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10 October 2011

Our Ref: 11/11812  
Your Ref: 05\_0091

Attention: Stuart Withington

Department of Planning  
Received  
13 OCT 2011  
Scanning Room

Dear Stuart

**Re: Review of Environmental Assessment for Bayside Brunswick  
Concept Plan (05\_0091)**

I refer to your letter received on 25 September 2011 notifying exhibition of the Environmental Assessment submitted by Codlea P/L for the above project. Thank you for the opportunity to provide comments.

The development incorporates a Crown public road reserve 20.0 metres wide running roughly north-south through Lot 1 DP 871039 (as highlighted on the attached diagram).

The subdivision design incorporates the northernmost section of road reserve as part of the constructed access road network (extension of Omega Circuit). The balance of the road reserve will be situated within a proposed park (P1 "Eastern Bushland") to be dedicated to the public for environmental protection and public recreation.

The Ecological Assessment Report states that a Vegetation Management Plan (VMP) will be prepared and implemented for areas outside the residential development footprint including the Eastern Bushland park area. However future ownership and management of the public parkland has not been resolved and is subject to further negotiation with Byron Shire Council and State Government agencies.

Key measures in the proposed VMP include no development except for pedestrian access or essential environmental management, limited pedestrian access and no vehicular access except for essential management purposes.



DPI – Crown Lands supports the proposed dedication of the Eastern Bushland park area to the public but does not intend to register an interest in managing this area under the Crown Lands Act 1989.

The proposed development raises significant issues in terms of its relationship to the Crown road reserve and Crown Lands is concerned that these haven't been addressed either in terms of the subdivision design, future public access requirements, the VMP or future management options being considered for the "Eastern Bushland" park precinct.

The following points are pertinent to these considerations,

1. The Crown public road provides legal access through the development site by right and is identified as the Old Brunswick Road. It currently forms part of a strategic public access corridor that provides legal access to a number of land holdings to the south but doesn't give public access to Simpsons Creek. It has an unmaintained gravel track formation within the development site and may have significant value as a recreational access corridor.
2. Public use of the road is an existing risk management concern for the Crown in its capacity as Roads Authority under the Roads Act 1993. Any works or other land management activities on the road are subject to the consent of the Roads Authority (currently the Crown).
3. It isn't appropriate for the Crown to retain control of any Crown roads subject to approved development. Any section of road incorporated as part of the constructed road network should be transferred to the control of Byron Shire Council (as the appropriate local Roads Authority) pursuant to Section 151 – Roads Act 1993 on approval and prior to any works commencing.
4. The road reserve crosses and contains in part an ecologically endangered community (EEC) identified as Swamp Sclerophyll Forest on Coastal Floodplain. The Ecological Assessment Report indicates that a significant area of the road reserve is to be regenerated as part of a revegetated buffer zone to the EEC and adjacent bushland.
5. A VMP cannot restrict legal public access and a road reserve cannot be considered an environmental offset area whilst it remains public road. Incorporation of the road in any VMP is at the discretion of the Roads Authority and may not be supported where recommendations are inconsistent with public access rights. It is suggested that the proposed environmental offsets may be significantly compromised by the existing road reserve.
6. The rationale for the designed street layout in the subdivision report fails to effectively address the existing road reserve. It is considered that insufficient attempt has been made to integrate the road reserve and/or continuity of north/south access in the proposed development.
7. In view of the above constraints closure and/or realignment of the road reserve may be a more practical option. The provision of continuity of legal access for recreational or other purposes by instruments other than a public road should be considered.

8. The future of the road reserve needs to be considered in conjunction with any negotiated dealings in the adjoining land with Council or the Office of Environment & Heritage (OEH) to achieve integrated public land management outcomes. Crown Lands will not necessarily wish to retain control of a Crown road reserve situated within a public reserve managed by other public agencies or third parties.
9. The future of the road is contingent on addressing public access requirements. It is unknown whether adjoining properties to the south are dependent on this road for legal public access or the extent of other public access requirements. For many years local horse riding interests have been lobbying strongly for the Crown to retain the subject road reserve as part of a recreational trail network.

Given the above it is requested that the Concept Plan be modified to address the above points in consultation with this office.

If you require any further clarification of the above please don't hesitate to contact me.

Yours sincerely



Peter Baumann  
Natural Resource Management Project Officer  
Far North Coast