



#### Newcastle Office

Ground Floor, 241 Denison Street, Broadmeadow, NSW Australia 2292

PO Box 428, Hamilton, NSW Australia 2303

T +61 2 4940 4200 F +61 2 4961 6794 E [newcastle@rpsgroup.com.au](mailto:newcastle@rpsgroup.com.au) W [rpsgroup.com.au](http://rpsgroup.com.au)

Our Ref: 25856

Date: 30<sup>th</sup> June 2010

LEONARD ALLEN  
SENIOR DEVELOPMENT PLANNER  
PORT STEPHENS COUNCIL  
PO BOX 42  
RAYMOND TERRACE NSW 2324

Dear Sir,

**RE: DRAFT CONDITIONS OF CONSENT REGARDING DEVELOPMENT APPLICATION (811-2009) FOR 8 LOT SUBDIVISION AT LOT 248 DP806310, 155 SALAMANDER WAY, SALAMANDER BAY**

---

Thank you for forwarding the draft Conditions of Consent regarding the abovementioned Development Application. Following a review of the draft conditions, there are a small number of conditions that are of concern. These conditions are listed below, with a response outlining the concern of the proponent.

**Condition 32**

*Stormwater detention/infiltration basins, stormwater treatment devices, overland flow paths shall be endorsed by a positive covenant and a registered surveyor is to certify that all stormwater systems are covered with an easement.*

**Response:** This condition is relevant for most of the stormwater basins and devices through the development. However, the proposed stormwater basin and devices on Lot 3 & 7 are temporary until the site is further developed. It is proposed that this condition be reworded to relate to all permanent stormwater basins, devices and overland flow paths, but exempt the temporary basins and devices proposed for Lot 3 & 7 until such time as the final stormwater basin and devices are constructed.

**Condition 47**

*Provisions shall be made for the widening of minor road 2 to facilitate the construction of a cul-de-sac head or turning facility at the end of Minor Road 2. Details are to be approved by Council prior to issue of a Construction Certificate.*

**Response:** The intention of this condition is to amend the layout to provide sufficient area for the future provision of a cul-de-sac head or turning facility, although the construction at this stage has been deemed unwarranted considering the pending proposal to develop Lot 1. To ensure no confusion over the intention of this condition is requested it be amended to the following:

*Provisions shall be made for the widening of minor road 2 to facilitate the **potential for future construction of a cul-de-sac head or turning facility, to provide sufficient turning area if required at a future stage**, at the end of Minor Road 2. Details are to be approved by Council prior to issue of a Construction Certificate.*

**Condition 53**

*The pedestrian linkage indicated on the pedestrian connections plan (dated 7 June 2010, prepared by Terras landscape architects, ref: 8386.5 Rev: C) along the southern boundary of proposed lot 6 shall be incorporated into an easement for access on the site the title of these properties shall be endorsed under Section 88B of the Conveyancing Act 1919 to give effect to this condition. Council shall be nominated as the prescribed authority permitted to release, vary or modify the instrument.*

**Response:** The pedestrian linkage illustrated on the Pedestrian Connection Plan shows a possible and the most likely connection scenario for the development of Lot 6. However, the establishment of an easement across the allotment will affect the development options of the site and is considered not consistent with s5(ii) of the *Environmental Planning and Assessment Act 1979 - the promotion and co-ordination of the orderly and economic use and development of land*.

The future development of Lot 6 would logically incorporate some linkage to the existing Salamander Shopping Centre, however, this connection will require a commercial agreement between the Centre's owners and the developer of Lot 6. Creating an easement along the boundary of the allotment would create development restrictions for this potential future shopping centre connection. It is considered that any commercial enterprise would want connections between the east and western side of the site, as increasing pedestrian access will also increase potential customers to their complex. The establishment of an easement to predetermine the location of the pedestrian access would limit design options for the development of the site and potential growth/connection between the sites and the Salamander Shopping Centre. It is considered that suitable development controls will exist at the individual development application stage for Lot 6 to ensure that the most appropriate design for the site is developed and includes pedestrian linkages between the east and west areas of the site. It is proposed that this condition be removed.

**Condition 54**

*A large Public Recreation Park dedicated to passive recreation shall be provided on proposed Lot 3. This space shall be classified as community land for the purposes of public passive recreation and be linked to the integrated pedestrian network. The park shall be designed in accordance with Section B1 of Port Stephens Development Control Plan 2007. Details of the park shall be provided to Council prior to issue of Construction Certificate.*

**Response:** The establishment of a public recreation park on Lot 3 in addition to the passive recreation area provided by the drainage reserve is not an appropriate land use of the site and does not relate to the commercial aspects of the precinct. As stated in previous correspondence to Council, the majority of the commercial land at Salamander Bay is occupied by the Salamander Shopping Centre and other ancillary commercial operations. The area serves as a shopping precinct for the Tomaree Peninsular. The commercial area is significantly different from the other existing commercial zoned land within the Peninsular. Nowhere else on the Peninsular has a concentration of shopping services. This is due to the function of the Salamander commercial area as the dominant shopping precinct.

Contemporary town planning differentiates between commercial shopping precincts and traditional town centres. Nelson Bay and Shoal Bay commercial areas serve as distinct town centres with a mix of commercial and residential development. The Salamander Bay commercial area comprises a conglomerate of anchor retail companies which provides a different function and service to the Nelson Bay and Shoal Bay commercial areas. The Salamander Bay commercial precinct is not a traditional town centre as depicted by the style of development at Nelson Bay and Shoal Bay and the establishment of a public recreation park is not the most appropriate use of the site or the best outcome for the community. The proposed board walk and surrounding area within the proposed drainage reserve will provide a suitable area for passive public recreation and will be linked to the integrated pedestrian network. This area will have dedicated seating and a raised boardwalk within a large open space and will be dedicated for public passive recreation. It is considered that this area is sufficient to service the public recreation needs of the site as the predominant public demand for land uses for the precinct relate to shopping, cafes and associated services, not recreation.

The subject site represents the last vacant commercial zoned land at Salamander Bay and the best strategic development location for collocation of commercial shopping related land uses, not mixed use residential or recreational land uses. It is considered that the current proposal represents the best socio-economic outcome to service the local community. The creation of additional public recreation area in addition to the dedicated area around the drainage reserve within the only commercial shopping precinct on Tomaree Peninsular is unwarranted and is considered not consistent with s5(ii) of the *Environmental Planning and Assessment Act 1979 - the promotion and co-ordination of the orderly and economic use and development of land*.

There is strong demand from residents of Tomaree Peninsular for the development of the site to provide additional bulky goods plus other services and supportive commercial/shopping development. There is no such demand for the creation of an additional public recreation area beyond the area to be dedicated and landscaped around the drainage reserve for the commercial shopping precinct. The dedication of Lot 3 as a public recreation park would have a major impact on the ability of the centre to meet the current and future demand of commercial/shopping service supply for the Tomaree Peninsular. The potential use of a park on Lot 3 is considered to be low, as the community visit the commercial shopping precinct to shop and passive recreational needs will be met by the area within the landscaped area of the proposed drainage reserve.

The Development Application and associated environmental assessments have demonstrated that there is no significant impact in developing the site in accordance with the requirements pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act). In this circumstance, the proposal will result in significant positive social and economic outcomes as the proposal will facilitate the opportunity to increase the commercial/shopping services that are currently demanded by the local community, in the most suitable strategic planning locality for the Tomaree Peninsular. Reducing the development area of the site for public recreation park is not economically sound or socially responsible. It is considered that the opportunity for collocation of services contributes to the strategic merit of the proposal and that the socio-economic merit of providing commercial related land uses where demand is strong and land area is limited, in this circumstance, outweighs the public recreational land use merits of the site. It is proposed that this condition be removed.

We trust this information is sufficient to justify the amendments or removal of the relevant conditions of consent, however should you require any further details or clarification, please do not hesitate to contact the writer by telephone.

Yours sincerely  
**RPS**

A handwritten signature in black ink, appearing to read 'Steve McCall'.

Steve McCall

cc: Norman Barnes, Port Stephens Council