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Our Ref: 25856

Date: 7th June 2010

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

Dear Sir,

RE: CKPoM AND STRATEGIC PLANNING RESPONSE REGARDING DEVELOPMENT APPLICATION (811-2009) FOR 8 LOT SUBDIVISION AT LOT 248 DP806310, 155 SALAMANDER WAY, SALAMANDER BAY

Thank you for meeting with the proponent on 3rd June 2010 regarding the abovementioned Development Application. Please find following a response to the matters raised at the meeting regarding the Comprehensive Koala Plan of Management (CKPoM) and Strategic Planning matters.

CKPoM

The CKPoM lists a number of criteria that should be addressed with a development application where koala habitat is identified. The general aims and objectives of these performance criteria are listed below with a response how this development relates to the criteria:

i) To ensure that the koala population in the Port Stephens LGA is sustainable over the long-term.

Response:

The planting of 300 koala feed trees plus the additional offset land being conserved in perpetuity will contribute to the sustainability of the local koala population.

ii) To protect koala habitat areas from any development which would compromise habitat quality or integrity.

Response;

The koala habitat on the site will be altered by the proposed development although the abovementioned mitigation measures have been incorporated to ameliorate the potential to compromise habitat quality and integrity.

iii) To ensure that any development within or adjacent to koala habitat areas occurs in an environmentally sensitive manner.

Response:

The proposed development will incorporate environmentally sensitive landscaping to mitigate the loss of 6 koala feed trees through the replanting of 300 koala feed trees. The proposal will

also rectify an existing drainage problem of untreated stormwater flows and ensure that all stormwater from the site is appropriately treated before entering the adjacent wetland area.

iv) To ensure that acceptable levels of investigation are undertaken, considered and accepted prior to any development in or adjacent to koala habitat areas.

Response:

As outlined in the responses in this letter and as discussed at the project meeting with Port Stephens Council on the 3rd June 2010, in-depth investigation into the design and options for the development for the site have been undertaken to ensure that the outcome for the proposal considered the existing koala habitat and also provided a practical outcome for the development.

v) To encourage koala habitat rehabilitation and restoration.

Response:

The planting of 300 koala feed trees on site plus the additional offset land being conserved in perpetuity is consistent with the rehabilitation and restoration of koala habitat.

vi) Maintain interconnection between areas of Preferred and Supplementary Koala Habitat and minimise threats to safe koala movements between such areas.

Response:

The proposal includes the removal of some koala habitat, but it will not completely isolate koala interconnection between areas to the north and south of the site. The koala corridor will still provide connection between areas to the north and south with the narrowest point in the corridor approximately 50m wide.

vii) To ensure that development does not further fragment habitat areas either through the removal of habitat or habitat links or through the imposition of significant threats to koalas.

Response:

The koala habitat on the site represents the eastern extremity of the vegetation. The development does include removal of the eastern part of the vegetation but this will not result in fragmenting of the vegetation as the remaining vegetation will remain contiguous.

viii) To provide guidelines and standards to minimise impacts on koalas during and after development, including any monitoring requirements.

Response:

During the development of the proposal, the construction environmental management plan will include measures to advise workers to be aware that koalas may use the area and provide appropriate mechanism to ensure the safety and well being of koalas should they be encountered. The clearing of vegetation on the site will also be undertaken in accordance with a vegetation clearing plan to minimise any impact on fauna including koalas. The inclusion of the 300 koala feed trees will assist to provide an ongoing refuge for koalas after the development of the proposal.

ix) To provide readily understandable advice to proponents preparing development applications and for Council officers involved in the assessment of those applications.

Response:

Council has provided readily understandable advice and this has been ongoing with the Council officers involved in the assessment of the application.

The CKPoM also states:

Council may waive the provisions of a), b) and c) of these criteria only for the purposes of establishing a building envelope and associated works, and only if the proponent can demonstrate:

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;

Response:

The design of the subdivision has examined many possible scenarios to determine the most appropriate outcome for the site. The potential road network was examined extensively with a number of options explored and ruled out due to the need for truck transport routes with adequate turning allowances and pavement widths, plus the need to improve traffic circulation through and around the site. The following information outlines the factors considered in the design of the subdivision layout and accentuates the importance of the proposed ring road for the site.

The design includes a 20m wide road reserve that connects the east part of the site with the west as a ring road. This layout is essential to ameliorate the current traffic congestion associated with traffic entering, moving through and leaving the Salamander Shopping Centre via Salamander Way and Bagnall Beach Road. The proposed ring road provides a significantly wider pavement width than any of the existing roads through the site. This will not only serve as a preferred traffic distribution option that will relieve the current entry/exit locations but also provide a suitable transport route for delivery trucks that currently service Salamander Shopping Centre. At present, trucks servicing the Woolworths and K-Mart loading docks have to undertake a complex series of turns to enter these facilities. The ring road will provide an option to mitigate this problem where trucks can travel around the development area and simply enter the K-Mart dock via a single reverse motion and can leave in a forward direction. The ring road also provides a second entry via proposed road 1 for trucks entering the Woolworths loading dock. At present, trucks have to use the 8m pavement road with a 90° turn to enter the car park and the loading dock. This requires the trucks to cross over the opposite direction of traffic lanes and at busy times results in congestion. The provision of the ring road and proposed road 1 provides a significant improvement in truck access as well as traffic circulation. Without the ring road, the traffic circulation through the site would be restricted and truck circulation would be impaired. Alternate options where the ring road was altered to an internal road with multiple turns to accommodate existing vegetated areas resulted in restrictions to the truck circulation and a poor traffic circulation outcome.

The ring road option also provides a number of additional benefits for the design that if not included would impact on the development and potentially adjacent neighbouring properties. The ring road serves as an Asset Protection Zone between the vegetation in the west and the commercial development providing emergency access for fire fighting trucks in accordance with the Rural Fire Service Planning for Bushfire Guidelines. The road reserve at the northern end of the property also provides a 17m buffer between the neighbouring residences and future development. Without the ring road, future development could build right to the property boundary adjacent to these residences. The change in road level along the northern boundary will also provide acoustic benefits for the neighbouring residences, as the road will be at a lower level with a retaining wall screening road noise to the residences.

The road reserve along the ring road also provides drainage benefits as underground infiltration tanks are provided in this area to assist with the stormwater requirements of the site. The stormwater from the Salamander Shopping Centre western car park currently drains untreated water directly into the vegetated land identified as Lot 5 on the Concept Plan. With the provision of a drainage reserve to the north of this location, the stormwater will now be treated and incorporated into the stormwater system for the subdivision. This provides a significant improvement in the water quality and quantity leaving the site and rectifies an existing poor stormwater outcome. Retaining vegetation on site and developing around it

would result in poor traffic circulation outcomes, poor bushfire design outcomes and restrict the potential to ameliorate the existing stormwater issues on the site. The alternate designs also split development allotments and result in uneconomic and poor design outcomes. Therefore, it is considered that the design cannot be undertaken in a way that would retain native vegetation as the operational aspects of the proposal would be greatly compromised.

2. That the location of the building envelope and associated works minimises the need to remove vegetation as per 1 above;

Response:

The matters listed in the response to the Criteria 1 outline why the works are required in the proposed configuration. In addition to the above information, the position of proposed road 1 has been located to minimise the loss of koala feed trees that currently exist adjacent to the existing Library car park. The road has been positioned adjacent to the existing trees to retain them in the road reserve.

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

Response:

The matters outlined in the response to Criteria 1 outline the justification to the design of the subdivision. The proposal is considered to be consistent with the overall objectives of the performance criteria as listed and responded to above.

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).

Response:

The koala survey methods have been used to determine the appropriate design of the proposal. The proposal justification is outlined in the response to Criteria 1 above.

The Performance Criteria includes the follow:

Proposed development (other than agricultural activities) must:

a) Minimise the removal or degradation of native vegetation within Preferred Koala Habitat or Habitat Buffers;

Response:

Waiver requested.

b) Maximise retention and minimise degradation of native vegetation within Supplementary Koala Habitat and Habitat Linking Areas;

Response:

Waiver requested.

c) Minimise the removal of any individuals of preferred koala food trees, where ever they occur on a development site. In the Port Stephens LGA these tree species are Swamp Mahogany (Eucalyptus robusta), Parramatta Red Gum (Eucalyptus parramattensis), and Forest Red Gum (Eucalyptus tereticornis), and hybrids of any of these species. An additional list of tree species that may be important to koalas based on anecdotal evidence is included in Appendix 8;

Response:

Waiver requested.

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;

Response:

The CKPoM states that habitat restoration and revegetation programs are essential for the long-term conservation of koalas within the Port Stephens LGA. The proposed offset land provided as amelioration for the clearing of the site for the proposed subdivision is consistent with the habitat conservation measures listed in the CKPoM:

Tomaree Peninsula KMU

Habitat Conservation: Incentives-based measures

Regarding the application of incentives-based conservation measures in the Tomaree Peninsula KMU the following, in particular, should be investigated:

- *Land between Anna Bay/Boat Harbour and Salamander Bay/Taylors Beach that contains Preferred Koala Habitat in particular, and/or*
- *Supplementary Koala Habitat, Habitat Buffers or Habitat Linking Areas;*
- *and which landholders are willing to either rezone to Environmental Protection (or put in place a Voluntary Conservation Zone, should one be established) or set aside under a Voluntary Conservation Agreement*

Habitat Restoration

Areas in the Tomaree Peninsula KMU that should be investigated for habitat restoration projects include:

- *Land between Anna Bay/Boat Harbour and Salamander Bay/Taylors Beach that is identified as Habitat Buffer or Habitat Linking Area over Mainly Cleared Land. Given that there are large contiguous patches of Preferred Koala Habitat in this area, it should be of the highest priority for koala habitat restoration projects on the Tomaree Peninsula;*

The planting of 300 koala trees on site plus the proposed conservation in perpetuity of the offset site, which is located within the large contiguous patch of preferred Koala habitat, is consistent with this key action of the CKPoM and performance criteria d).

e) Make provision for long term management and protection of koala habitat including both existing and restored habitat;

Response:

Some existing koala feed trees will be maintained on site adjacent to the existing Library at around the proposed drainage reserve. A Plan of Management has also been prepared for the proposed offset land offered to ameliorate the impact of the proposed development. The Plan of Management makes provision for the long term management of the site, including the protection of koala habitat.

f) Not compromise the potential for safe movement of koalas across the site. This should include maximising tree retention generally and minimising the likelihood that the proposal would result in the creation of barriers to koala movement, such as would be imposed by certain types of fencing. The preferred option for minimising restrictions to safe koala movement is that there be no fencing (of a sort that would preclude koalas) associated with dog free developments within or adjacent to Preferred or Supplementary Koala Habitat, Habitat Buffers or Habitat Linking Areas. Suitable fencing for such areas could include:

i) fences where the bottom of the fence is a minimum of 200 mm above ground level that would allow koalas to move underneath;

ii) fences that facilitate easy climbing by koalas; for example, sturdy chain mesh fences, or solid style fences with timber posts on both sides at regular intervals of approximately 20m; or iii) open post and rail or post and wire (definitely not barbed wire on the bottom

strand). However, where the keeping of domestic dogs has been permitted within or adjacent to Preferred or Supplementary Koala Habitat, Habitat Buffers or Habitat Linking Areas, fencing of a type that would be required to contain dogs (and which may also preclude koalas) should be restricted to the designated building envelope. Fences which are intended to preclude koalas should be located away from any trees which now or in the future could allow koalas to cross the fence.

Response:

The movement of koalas through the site will not be restricted by fencing at the subdivision development stage. Although, as the site is a commercial shopping centre, the movement of koalas through the site will not be encouraged.

g) Be restricted to identified envelopes which contain all buildings and infrastructure and fire fuel reduction zone. Generally there will be no clearing on the site outside these envelopes. In the case of applications for subdivision, such envelopes should be registered as a restriction on the title, pursuant to the Conveyancing Act 1919; and

Response:

The area of development has been clearly outlined in the Concept Plan for the proposal.

h) Include measures to effectively minimise the threat posed to koalas by dogs, motor vehicles and swimming pools by adopting the following minimum standards.

i) The development must include measures that effectively abate the threat posed to koalas by dogs through prohibitions or restrictions on dog ownership. Restrictions on title may be appropriate.

ii) The development must include measures that effectively minimise the threat posed to koalas from traffic by restricting motor vehicle speeds, where appropriate, to 40 kph or less.

iii) The development must reduce the risk of koala mortality by drowning in backyard swimming pools. Appropriate measures could include: trailing a length of stout rope (minimum diameter of 50mm), which is secured to a stable poolside fixture, in the swimming pool at all times; designing the pool in such a way that koalas can readily escape; or enclosing the pool with a fence that precludes koalas. This last option should include locating the fence away from any trees which koalas could use to cross the fence.

Response:

The movement of koalas through the site will not be threatened by dogs or swimming pools. However, as the site is a commercial shopping centre, the movement of koalas through the site will not be encouraged to avoid conflict with motor vehicles.

Additional Strategic Planning Information

The justification of the proposed subdivision design has been outlined in the responses listed above for the CKPoM. Additional, strategic planning information regarding the proposal is listed below.

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. 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 will not replicate the style of development at Nelson Bay and Shoal Bay. 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 land use. It is considered that the current proposal represents the best socio-economic outcome to service the local community.

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. Options have been explored that limited the development of the zoned commercial land, although these options did not work at a functional and practical operational level and would also significantly limit the addition of services for the centre. This 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 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). The EP&A Act requires the consent authority to consider not only the environmental impacts of a development but also the social and economic impacts. In this circumstance, the environmental assessment has demonstrated no significant impact. 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, when no significant impact has been predicted, is not economically sound or socially responsible. It is considered that the opportunity for collocation of services contribute to the strategic merit of the proposal and that the socio-economic merit of the proposal, in this circumstance, outweighs the environmental merits of the site.

Minor Road 2 – Turnaround Facility

As discussed at our meeting on the 3rd June 2010, the requirement for a turnaround facility in relation to minor road 2 is considered unnecessary. However to accommodate the option for future development should the turnaround be required, it is requested that the subdivision plan provide a provision for a turnaround in the road reserve, although, the construction of the turnaround will only be undertaken if deemed necessary for future development.

We trust this information is sufficient for your purposes, however should you require any further details or clarification, please do not hesitate to contact the writer by telephone.

Yours sincerely
RPS



Steve McCall

cc: Norman Barnes, Port Stephens Council