

AJT/WJ 13922/13974
13922.052

10 January 2007

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

ATTENTION: Mr Sam Haddad

Dear Sir

**RE: PROPOSED MAJOR PROJECT – RESIDENTIAL COMMERCIAL AND
TOURIST DEVELOPMENT PURSUANT TO
PART 3A ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
LOT 1 DP 374315 AND LOT 4 DP 615261, OCEAN DRIVE, LAKE CATHIE**

We act on behalf of Milland Pty Ltd and Seawide Pty Ltd being the registered proprietors of Lot 1 DP 374315 and Lot 4 DP 615261 respectively and being the proponents for a residential, commercial and tourist development on the subject properties.

We refer to a stakeholders meeting held on 13 December 2006 and attended by officers of the Department of Planning (Department), Port Macquarie Hastings Council (PMHC) and their consultants and the landowner representatives. The attached letter addressed to Mr Don Geering of the Department, provides details of the outcomes of that meeting. We also refer to our recent telephone conversation with Ms Paula Tomkins from the Department's Major Project Assessments Section.

The purpose of this letter is to seek the Minister's opinion that pursuant to Clause 6, the proposed development is a development of a kind described in Schedule 1 of the State Environmental Planning Policy (Major Projects) 2005 (hereafter referred to as the Major Projects SEPP) and is therefore a Major Project to be determined under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act).

To assist the Minister in his consideration of this matter we provide the following documentation:

1. Background

The subject properties have a total area of 33.42 hectares and are currently zoned Rural 1(a1) pursuant to the Hastings LEP 2001. A locality plan is included as **Attachment 1**. The site forms part of the PMHC Urban Investigation Area known as Area 14 and is included in the Lake Cathie-Bonny Hills Urban Design Master Plan adopted by PMHC in July 2004. An excerpt from Council's Urban Design Master Plan being the Future Development Area Concepts Plan is included as **Attachment 2**.

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The subject properties adjoin SEPP 26 Littoral Rainforest No.116 on their eastern boundaries (with part of the rainforest being contained within Lot 4). The site is surrounded by existing residential areas or residentially zoned on the northern, western and southern boundaries of the properties (refer aerial photographs included as **Attachment 3**).

A rezoning application was lodged with PMHC by King & Campbell in February 2005. PMHC have arranged a peer review of that application and as a result of the review additional ecological and groundwater investigations are currently being undertaken.

The rezoning application includes a design-based approach to the determination of an appropriate buffer to the SEPP 26 Littoral Rainforest and an indicative Structure Plan which was prepared in accordance with the abovementioned Future Area Development Concepts Plan. **Attachments 4, 5 & 6** provide detail of the proposed SEPP 26 Littoral Rainforest buffer design and the footprint and conceptual road layout for the proposed residential, commercial and tourist development.

2. The Proposal

The proposed development contains the following components:

- **Environmental Works** (designed in accordance with the outcomes of ecological investigations):
 - ▶ Retention of all native vegetation on the western side of SEPP 26 Rainforest and removal of existing weeds;
 - ▶ 40-60 metres of rainforest revegetation on the western side of the SEPP 26 Rainforest;
 - ▶ Fencing of the revegetation area and hedging with a spiky hedge;
 - ▶ A grassed area with scattered rainforest trees, cycleway/pathway and perimeter road incorporating on-street car spaces;
 - ▶ Stormwater quality measures to ensure consistency with Council's draft Integrated Water Cycle Management Plan;
 - ▶ Low impact boardwalk or similar pedestrian access along the existing track to the beach (subject to Department of Lands agreement as landowner);
 - ▶ Weed removal/rehabilitation works along the eastern edge of the SEPP 26 rainforest (subject to Department of Lands agreement as landowner) and

As recently agreed at the Stakeholders meeting at the Department of Planning and outlined in the attached correspondence to Mr Don Geering and the advice from Lindsay Taylor Lawyers it is proposed that a Voluntary Planning Agreement will be prepared to provide for the revegetation and associated environmental works to be undertaken as the first stage of the development.

The buffer treatment will occupy approximately 6.05 ha of the subject properties. Approximately 3.31 hectares of the SEPP 26 Littoral Rainforest are also located on Lot 4.

- **Low Density Residential:**

The Low Density component occupies approximately 17.86 hectares and at a density of 12-15 dwellings per hectare will result in the creation of 214-268 lots and associated dwellings. The Low Density Residential component is shown shaded pink on **Attachment 4**.

- **Medium Density Residential:**

The medium density component occupies approximately 2.75 ha and in accordance with the Lake Cathie and Bonny Hills Urban Design Master Plan (UDMP) assumes a 50/50 split between two and three storey buildings. At a density of 25 dwellings per hectare approximately 68 dwellings are proposed to be created. The Medium Density Residential component is shown shaded crimson on **Attachment 4**.

- **Commercial / Residential / Tourist**

The Lake Cathie and Bonny Hills UDMP proposes the creation of a hilltop village centre located on the ridge-top that straddles the existing common boundary between Lot 4 and Lot 1. Height limits of 3-4 storeys are proposed to provide for ground floor commercial/tourist use within the hilltop village centre.

Based on commercial/tourist floor space at ground level with three storeys of residential/tourist uses above and basement carparking below, yields of approximately 26 ground level commercial / tourist units and approximately 78 medium density / tourist residential dwellings above are expected.

- **Open Space**

The proposed development provides for approximately 0.6 hectares of open space which includes a "hilltop park" adjoining the hilltop village main street; and

- **Urban Form Analysis**

The attached Urban Form Analysis (attached as **Annexure 8** in 6 sheets) provides conceptual analysis of some of the urban design components of the proposed development. The Indicative Structure Plan, SEPP 26 Buffer Design and Urban Form Analysis have been provided to PMHC as part of input into the Area 14 Development Control Plan currently being prepared by PMHC.

The Urban Form Analysis provides conceptual consideration of:

- The "overall" Structure Plan;
- A Section showing indicative details through the hilltop;
- The urban form within and adjacent to the main street of the hilltop village;
- Main street character; and
- Duplex and single dwelling typologies.

The Urban Form Analysis is considered to be a conceptual indication of how the hilltop village centre in particular and the surrounding residential areas may be developed. It is acknowledged that PMHC are preparing a Development Control Plan (DCP) for Area 14 and St Vincent's Foundation have lodged a Concept Application with the Department. It is expected that the ultimate urban design controls and yields will be determined through the completion of Council's DCP and through the Department's future assessment of applications.

A summary of the proposed development along with an estimate of capital investment costs is shown below:

PROJECT SUMMARY TABLE		
Component	Description	Capital Investment Value
1. Low Density Residential	214-268 allotments. Subdivision construction Dwelling construction	\$17.4 mill ⁽¹⁾ \$9.05 mill ⁽²⁾
2. Medium Density Residential	68 medium density units Subdivision construction Units construction	\$2.6 mill ⁽¹⁾ \$24.5 mill ⁽³⁾
3. Commercial/ Residential/ Tourist	26 commercial/tourist (ground floor) 78 medium density units Subdivision construction Commercial Unit/ Apartment construction	\$2.0 mill ⁽¹⁾ \$35 mill ⁽⁴⁾
Estimated Total Capital Investment Value		\$90.55 mill

- Notes: (1) Subdivision capital investment costs (including developer contributions estimated to be \$65,000 per lot).
- (2) Dwelling construction costs estimated on the basis of \$1500/m².
- (3) Medium density unit construction costs estimated on the basis of \$1800/m².
- (4) Commercial unit and village centre residential/tourist apartment construction costs estimated on the basis of \$2000/m².

3. Compliance with Clause 6 SEPP (Major Projects) 2005:

We submit that the proposed residential/ commercial/ tourist development of the subject properties is a Major Project to which Part 3A of the

Environmental Planning & Assessment Act 1979 applies for the following reasons:

Compliance with Major Projects SEPP – Schedule 1 Group 5 (13) – Construction Project

The proposed residential/ commercial/ tourist development will generate construction capital investment of approximately \$90 million as outlined above and so exceeds the \$50 million threshold of the subject clause.

The proposed development is important in achieving state and regional planning objectives as follows:

- i. The proposed development incorporates significant environmental buffer works specifically designed to protect and enhance the existing SEPP 26 Littoral Rainforest adjoining the eastern boundary.

The objective of SEPP 26 is "to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to preservation of those areas in their natural state."

The proposed development has been designed to ensure state planning objectives with respect to littoral rainforests are achieved by:

- Preserving the entire SEPP 26 Littoral Rainforest in its natural state.
- Identifying potential threats to the existing SEPP 26 Rainforest potentially caused by the proposed development. Environmental buffer measures have been designed to minimise the possible impacts created by the potential threats.

The proposed environmental buffer measures have been described in Part (2) above and in **Attachments 4, 5 & 6.**

- Identifying other existing potential threats (not potentially caused by the proposed development) to the SEPP 26 Rainforest eg. Bitou bush/ weed invasion from eastern edge, existing bushfire risk on the western edge. Environmental buffer measures are proposed to minimise the potential impacts of such threats with a view to ensuring the existing rainforest is protected in its natural state

and the overall biodiversity outcomes are improved.

- Undertaking the environmental buffer works as the first stage of the development and in accordance with a Voluntary Planning Agreement.
- ii. The subject properties have been identified in the Hastings Urban Growth Strategy 2001 (HUGS) as urban investigation areas in the Lake Cathie Bonny Hills area. HUGS 2001 has been adopted by state and local government to provide a framework for the management of population growth in the PMHC local government area. The proposed development is consistent with HUGS 2001 and the subsequent Lake Cathie-Bonny Hills Urban Design Master Plan adopted in July 2004 and is important in achieving regional planning objectives with respect to future urban growth in the Port Macquarie Hastings LGA.

The subject properties are located wholly within the Coastal Zone as defined in the Major Projects SEPP. Residential land within a distance of 100m of the SEPP 26 Littoral Rainforest boundary is a sensitive coastal location in accordance with the provisions of SEPP 26.

A rezoning application to rezone the subject properties from Rural 1(a1) to Residential 2(a1) Open Space 6(h) and Environmental Protection 7(h) was lodged with PMHC in February 2006 (refer **Annexure 7**). PMHC have undertaken a peer review and have commissioned additional ecological and groundwater investigations to supplement the information contained in the rezoning application and assist in the completion of a Local Environmental Study.

A recent stakeholders meeting at the Department of Planning agreed that, pending the Minister forming the opinion that the proposed development is a Part 3A Major Project, the LES, the Voluntary Planning Agreement with respect to the implementation of environmental buffer works and the Concept Application, should if possible be considered concurrently by consent authorities.

We note that the proposed development would, but for the fact that the subject properties are not currently residentially zoned, be development of a type described in clause 1(1)(i) of Schedule 2 to the Major Projects SEPP. Namely, the subject properties are located in a coastal zone and the

proposed development will create more than 25 lots by way of subdivision. Once the proposed rezoning discussed above occurs, the subject properties will be residentially zoned and the proposed development would therefore satisfy all requirements of clause 1(1)(i) of Schedule 2.

While we do not suggest the Minister forms an opinion under clause 6 of the Major Projects SEPP that the proposed development is of a type described in clause 1(1)(i) of Schedule 2 to the Major Projects SEPP, we note this issue with you here as we submit it is relevant to the Minister in determining the State and regional planning significance of the proposed development. That is to say, it shows the proposed development is otherwise very similar to a type of development described elsewhere in the Major Projects SEPP and to which the Minister has previously declared is of State or regional significance and therefore is a project to which Part 3A applies.

4. Conclusion

We seek the Minister's opinion that the proposed residential/ commercial/ tourist development is, pursuant to Clause 6 of the Major Projects SEPP, a development of a kind that is described in Schedule 1 of the SEPP and as such is a project to which Part 3A of the Environmental Planning and Assessment Act 1979.

Documentation has been provided to show the proposed development is of a kind described in Schedule 1 Group 5 Construction Projects Clause (13) (1) having a construction capital investment value greater than \$50 million.

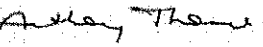
Further, the proposed development is important in achieving State and regional planning objectives with respect to:

- The preservation, protection and enhancement of the adjoining SEPP 26 Littoral Rainforest
- The management of future urban growth within the coastal zone in the Port Macquarie Hastings LGA

Should you require any further any further information to assist in the requested determination please do not hesitate to contact the writer.

Yours sincerely

King & Campbell Pty Ltd

per 

Anthony J Thorne