

Telephone Inquiries:
MR L W ALLEN
File No:
16-2009-811-1
Parcel No: 24684

27 May, 2010

RPS HARPER SOMERS O'SULLIVAN PTY LTD
PO BOX 428
HAMILTON NSW 2303

Dear Sir/Madam

Re: Proposal: Eight (8) Lot Subdivision - TT
Property: LOT: 284 DP: 806310
155 Salamander Way SALAMANDER BAY

Reference is made to the abovementioned development application lodged with Council and your correspondence dated 31st March 2010.

Council has undertaken a review of the additional detail submitted and provides the following comments

Development Control Plan 2007

Council has considered your response with respect to issues pertaining to DCP2007. Concern still exists however about the ability of the built form in the concept plan to comply with the provisions of Section B4 – Commercial and Mixed Use Development of DCP2007.

Consideration needs to be given to the future developments ability to meet these requirements.

Strategic Issues

The current proposal, for close to 100% Lot yield, is unworkable and would result in an unacceptable environmental impact given the significant site constraints.

There are alternative design options that are more sensitive to the local environment, give appropriate consideration to the Council DCP, the LEP and other relevant Council sustainability policies.

It is considered that this application represents a unique opportunity for positive town centre urban development outcomes to service the local community. It is recommended that this opportunity be taken to redesign the proposal considering not only Councils LEP, DCP and policies, but also the findings of the urban design guidelines provided by the "Deicke Richards " report and Council DCP 2007. Many of the key

issues could be reasonably addressed by retaining all of the western area of the site that is vegetated, reduce the amount of new road construction, provide additional public open space for passive recreation and incorporate appropriate environmentally sound landscaping in the east and the south.

Drainage and Water Quality

Councils Drainage Engineer has reviewed the additional detail provided and has provided the following comments;

I have reviewed the drawings (90262—issue C) and am providing the following comments.

- All the stormwater treatment devices (SPEL GPTs) should be installed at the inlet to the infiltration system and not at the outlet to the infiltration system. Pollutants (silt, gross pollutants etc) must be collected before entering the infiltration system.
- The performance criteria of the SPEL GPTs are not provided in the drawings to assess the effectiveness of the GPTs.
- It is important to install all GPTs offline to prevent the upstream flooding. That means the GPTs are not functioning at the design level, then water can by-pass the system without impacting the upstream properties.
- Sizing of the GPTs must include the maintenance frequency of the units.

Stormwater Quantity issues

Catchment 1 & 2—Infiltration 1 & 2

- Pit 6 – Drawing indicates 900 SQ. This pit receives stormwater from 2x600mm diameter pipe and discharges water to the wetland via twin 600mm dia pipes. 900mm SQ pit is not sufficient enough to collect and discharge the stormwater from 2x600mm diameter pipes.
- The reach P8-P6 could be constructed with Ribloc pipes to increase the infiltration through the system.
- Pit 8 is a grated stand on legs pit and located on road reserve. This may be a hazard to the general public. The inlet pit at this location must be constructed as flush on ground. Additional inlet pits may be necessary to accommodate all stormwater (up to 100 year ARI) into the pipe system.
- Infil 2: Infiltration system with Atlantis cell is difficult to maintain. There is no way Council can maintain this system if it is constructed with Atlantis Cell. Therefore, an alternative product (Humecept or Ribloc) is required for the construction of infiltration basin. Each pipes or arch must have maintenance access.
- Infil 1: There is no information available for this basin (invert level, obvert levels, invert levels of the pipes in relation to invert level of the basin).
- Details of pits requiring buffles need to be listed in the drawing.
- The appropriate location for SPEL GPT in this catchment is downstream of Pit 6. This will allow treatment for all stormwater from the development as well as road. There is no point of installing a GPT just downstream of an infiltration system.

Catchment 3—Infiltration 3

- There is no hydrological and hydraulic calculation available for minor drainage system (10 year ARI storm events) and major drainage system (100 Year ARI storm events). What are the inflows and outflows? What is maximum water level? How long water retain in the basin at spillway level and outlet pipe level?
- Basin invert level is 4.5m AHD and the invert level of the outflow pipe is 4.8m AHD. This basin is only store 300mm of water for infiltration purpose and majority of the water will bypass the system. I do not think, this basin will work as an infiltration basin.
- There is no maintenance access for this basin to carry out future maintenance.
- Gross pollutant trap must be installed at the inlet pipe and not at the outlet pipe.
- I am not sure why a large culvert is necessary as an outlet under the road to discharge the water from this catchment to the wetland. Capacity of the culvert is unknown.

Catchment 4—Infiltration 4

- Similar problems and similar comments as catchment 3-infil3.
- No maintenance access to go to the bottom of the basin and carry out maintenance work.
- It is too deep and requires fencing around.

Catchment 5—Infiltration 5

- Why this basin is located middle of the lot?
- Are there any easementst over the pipe, basin and maintenance access?
- Will this basin re-locate later stage?

General comments

- All the pits connecting Ribloc pipes must have grate on top for inspection and maintenance purpose.
- All the pits connecting Ribloc pipes must have silt collection components.
- All the gross pollutants must be collected before entering the Ribloc pipes.

Roads

Major Road 1

- The road embankment slopes are too steep and it can easily collapse. Some of the cross section indicates 1:0.8 (V:H) slope for road embankment and this is totally inadequate for sandy soil. Minimum slopes for sandy soil at least 1:3 (V:H) for stability of the road.
- Council Officers John Maretich or Rick Mackenzie should be contacted about the road stability and other road related matters.

Flora and Fauna Issues

Councils Environmental Projects Officer has reviewed the additional information and provides the following comment.

PSC-Environmental Services does not support the proposal in its current form for the following reasons.

1. Upon full assessment of the CKPoM assessment provided by the applicant PSC-Environmental Services have concluded that it fails the performance criteria and it doesn't meet the waiver provisions of these criteria in the CKPoM.

As the applicant has identified that the 'proposal does not comply with the 'Performance Criteria' the applicant has therefore has proposed that, for this development the waiver provisions of the CKPoM performance criteria be applied. In order for the Performance Criteria to be waived the following must be demonstrated:

- 1) *That the building envelope and associated works including fire fuel reduction zones **cannot** be located in such a way that would avoid the removal of native vegetation within Preferred or Supplementary Koala Habitat, Habitat Buffers, or Habitat Linking Areas, or removal of preferred koala food trees;*
- 2) *That the location of the building envelope and associated works **minimises** the need to remove vegetation as per 1 above;*
- 3) *That, in the case of subdivisions, they are designed in such a way as to retain and enhance koala habitat on the site and are consistent with the **objectives** of this appendix; and*
- 4) *That koala survey methods (as per the Guidelines for Koala Habitat Assessment in Appendix 6) have been used to determine the most appropriate location for the building envelope and associated works (so as to minimise the impact on koala habitat and any koala populations that might occur on the site).*

The current proposal does not meet waiver provisions 1-3 (listed above), performance criteria a), b), and c) nor does it meet the objectives of the performance criteria as required in waiver provision number 3 in regard to subdivisions (above).

The application has proposed to remove preferred koala habitat and buffer zones. The Statement of Effect on Threatened Flora and Fauna report states "The proposal would result in the removal of most of the vegetation constituting 'Preferred Habitat' and 'Habitat Buffer'."

For this reason the proposal does not meet the waiver clause provision 1) – the building envelopes and resulting subdivision footprint could be located in a way that would avoid the removal of native veg within Preferred or Supp Koala

Habitat, Habitat Buffers or Habitat Linking Areas, or the removal of preferred koala food trees.

In regard to waiver provisions 2 and 3, when considering the development sites size and the apparent expectation from the developer to fill the site close to 100% of its area it is clear that there has been minimal attempt to avoid the removal of this vegetation on site. Lot 7 as per the concept plan has no indicated future uses, and therefore could be an appropriate location for the more westerly land uses (Medical Centre, and Supermarket). If this was to occur, the applicant would then demonstrate that the proposal has been located in such a way as to avoid removal of koala habitat.

Further to this, if the applicant was to retain the existing corridor along the western edge of the site and rehabilitate the existing disturbed area within the corridor it would adequately meet Performance Criteria d), e) and f), those that are still required to be met along with the waiver provisions of 1), 2 and 3).

A corridor of 100m in width is considered to be the minimal patch size in order to be effective for Koala passage and long term viability. (Planning Guidelines for Koala Conservation and Recovery - a guide to best planning practice, Mc Alpine et al. 2006). The current proposal suggests plantings along the road on the western boundary at a width of 10 meters. This adjoins vegetation adjacent to the site in Mambo wetlands with a width of approximately 30 meters at its smallest point and 80 meters at its largest. In total the current corridor as recognised by the applicants ecologist is viable considering its width. However the proposal will reduce the width of the corridor endangering its viability.

PSC- Environmental Services recognise that a 100 meter corridor does currently exist on the site and that Koala's are currently using the corridor which is highly disturbed. Therefore in line with the PSC-CKPoM Performance Criteria, in order for the applicant to apply the waiver clause they must make provision for restoration of this corridor (not reduction), and result in a net gain of koala habitat on or adjacent to the site.

“ d) Make provision, where appropriate, for restoration or rehabilitation of areas identified as Koala Habitat including Habitat Buffers and Habitat Linking Areas over Mainly Cleared Land. **In instances where Council approves the removal of koala habitat (in accordance with dot points 1-4 of the above waive clause), and where circumstances permit, this is to include measures which result in a “net gain” of koala habitat on the site and/or adjacent land;**”

2. A Seven Part Test was carried out by the applicant to determine impact upon Endangered Ecological Community – Swamp Sclerophyll Forest. The test carried out by the applicant found no significant impact. However PSC-ES raise questions as to what was considered by the applicant to be the 'locality'. The applicants ecologist has identified the locality as the Tomaree Peninsula. PSC-ES

consider the locality to be that of Salamander Bay and some neighbouring suburbs such as Corlette, Soldiers Point and Anna Bay – not the entire Tomaree Peninsula.

PSC-ES advise that in order to correctly carry out the seven part test in a local context and in turn determine if there is a significant impact it should be carried out in a more localised context. This may have ramifications for the final outcome of the Seven Part Test for the development and associated species that were assessed.

Additionally the applicant has proposed an offset site as part of mitigation measures proposed in 7 Part Test assessments. The applicant states in its Swamp Sclerophyll Forest Assessment

“Taking the recommendations of weed, erosion, and sediment control as part of any works within the site to protect areas of Swamp Forest within the adjoining Mambo Swamp Reserve **together with the proposal for compensatory offsets** it is considered that no areas of habitat important to the long term survival of the species will be removed, modified, fragmented or isolated”.

And during the Koala assessment in the 7 Part Test the following is stated.

“Taking the recommendations ... within the site ... as well as the **plan for compensatory offset land** it is considered that no significant areas of habitat are likely to be removed that is essential to the long term survival of the Koala in this area”

Similar statements regarding to the compensatory offset site are made during the 7 Part Tests for the Wallum Froglet, Squirrel Glider, Brush-tailed Phascogale, Grey headed Flying Fox.

As suggested in the applicants 7 Part Test - PSC- Environmental Services consider the offset proposal to be an integral mitigation measure to the development. However the applicant has stated in its supplementary flora fauna information provided that

“the offset provision is seen as a voluntary action”

PSC-ES does not agree with this statement as the offset proposal forms an integral part of the 7 Part Test provided by the applicant in November 2009.

3. SEPP 14 Wetland exists on the adjacent property to the west – Mambo Wetlands. Port Stephens DCP stipulates that development should not occur within 40 meters of a SEPP 14 Wetland. It is noted that the applicants ecologist has found that the gazetted boundary of the SEPP 14 Wetland in question is not accurate, and should be revised. It is understood that an application will be or has been

made to adjust the wetland map to incorporate the revised boundary, however no information has been provided to council advising so. PSC-ES require this information for assessment. As it stands the development is also within a 40m buffer zone to the SEPP 14 wetland, which contradicts the requirement of council's DCP.

Additionally stormwater should not enter the adjacent SEPP 14 wetlands untreated. Treatment must not only include gross pollutant but also urban runoffs such as oils and greases etc. Opportunity exists to improve the current stormwater situation on the site which is less than desirable.

4. Port Stephens Council – Environmental Services (PSC-ES) does not consider this development to meet council policy – in the form of the CKPoM principles and standards, PSC – Futures Strategy, or PSC – Sustainability Strategy.

PSC-CKPoM

According to the Port Stephens Comprehensive Koala Plan of Management “it is Councils responsibility to demonstrate best-practice management of koala habitat by incorporation of the principles and standards of the CKPoM into all council developments and activities.” This is stated in the adopted PSC- CKPoM which was adopted by council as part of State Environmental Planning Policy 44.

PSC- Futures Strategy

The futures strategy defines various “Futures” such as Social, Economic, Environmental etc - which include key strategic directions designed to achieve the goals of the Futures Strategy.

Beneath the Environmental Futures section it defines various strategic directions including:

“Plan and manage development and growth so that it is undertaken in a truly sustainable manner”

“Maintain and improve upon existing biodiversity levels”

Further to this the “Achieving Sustainable Development and Infrastructure” section of the futures strategy defines the following strategic directions.

“Sustainability will be: The basis for planning a balance between development and environment in the shire”

“Sustainability will be: Achieving inter generational equity in terms of environmental conservation, service provision, and the basis of financial management of council.

“Good development is development that: Respects the coastal and environmental attributes and heritage of the shire.”

PSC-ES recognise that other sections of the Futures Strategy lend argument to the development of this site as a shopping centre. PSC-ES do not oppose this in principle, however believe that better environmental outcomes could be easily achieved on this site, while still being further developed into a shopping precinct. The Futures strategy highlights the clear objective of council to balance and consider development across environmental, social, economic and cultural issues.

PSC- Sustainability Policy

PSC's sustainability policy recognises councils responsibility for the environment.

“ **Environmental responsibility** - From an environmental perspective Council will protect and enhance the environment while considering the social and economic ramifications of decisions by: Protecting biodiversity,
providing access to quality open space,
managing land to maximise its environmental quality and productivity,
managing the effects of unwanted noise,
providing a waste management service that is affordable and sustainable,
protecting significant items of natural, cultural and built heritage and
protecting air and water quality”

“A whole of council' approach will be taken to ensure that there is a common focus toward the pursuit of sustainability in both strategic and day-to-day operational activities. There are eight key component areas that will be included to achieve this objective:-

- Engaging the community in the future of Port Stephens
- Protecting the natural environment
- Conserving resources
- Facilitating increased social well being
- Aligning service provision to meet changing needs
- Integrating land use and transport planning
- Facilitating a diverse local economy
- Achieving financial sustainability”

End Note: A lot of these issues could be rectified by retaining the western area of the site that is vegetated and appropriate environmentally considerate landscaping in the east and south. I believe the current proposal of close to 100% yield is unworkable and will result in unnecessary environmental impact. A better design that is sensitive to the local environment is encouraged.

Key Environmental Issues:

- Fail of the Port Stephens Council – Comprehensive Koala Plan of Management – Performance Criteria
- Points made in relation to the Assessment of Significance (7 Part Test) re:
 - Offset value (is already 6a community land)
 - Offset reads as an important mitigation measure in the 7 part test, however applicant ecologist states later that it is a 'voluntary action'. PSC-ES does not agree with this statement.
 - Questions raised in relation to the applicant ecologist definition of 'locality'. This has ramifications for the overall assessment of significance.
- The legality of allowing a developer to use community land as an offset and the need to be consistent with all developers.
- Stormwater/drainage issues have been raised in relation to impacts on neighbouring SEPP 14 wetlands. Additionally the applicant ecologist proposes to re-align the SEPP 14 boundary. No information has been provided in this regard.
- Considering Port Stephens Council is the applicant PSC-ES has highlighted various council policies that the current proposal does not satisfy from an environmental perspective.

Traffic and Pedestrian Access

Councils Traffic Engineer has provided comments on the additional detail provided to Council. In particular concern has been raised in relation to Minor Road 2;

- It is reiterated that the road can not be approved in its current form. There needs to be a turnaround facility provided irrespective of the intended final use of the adjoining property.

Upon receipt of the abovementioned information, Council will be able to commence assessment of the application. It should be noted that during the assessment process, further information may be required.

Should you have any further inquiries or wish to discuss the above application please do not hesitate to contact the undersigned between the hours of 9.00 am –12.00pm.

Yours faithfully

Leonard Allen
SENIOR DEVELOPMENT PLANNER

Phone: 49800105 (9.00am – 12.00 noon)
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DA TRACKER

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