access Ways over Private Roads**

The position of the PPR was that there is sufficient public access to the Hastings River and Haydons Creek foreshores provided via the existing 30m foreshore reserve. Access to the reserve is available from Rawdon Island Road via Bengal Street, and will cater for the occasional casual user of the foreshores of these water bodies. More formalised access, public facilities and swimming entry is available in Sancrox Reserve located <750m to the west accessed from Colvin Street where public amenities, BBQ facilities, public ovals and other complementary recreational facilities are also located.

Notwithstanding, the Department of Planning have determined that additional public access should be established within the subdivision itself. The Department's comments refer to the available points of access provided within the plan of subdivision, established by the common private recreation area adjacent Lots 35 – 36, and the pedestrian access ways adjacent Lots 40 – 41 and Lots 96 and 99, and 65 and 92, and the south west of Lots 24 – 27. While these access ways and the internal roadway remains in private ownership the Department insists that a system of "open access ways" be established over these routes.

Consultation has occurred with Council's Engineers regarding the establishment of such open access ways. It has been determined that the Community Management Statement can be so written to reflect this access arrangement. These arrangements are reflective of the Community Board undertaking all maintenance of the private roadways. It is anticipated that conditions of the Project Approval will guide the content of the final Community Management Statement in

this regard.

## 8. Lot Sizes of Cluster Lots in Stage 1

Council's advice of 10<sup>th</sup> March 2009 insists on further justification for the lot sizes of proposed Lots 41-45 which have been designed to a cluster system of effluent disposal. Clause 17 of the Hastings LEP 2001 provides the following standard for calculation of lot size for the 1(r1) zone:

*(1) Consent may be granted to the subdivision of land by a plan of subdivision, within the meaning of section 195 of the Conveyancing Act 1919:*

...

*(e) within Zone 1 (r1), only if:*

*(i) the area of each lot created is, in the opinion of the Council, sufficient to accommodate:*

*(A) on-site disposal of effluent,*

For all lots in the subdivision, wastewater disposal areas are to be located above the 1:20 flood level, which is calculated to be 4.0m AHD across Lots 41-45. This effectively leaves between 1/3 to 1/2 of each lot available for wastewater disposal (refer building envelopes illustrated in sheet 7A of the subdivision plans in Attachment 1).

Examining the scenario of Lot 43 and 44 which have areas of 4400m<sup>2</sup> and 4200m<sup>2</sup>, but an *actual* building envelope of 970m<sup>2</sup>, approximately 22m x 38m (836m<sup>2</sup>) of these envelopes are available for building and wastewater disposal. There is insufficient area available for disposal by irrigation, but disposal could be achieved via a mound system.

For a 5-bedroom house, the dwelling would require a minimum disposal area of 298m<sup>2</sup> in Geotechnical Terrain A. A 6.0m buffer to one side of the house would be required to the disposal area. Allowing for a 15m x 20m likely building footprint, allowance for this buffer would increase this required footprint to 15m x 26m = 390m<sup>2</sup>. Combined with the disposal area of 298m<sup>2</sup>, this leaves approx. 148m<sup>2</sup> undeveloped land still potentially available within the nominated envelopes on Sheet 7A, and yet another 3300m<sup>2</sup> – 3500m<sup>2</sup> untouched area of the site to establish a rural setting consistent with its 1(r1) zoning. A mound system could therefore be established on these lots should it have been practically appropriate to do so.

Because guidelines suggest a 100m buffer to permanent waterways, the cluster lot disposal system was recommended during the early planning for the rezoning and subsequent re-subdivision planning phase. Detailed designs of alternative methods of wastewater disposal had not been explored due to Council's acceptance of this intended system during the pre-planning phase, and the proposal's compliance with the Sancrox Wastewater Management Strategy.



The arrangement of these lots has been dictated by the presence of the existing road, the current cadastral boundaries and subsequent individual ownerships of the parent lots. Subdivision of these lots essentially represents a boundary adjustment to the Council-approved parcels which exist in this location at present (Lots 62-69 DP 791199 which have areas of between 2816m<sup>2</sup> – 4648m<sup>2</sup>). In this regard, the areas of proposed Lots 41-45 are larger than each of the current lot sizes of their respective parent parcel.

To that end, we believe there is sufficient evidence available to Council to determine that alternative systems could well be established on these sized parcels. However we believe that the intended cluster system of waste-water disposal is preferred and appropriate for this location.

#### **9. Lots 23 – 26 and Lots 31 – 33 Building Envelope Plans**

The submission from Department of Planning dated 31<sup>st</sup> March 2009 requests an illustration to confirm that suitable building envelopes exist for proposed Lots 23 – 26 and 31 – 33 located along the western ridge-line. These lots are part zoned 1(r1) and 7(h). The Department seeks demonstration that building envelopes can be located outside the 7(h) zone of these lots.

Included within the subdivision sheet-set at Attachment 1 is an additional plan (Sheet 7D) which serves to illustrate the location of the 7(h) zone boundary over these sites and identifies potential building envelopes for each lot.

As has been explained in post-rezoning discussions, and as is clearly illustrated in Sheet 7D, an error occurred with the location of the final 7(h) zone boundary prior to Gazettal. This zone boundary was drawn from aerial photography, and actually marks the shadow-line of the existing trees, rather than the vegetation itself. The distinctive variance of the zone boundary's extent for land south of the road compared to that on the northern side is further evidence of this.

Photos 4 and 7 from the original photo plate set (Appendix E of the PPR) demonstrate the park-land setting of the vegetation along this spine road. The vegetation represented by the 7(h) zone is a copse of mature trees with no under-storey. Driveways can thus be easily established in this location for each lot without disturbance to existing vegetation.

It should be remembered that the 7(h) zone is not prohibitive to the establishment of a dwelling. Dwellings are permissible with consent in the zone. Notwithstanding, Sheet 7D clearly demonstrates that satisfactory building envelopes can be established in this location without disturbance of any vegetation or intrusion within the 7(h) zone.

## **10. Comments from the DECC regarding the Ecological Assessment**

Keystone Ecological have provided additional advice to address the queries made by the Department of Environment and Climate Change (DECC) in their letter of 8th April 2009. These queries related to timings of survey work, clarification as to the location of EECs, and requirements relating to long-term management of the vegetation to be retained and rehabilitated.

The response to these issues from Keystone Ecological dated 12<sup>th</sup> June 2009 is included as Attachment 2 to this advice.

## **11. Vegetation Management Plan prior to approval**

The latest submission by Keystone Ecological again emphasises the commitment to prepare a Vegetation Management Plan for the Hastings River and Haydons Creek riparian zones, and remaining pockets of vegetation which are to be retained within the subdivision. Key principles for the VMP, which follow directly from the findings and recommendations of their Flora and Fauna assessment, are contained in that advice.

We stress again however that the level of detail necessary for a VMP is beyond the scope of this approval phase. The principles which the VMP are intended to contain are clearly expressed in the assessment by Keystone, and in the Statement of Commitments contained within the PPR. Detailed specifications for the land's ongoing rehabilitation and management will naturally follow, but will need to be guided by further consultation with relevant bodies post approval.

In this regard, there are likely to be a range of management and rehabilitation measures to be recommended by PMHC, the DECC, the RFS and/or Department of Planning to be included within the final VMP before it is accepted. We submit that until all final comments and recommendations from said Departments are received, evaluated and formed into conditions of Project Approval, it is impractical to prepare the VMP. We contend that this should form a condition of the Project Approval accordingly.

## **12. Width of the 30m Foreshore Reserve**

In recent advice received from PMHC's Environmental Engineer on 14<sup>th</sup> May 2009, a suggestion has been made to increase the existing 30m Crown foreshore reserve to a width of 50m. This is not acceptable to the land-owners and cannot be entertained for this re-subdivision proposal.

This is not a green-field subdivision, and involves the correction of a subdivision experiment from the late 80's. Over 80 existing land-



holdings are affected by the limitations of the existing cadastral boundaries. There are thus over 80 land-owners with existing entitlements and land tenure within the "development site". There is no agreement from any of the land-owners for existing land area to be lost in the re-subdivision process.

Moreover, all pre-planning has been reliant on the parameters of this existing 30m Crown Reserve. This includes the re-zoning phase itself wherein both PMHC and the Department of Planning agreed to the establishment of the 6(a) and 1(r1) zone boundaries along the 30m Crown Reserve boundary.

We hereby submit this letter and additional information as an annexure to the original Preferred Project Report lodged with Port Macquarie-Hastings Council in March of this year. With the drafting and preparation of the Voluntary Planning Agreement referred to in Points 1 & 2 of this letter, we believe that all salient issues required to formalise acceptance of the PPR have now been achieved.

We respectfully request Council's favourable consideration of the original PPR and this additional detail. If you require clarification of the above or additional information please do not hesitate to contact the undersigned.

Yours faithfully,



Andrew Lister  
Senior Planner

Encl. Attachment 1 – Revised Subdivision Plan Set (Sheets 1-10)  
Attachment 2 – Letter from Keystone Ecological dated 12 June 2009  
Attachment 3 – Revised Community Management Statement dated 24 July 2007  
Attachment 4 – Revised Development Contract dated 24 July 2009