

appendix a

DoP's rfi letter



NSW GOVERNMENT
Department of Planning

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Our ref: 05_0083
File: 9040899-6

Mr Robert Power
WorleyParsons
(incorporating Planning Workshop Australia)
Level 12 141 Walker Street
NORTH SYDNEY NSW 2060

Dear Mr Power,

Department of Planning's Issues for the Proposed Residential Subdivision Development – Pacific Highway, Sandy Beach – MP05_0083

I refer to your Environmental Assessment (EA) for the proposed residential subdivision development at Sandy Beach. As you are aware, the Department publicly exhibited the EA for 30 days from 1 April 2009 until 4 May 2009.

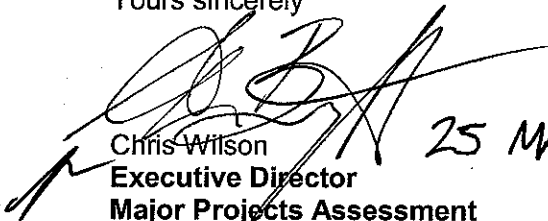
All submissions received from the public and the government agencies were referred to you for consideration by letter dated 15 May 2009. A late submission was received on 19 May 2009 and this is attached for your information. The submission is detailed and raises significant issues regarding acid sulfate soils.

The Department has some key issues regarding the proposal in relation to the planning framework, urban design, traffic and access, ecology, Aboriginal heritage, flooding and climate change. These are outlined in **Attachment 1**.

The Department is of the view that the current proposal has failed to justify development beyond that recommended by Sainty (2006). The cumulative effect of the public and agency issues raised in conjunction with consideration of issues raised by the Department will result in the need for a significant redesign of the proposal. The redesign needs to be cognisant of the unique constraints of the site and must rigorously apply all of the principles of ecologically sustainable development. Various concerns have also been raised regarding the veracity of sections of the EA for the proposal. The redesign will need to be well justified and supported by evidence that addresses the concerns raised in the attachment and in other submissions.

We would like to meet with you to discuss the issues raised. Alan Bright, Acting Director, will therefore be in contact with you to arrange a mutually convenient time. In the meantime, should you have any queries regarding any of the above, please contact Alan Bright on (02) 9228 6353 or via email at alan.bright@planning.nsw.gov.au.

Yours sincerely


Chris Wilson
Executive Director
Major Projects Assessment
25 MAY 2009

cc Mark Salter, Coffs Harbour City Council

KEY ISSUES

1. Planning Framework

- The incorporation of land currently zoned 7A under Coffs Harbour City LEP 2000 (CHCLEP 2000) for a residential purpose is not supported. This is planned in the pocket of proposed development east of Hearn's Lake. Although it is acknowledged that composite parcels are permitted under CHCLEP 2000, it is considered that what is proposed does not meet the objectives of the 7A zone and is not desirable for the long term management of these lands. In this regard, refer also to the discussion of edge effects under the urban design heading below.
- The construction of noise barriers is prohibited in the 7B zone under the provisions of CHCLEP 2000 and this is acknowledged in the EA. The zone objectives for 7B enable development that does not adversely impact upon the scenic qualities of the Pacific Highway. The EA provides little justification or discussion of the impacts on the scenic qualities of the Pacific Highway. Development should be able to incorporate design features such as suitable buffers, mounding, noise barriers and building design features (as proposed) to ameliorate the impacts from the Pacific Highway while at the same time protecting and enhancing the scenic qualities of the highway edge. The construction of the noise barriers in the location proposed is not supported.
- The EA is unclear with regards to the proposed community titling of the proposal. The EA states on page 15 that 49% of the site will be dedicated to Council, yet elsewhere mentions that all open space and conservation areas will be managed by adopting a Community Title scheme for the site (refer to page 104). The issue of whether "conservation areas" on this site should be managed through a Community Title Scheme requires careful consideration. In this regard, your attention is drawn to the submission by Council. The EA refers to the establishment of an "Environmental Trust" within the Community Title scheme for all environmental and conservation lands and mentions funding of this trust through a percentage of the sale of each lot on site. This mechanism alone is unlikely to be adequate and over the life of the project, the raising of special levies from time to time should also be addressed. More detail needs to be provided on the proposed title structure and the mechanism proposed for the collection of any monies for the Community Association.
- The application form at Appendix 23 to the EA has a different lot and DP description to that provided in the certification at the front of the EA. The details and description of the Pine Street property is also missing from the application form. The Minister cannot determine a project until owner's consent has been provided over all of the land covered by the project. There also appears to be discrepancy between the mean high water mark (MHW) as indicated by the surveyed northern property boundary and the MHW indicated by the Solitary Island Marine Park protected areas boundary which has been determined using the DECC tidal and mangrove occurrence limits data. Aerial photos, topographic levels and various other depictions of the extent of inundation supplied in the EA suggest the property boundary may not be a reasonable representation of MHW. A survey of MHW in accordance with Department of Lands guidelines is required.

2. Urban Design

- The EA presents a number of built form typologies for the site (Appendix 2 of EA). Building Typology 6 is more akin to multi-unit housing and is 3 storeys in height. This built form and height is considered to be entirely inappropriate to the site context and is not supported.
- The subdivision design of the eastern edge of the proposed development and the entire pocket of development directly to the east of Hearn's Lake does not provide for any protection of natural edges through the provision of perimeter roads. This design will lead to the deterioration of the adjoining natural environment over time, with residential development directly abutting these areas. This design approach is not supported. The eastern edge of any proposed development should be the extension of Ti-Tree Road, subject to the application of other considerations and constraints required under sections 4 and 6 of this attachment.

3. Traffic & Access

- The Department is of the view that the design of the proposal cannot rely on the proposed northern access connection to the Pacific Highway. The traffic assessment for the proposal

ATTACHMENT 1 – DEPARTMENT OF PLANNING KEY ISSUES

(Appendix 15 to EA) states that the proposed northern connection would be subject to “a separate EIS” incorporating an assessment of the connection to ensure that it would be acceptable. This level of uncertainty in planning and timing means that the connection should not be included in any concept plan for the site.

- The proposed access connection to Pine Crescent through the demolition of an existing house is not adequately addressed in the traffic assessment. There is a question regarding the frontage of this dwelling to Pine Crescent and whether this provides adequate space for the access proposed. Council have also raised this in their submission. There is also little discussion in the traffic assessment concerning the poor condition of Pine Crescent with the absence of footpaths, kerb and gutter and the related safety issues for pedestrians and other users. Is this adequate for the increased traffic to be generated by the proposal?
- Other issues raised by Council and the RTA, particularly with regard to the adequacy of the traffic assessment require careful consideration.

4. Flora & Fauna

- The independent report for the Department by Ecograph (2008) (copy attached) comprehensively examines the areas of sclerophyll forest in the west of the site and concludes that it qualifies as Swamp Sclerophyll Forest and Swamp Floodplain Forest EEC. On this evidence the proponent should justify the proposed removal of this community and assess the effect on the ecological function and amenity of the site, of its removal. The assessment should examine what compensation and offsets for the loss of the EEC would be appropriate.
- The plant species assemblage which would qualify as saltmarsh EEC on areas of the southern shoreline of the lake is acknowledged in the Conacher 2008 ecological assessment report. This area will need to migrate upslope with increased sea levels. Accompanying this community is Swamp sclerophyll forest EEC which serves as a roosting and refuge area for bird species feeding in and around the lake. Measures for the long term conservation of these vegetation communities should be assessed including appropriate widths of vegetated buffers.
- Plant species lists and community descriptions supplied in the EA suggest that littoral rainforest (LRF) EEC communities such as now found to the immediate north of the property may have existed on the eastern side of the property behind the dunes. This land is currently being degraded by cattle grazing and slashing preventing any possibility of regeneration of the rainforest. The proponent should provide independent expert advice on the existence of remnant LRF EEC and the possibility of rehabilitation of LRF in suitable areas on the eastern side of the site.
- Frog habitat for a number of threatened and common species occurs on the site. The Wallum froglet has been observed. Whilst retention of quality habitat is essential for the conservation of the species, it is also essential to limit exogenous threats and disturbances. Of particular concern is the acidic Wallum which supports unique flora and fauna assemblages. Much of the area of habitat would be lost with the proposed development and the biological and hydrological parameters which maintain the habitat characteristics could be compromised. The proximity of urban development with changed hydrology, increased pollution and predator pressure can severely limit the viability of the proposed small area of habitat to be conserved. The proponent should consider the cumulative long term intrusive and edge effects of the development on sensitive habitats and what measures are necessary to maintain their function.
- Further assessment is required to demonstrate how the inherent threats that the proximity of a large increase in population around the lake would be compatible with the conservation measures proposed the amenity for habitats for migratory and transitory waterbirds.

5. Aboriginal Cultural Heritage

- The recommendations of the archaeological assessment for the proposal (Appendix 27 to the EA) incorrectly refer to the need to apply for a permit under Section 87 of the *National Parks and Wildlife Act, 1974* for the area of potential archaeological deposit the south of the site, referred to as ‘PAD1’. This further approval is not required for an approved project under Part 3A of the *Environmental Planning and Assessment Act, 1979* (i.e. clause 75U). Therefore, the archaeological test excavations and associated consultation for PAD1 referred to in the EA should be carried out as part of the current assessment to determine the significance of the site and degree to which any remains might affect the development footprint proposed in this location.

6. Climate Change & Flooding

- The Department has serious concerns regarding the methodology and results of the Climate Change Assessment (Appendix 18 to EA), the Scientific Assessment of Entrance Berm Elevation (Appendix 19 to EA) and the Sandy Beach North Residential Development Flood Impact Assessment (Appendix 20 to EA) carried out for this proposed development. The Department engaged WMAwater to conduct a critical review of these and other documents and a copy of this review is attached to this letter for your information and detailed consideration.
- The work carried out by WMAwater concludes that the design flood level of 2.95mAHD has not been justified by the EA.
- WMAwater conducted a critical review of the Hearn's Lake Estuary Management Plan, 2008 and found that, given the importance of this document for the subject site, the EA contained little justification to counter the conclusions of the study.
- WMAwater also conducted a critical review of the Updated Coastline Hazard Assessment (Appendix 21 to EA) and found that the coastal hazard line was found to be reasonable. The Department is concerned however, that the assessment arriving at this hazard line utilised a sea level rise of 0.55 m, being the median DECC recommended level rather than the high level of 0.91 m. The application of the precautionary principle requires the application of the higher level of 0.91 m to determine the coastal hazard line for this site. A revised coastal hazard line should be applied utilising this higher figure and the development footprint amended accordingly.
- Further assessment is required on the potential effects of increased coastal hazards as a result of climate change with particular attention to the need for appropriate setbacks to account for risk of catastrophic loss of beach and dunes due to increased frequency and intensity of extreme weather events.