

KM 4898
Please quote our ref: 4898_333a

KING + CAMPBELL

5 September, 2011

The Director General
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

ATTENTION: Mr Enguang Lee

Dear Enguang

RE: MP 07_0010 – CONCEPT PLAN AND STAGE 1 PROJECT APPLICATION
LOT 4 DP 615261, LOT 1 DP 374315 AND PART CROWN RESERVES
R.82555 + R.754444, OCEAN DRIVE LAKE CATHIE

The Submissions Report (the Report) in relation to the abovementioned application was lodged with the Department of Planning on 25th February, 2011. The Report was accompanied by a full set of modified exhibits and sought to achieve the following:

- To identify a number of minor amendments to both the Concept Plan and Project Application;
- To set out a detailed description of the both the Concept Plan and Project Application for which the Ministers approval was being sought;
- To provide a response to the issues raised during the exhibition period;
- To provides a response to the Key Issues revised by the Department; and
- To produce a 'revised' Statement of Commitments for the Departments consideration.

The purpose of this submission is:

1. To address the Department's comments dated 23 June, 2011, in relation to the revised Statement of Commitments and to provide a 'final' version, dated August 2011;
2. To provide comments on the draft Concept Plan Approval;
3. To provide comments on the draft Project Approval; and

urban design

civil engineering

architecture

town planning

landscape architecture

surveying

directors

Paul Rowlandson
B Surv (Hons), MIS Aust

Anthony Thorne
B Surv, MIS Aust
Grad Dip Planning (UTS)

David Tooby
B L Arch, AAILA
Registered Landscape Architect

Scott Marchant
B Surv (Hons)

Craig Teasdel
B Arch, BA Arch, RAIA
NSW Architects Registration Board No 6952

consultant

Andrew Campbell
M Surv Sci, B Surv
MIS Aust, M Planning (UTS)

King & Campbell Pty Ltd
1st Floor, Colonial Arcade
25-27 Hay Street
Port Macquarie

PO Box 243
Port Macquarie, NSW, 2444

ABN 44 564 476 716

T: 02 6586 2555
F: 02 6583 4064

info@kingcampbell.com.au

www.kingcampbell.com.au

4. To clearly set out all revisions to exhibits/plans for both the Concept Plan and Project Application. A full set of exhibits for which the Ministers approval is being sought is attached to this submission.

1. Statement of Commitments

By email correspondence of 23 June, 2011, the Department provided the following comments in relation to the report:

1. *Commitment 2 (VPA) should be amended to show management obligations for 10 years and payment of contributions for 10 years, rather than 5 years management and 15 years payment.*
2. *Commitment 19 (Noise) requires amendment as concept approval is not granted for the 2m noise wall. Instead, further noise assessment is included in the 'further assessment requirements' of future DAs.*
3. *A commitment should be entered into regarding the staging of the project application. Specifically, the Department would like to see the completion of the pedestrian boardwalk and erection of permanent fencing prior to the commencement of the 2nd stage of the Concept Plan. Please also make a reference to temporary fencing in your statement of commitments as you seek temporary fencing during Stage 1 of the Concept Plan.*
4. *Commitment 3 (VPA) states that a signed VPA will be provided at PPR stage. Please amend accordingly.*
5. *Commitment 3 (VPA) should also be amended to show management obligations for 10 years and payment of contributions for 10 years, rather than 5 years management and 15 years payment.*

In response to the above the Statement of Commitments has been revised. The final SOC is attached, with all amendments shown in **red text**. The following provides a summary of these amendments:

General amendments:

- a. The Concept Plan commitments have been renumbered to correct an error in the numbering order and CP1 has been updated to reflect the correct plan and revision numbers; and
- b. The Project Application commitments have been renumbered following the addition of a new commitment (PA4 – Staging) and PA1 has been updated to reflect the correct plan and revision numbers.

Specific amendments:

- a. Commitments CP2 and PA3 have been amended to show management obligations for 10 years and payment of contributions for 10 years, as required by points 1 and 5 above;
- b. Commitment CP19 (now correctly numbered as CP18) has been amended to delete reference to a noise wall and to require the consideration of options at future DA stages, as required by point 2 above;
- c. A new commitment has been added (PA4 – Staging), generally consistent with the VMP and supporting Gantt Chart at Appendix PA_A, in response to point 3 above, noting;
 - i. A temporary exclusion fence will be provided in lieu of the fencing shown on the current plans; and
 - ii. The permanent exclusion fence adjacent to the footpath will be provided at the completion of works for the corresponding adjoining stages (M2, S2 and S5);
- d. Commitments CP16, CP17, PA2 and PA4 have been amended to require temporary fencing along the western edge of the planted buffer to the Littoral Rainforest as part of the Stage 1 CP (ie; where the permanent fencing is shown on the current plans), in response to point 3 above;
- e. Commitment CP3 has been amended to require the completion of the permanent exclusion fence to the Littoral Rainforest buffer (ie; adjacent to the footpath), at the completion of works for the corresponding adjoining stages; being M2, S2 and S5, in response to point 3 above; and
- f. Commitment PA3 has been amended to delete reference to a PPR, in accordance with point 4 above.

2. Concept Plan Approval – Part C: Environmental Assessment Requirements for Future Applications

C1: Acid Sulfate Soils	Future development applications for, but not limited to, Stages M2, M3, M4, M5 and M7 shall contain an Acid Sulfate Soil Management Plan prepared by a suitably qualified person(s) in accordance with the <i>Acid Sulfate Soil Assessment Guidelines</i> (Acid Sulfate Soil Management Advisory Committee, 1998) to ensure any works associated with Class 4 or Class 5 lands have appropriately considered the risk to acid sulfate soil disturbance.
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Comment: We suggest the condition should be reworded to require an Acid Sulfate Management Plan to only be included in future Development Applications (DA's) that propose to disturb Potential ASS in Class 4 or Class 5 lands.

C2: Bushfire Risk	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a detailed bushfire assessment and management plan prepared by a suitably qualified person(s) to ensure the protection of property and assets. The assessment must, at a minimum, demonstrate consistency with the requirements of <i>Planning for Bushfire Protection 2006</i> .
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Comment: The Bushfire Assessment enclosed with the Concept Plan Application (CPA) addresses the requirements of Planning for Bushfire Protection 2006. The next DA will likely seek approval for all low density lots and development lots in the Hilltop Village and medium density areas. Additional bushfire assessments should only be required for developments not already assessed in the CPA.

C3: Construction Management	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include an outline Construction Environmental Management Plan (CEMP) that details measures to address the impacts of construction demonstrating consistency with the <i>Guideline for the Preparation of Environmental Management Plans</i> (DIPNR, 2004). The outline CEMP shall include but not be limited to traffic and pedestrian management, noise and vibration management, construction waste management, erosion and sediment control management, dust management and flora and fauna management.
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Comment:
Future DA's are likely to cover more than one stage as outlined above. It is assumed this Management Plan will be required as part of a Construction Certificate application when the extent and content of works are known.

C4: Cultural Heritage Management	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a Cultural Heritage Management Plan prepared by a suitably qualified person(s) that outlines the site specific management strategies relating to items of Aboriginal cultural heritage significance which may be found on site.
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Comment: We question the need for this condition given the identified site is within the Littoral Rainforest which is to be provided with a fenced vegetated buffer before residential development is commenced.

C5: Flooding and Climate Change	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a flood assessment prepared by a suitably qualified person(s) to ensure the protection of life and property during a flood event. The flood assessment must have regard to the recommendations in Cardno's <i>Flood Assessment Report</i> dated 13 October 2010, the objectives outlined in the NSW Government's <i>Floodplain Development Manual 2005</i> , Council's <i>Interim Port Macquarie-Hastings LGA Flood Policy 2007</i> and <i>NSW Coastal Planning Guideline: Adapting to Sea Level Rise 2010</i> .
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Comment: We question the need for further consideration of flooding issues in each stage given:

- The flood prone land is wholly contained in Stages M2, M5 and M4;
- The Cardno report has addressed the impacts of the proposed filling and the requirements of the stated policies.

C6: Geotechnical	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a geotechnical assessment prepared by a suitably qualified person(s) addressing the potential for slope instability. A geotechnical report shall detail the necessary footings required for future buildings in accordance with <i>AS2870 – 1996 Residential Slabs and Footings – Construction</i> .
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Comment: Please remove the second sentence as the site classification report is required by Council prior to the release of any Subdivision Certificate Applications.

C7: Infrastructure	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include an Infrastructure Servicing Plan prepared by a suitably qualified person(s) that identifies servicing requirements necessary for the development and upgrades proposed to the existing system.
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Comment: No comment.

C8: Land Title	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include details of land title e.g. torrens title, community title including any proposals for the dedication of land to Council for ownership and/or management.
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Comment: no comment.

C9: Noise	Future development applications for proposals fronting Ocean Drive must include a Road Traffic Noise Impact Assessment in accordance with relevant guidelines to demonstrate acceptable noise impacts to future occupiers of the development and determine appropriate noise attenuation requirements within future developments adjacent Ocean Drive. Noise attenuation measures including buffers, mounds, landscaping, and construction standards are to be considered as part of each development application.
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Comment: No comment.

C10: Riparian Zone Management	Future development applications relating to Stage M2 shall include a detailed Vegetation Management Plan prepared by a suitably qualified person(s) to ensure the appropriate management of the riparian zone of Duchess Gully. The Vegetation Management plan shall be generally in accordance with the Stormwater Concept Plan (Exhibit 8A Revision F) to assist in achieving the water quality targets set out in Port Macquarie-Hastings Council's <i>Area 14 Integrated Water Cycle Management Plan</i> . The Vegetation Management Plan must address and outline impacts on the surrounding riparian environment, drainage and water quality controls for this south west sub-catchment.
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Comment: No comment.

C11: Stormwater and Groundwater Management	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a detailed Stormwater Management Plan that is generally in accordance with the Stormwater Concept Plan (Exhibit 8A Revision F). Stormwater Management Plans shall demonstrate that water quality targets set out in Port Macquarie-Hastings Council's <i>Area 14 Integrated Water Cycle Management Plan 2006</i> will be achieved or exceeded. Each stormwater management plan must address impacts on the surrounding environment and water quality controls for the relevant sub-catchment at construction, maintenance and operational stages.
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	Each stormwater management plan is to include groundwater considerations, a detailed design layout plan for the preferred stormwater treatment train showing location, size and key functional elements of each part of the system. MUSIC modelling, or equivalent, must be undertaken to demonstrate appropriate water quality objectives can be achieved. A Groundwater Management and Monitoring Plan shall be prepared in accordance with Council's <i>Area 14 Integrated Water Cycle Management Plan 2006</i> .
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Comment: No comment.

C12: Traffic Management	Future development applications for each stage outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall contain a detailed Traffic Assessment to ensure that the surrounding external traffic network is not exceeded in accordance with the <i>Road and Traffic Authority's Guide to Traffic Generating Developments</i> . Each traffic assessment must take into account traffic movements from the project and in the wider Area 14 area and shall be submitted to the Council and Roads and Traffic Authority for approval. Any traffic assessments that reveal traffic impacts on the road network shall include mitigation strategies including road and/or junction upgrades for consideration by the consent authority.
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Comment: We question the need for further traffic assessments given that the Roadnet Area 14 Traffic Impact Assessment has considered the impact of the development of the whole of Area 14.

C13: Urban Design	Future development applications for each stage of development outlined in the Indicative Staging Plan (Exhibit 5B Revision C) shall include a detailed urban design analysis to ensure the future built form is in keeping with its local context and its natural and urban setting. Each urban design analysis shall be presented having regard to the <i>Coastal Design Guidelines for NSW</i>, the <i>Greater Lake Cathie and Bonny Hills Urban Design Master Plan</i> and the <i>Port Macquarie-Hastings DCP 2006</i>. All future applications are to provide plans which: (1) Demonstrates the implementation of the levels of accommodation provided for in the approved concept plan; (2) Presents the architectural aims and objectives of each stage; (3) Presents the proposed architectural and urban design details and construction materials for its buildings; and (4) Details the number, size of dwellings and density of each stage.
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Comment: The DA's for subdivision of the low density residential areas will not include housing detail.

3. Project Approval – Schedule 3: Environmental Management Conditions

Fencing Design	11. Prior to the issue of a Construction Certificate, detailed plans of the regeneration area fencing shall be submitted to and approved by Council. The fencing must be designed in a manner to protect the SEPP26 Littoral Rainforest from human intrusion whilst ensuring visual amenity is preserved. Details are to include, but not be limited to: a) the location, materials, height and colour of the fencing; b) measures to prevent native animal entrapment within the rainforest while preventing domestic animal intrusion into the rainforest;
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	c) construction details outlining proposed depths of footings and measures to protect roots of existing vegetation; d) details of accompanying spiky hedge planting; and e) details of educational signage and methods of signage erection in the vicinity of the walkway entrance.
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Comment: Temporary fencing only in the Stage 1 PA.

Pedestrian Boardwalk	12. Prior to the issue of a Construction Certificate, detailed plans of the pedestrian boardwalk shall be submitted to and approved by Council. The design of the boardwalk must be designed in a manner to protect the SEPP26 Littoral Rainforest while facilitating pedestrian access through to the public foreshore. Details are to include, but not be limited to: a) design and materials details of the boardwalk and the self closing gate at the entrance of the walkway; b) construction details outlining proposed depths of footings and measures to protect roots of existing vegetation; and
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Comment: No comment.

Environmental Management	13. All affected trees within the SEPP26 Littoral Rainforest are to suitably protected by way of tree guards, barriers or other measures as necessary to protect roots, trunks and branches during construction of the project. 14. An appropriately qualified fauna handler shall be present on site when weeds marked for removal are removed.
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Comment: No comment.

Aboriginal Cultural Heritage	15. Should any future works associated with the site uncover evidence of any unexpected Aboriginal archaeological site or relic, all work likely to affect that site or relic must cease immediately. Temporary fencing must be erected around the find and the material must be identified by an independent and appropriately qualified archaeologist. The Office of Environment and Heritage must be notified as soon as possible who will then advise of the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Office of Environment and Heritage. 16. All construction personnel involved in initial ground surface disturbance activities shall undergo an Indigenous Cultural Heritage Induction training session before commencing any construction activities. The Induction should be presented by an appropriately qualified person and provide specific information in relation to the processes to be followed should any Indigenous items be uncovered as well as the types of and identification criteria for cultural heritage material that may be uncovered.
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Comment: No comment.

Construction Management	17. The Council shall be given written notice of the commencement of works at least 48 hours prior to works commencement. 18. The hours of construction for the project, including the delivery of materials to and from the site, shall be restricted as follows: a) between 7:00 am and 5:00 pm, Mondays to Friday, inclusive; b) between 8:00am and 1:00pm on Saturdays; and c) at no time on Sundays and public holidays 19. During construction, the Proponent shall: a) Prominently display a site notice for the purposes of informing the public of project details including, but not limited to: i. details of the Proponent, contractor and PCA; ii. the approved hours of work; and iii. contact details for the site manager and/or liason manager for any inquiries or complaints; b) provide a copy of the approved and certified plans and conditions of approval on site; c) carry out all reasonable and feasible measures to minimise soil erosion; and d) ensure that all vehicles leaving the site do not track dirt on the public road network.
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Comment: No comment.

4. Exhibits to accompany CP and PA

The amendments above in relation to the fencing adjacent to the Littoral Rainforest have required a minor modification to a number of the exhibits. In addition the buffer distance for Duchess Gully has now been included for clarity and consistency. A complete set of exhibits for which the Ministers approval is being sought have been reissued and are attached.

The table below sets out the new revision numbers, together with a description of the amendment:

SR exhibit number	Exhibit description	Revised exhibit number	Description of amendment
01, rev D 10.02.11	Site Locality and Context	-	No revisions.
02, rev E 15.02.11	Site Survey	-	No revisions.
03, rev D 15.02.11	Aerial Photograph	-	No revisions.
04A, rev F 15.02.11	Site Analysis	-	No revisions.
04B, rev E	Opportunities and Constraints	04B, rev F 12.07.11	Location of final fencing to Littoral Rainforest identified.
05A, rev G	Subdivision Concept Plan	05A, rev H	Location of both temporary and

SR exhibit number	Exhibit description	Revised exhibit number	Description of amendment
		12.07.11	final fencing to Littoral Rainforest identified.
5B, rev C	Indicative Staging Plan	05B, rev D 12.07.11	Location of final fencing to Littoral Rainforest identified.
06A, rev D	Landscape Concept Plan	06A, rev E 12.07.11	Location of final fencing to Littoral Rainforest identified.
06B, rev D	Landscape Concept Plan – Public Access	06B, rev E 29.07.11	Location of both temporary and final fencing to Littoral Rainforest identified.
06C, rev C 07.07.10	Landscape Concept Plan – Hilltop Village	-	No revisions
06D, revD	Landscape Concept Plan – Indicative Edge Treatment	06D, rev E 14.07.11	Location of both temporary and final fencing to Littoral Rainforest identified.
06E, rev C 19.05.11	Western Boundary Edge Treatment	-	No revisions.
06F, rev B 19.05.11	Cross-Section Western Boundary Edge	-	No revisions.
07, rev C 07.07.10	Indicative Hilltop Village - Architectural Treatment	-	No revisions.
08A, rev G	Stormwater Concept Plan	08A, rev H 12.07.11	Fencing detail deleted.
08B, rev C	Indicative South Western Biofiltration Basin Detail	08B, rev D 14.07.11	Exhibit revised to include buffer width distances, as shown on Exhibit 10
08C, rev C 14.10.10	Western Catchments Music Model Setup Post Development	-	No revisions.
08D, rev C 14.10.10	Western Catchments Drains Model Layout	-	No revisions.
08E, rev C 14.10.10	Western Catchments Drains Model Pre Development Input & Outputs	-	No revisions.
08F, rev C 14.10.10	Western Catchments Drains Model Post Development Input & Outputs	-	No revisions.
08G	Eastern Catchments (Appendix D - sheet 6 of 11, Martens, July 2010)	-	No revisions.
08H	Eastern Catchments (Appendix D - sheet 7 of 11, Martens, July 2010)	-	No revisions.
08I	Eastern Catchments (Appendix D - sheet 8 of 11, Martens, July 2010)	--	No revisions.
08J	Eastern Catchments (Appendix D - sheet 9 of 11, Martens, July 2010)	-	No revisions.
09A, rev D 15.02.11	Photo Locations for View Analysis	-	No revisions.
09B, rev C, 3 sheets 07.07.10	View Analysis	-	No revisions.
09C, rev E, 4 sheets 15.02.11	View Analysis: Beach Sections and Photos	-	No revisions.
09D, rev C 07.07.10	View Analysis: Panoramic View from Site	-	No revisions.
10, rev J 15.02.11	Proposed Zone Plan.	-	No revisions.
PA01, rev C	Site Context	PA01, rev D 12.07.11	Location of temporary fencing to Littoral Rainforest identified.

SR exhibit number	Exhibit description	Revised exhibit number	Description of amendment
PA02, rev C 15.02.11	Site Survey	-	No revisions.
PA03, rev C 15.02.11	Aerial Photograph	-	No revisions.
PA04, rev D, sheet 01 15.02.11	Site Analysis	-	No revisions.
PA04, rev C, sheet 2 15.02.11	Site Analysis – Baseline Weed Map	-	No revisions.
PA05, rev E, sheet 1	Vegetation Management Plan	PA05, rev F, sheet 1 12.07.11	Location of temporary fencing to Littoral Rainforest identified; and Hedge of <i>lomandra longifolia</i> removed.
PA05, rev E, sheet 2,	Vegetation Management Plan	PA05, rev F, sheet 2 12.07.11	Location of temporary fencing to Littoral Rainforest identified; and Hedge of <i>lomandra longifolia</i> removed.
PA06, rev B, sheet 1	Rainforest Boardwalk	PA06, rev C, sheet 1 14.07.11	Location of both temporary and final fencing to Littoral Rainforest identified; and Area for Stage 2 VMP noted.
PA06, rev A, sheet 2 07.07.10	Rainforest Boardwalk	-	No revisions.

We thank you for this opportunity to provide comment. If you require additional information please do not hesitate to contact either Kylie Moore or the writer.

Yours sincerely
King & Campbell Pty Ltd



Anthony J Thorne