

3 June 2010
Our Ref: 1000006

Environmental Planning Services Pty Ltd
Suite 4/ 10 Yacaaba Street
NELSON BAY NSW 2315
Phone: (02) 4984 9955

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

Dear Sir,

RE: DEVELOPMENT APPLICATION (811-2009) FOR 8 LOT SUBDIVISION AT LOT 248 DP806310, 155 SALAMANDER WAY, SALAMANDER BAY

Thank you for your correspondence dated 27th May 2010 regarding the abovementioned Development Application. Please find following a response to the matters raised in your correspondence for further discussion at the project meeting arranged for the 4th June 2010:

Development Control Plan 2007

Our correspondence to Council dated 31st March 2010 demonstrated the compliance of the subdivision with the relevant sections of the Development Control Plan 2007 (DCP) and included a concept plan to illustrate how the proposed subdivision may be developed with regards to potential known end users. The development provides large allotments with adequate street frontage and services to comply with the relevant controls listed in the DCP. The purpose of the DCP is to guide future development of individual allotments and it is considered that the subdivision design provides adequate planning to allow development to be built in accordance with the DCP, although future development of the sites it is not part of this Development Application. It is considered that each development should be considered on its own merit and that future development on individual sites will need to address the DCP through their respective development applications.

Strategic Issues

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

PORT STEPHENS COUNCIL
6th June 2010

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, not mixed use residential land use. It is considered that the current proposal represents the best socio-economic outcome to service the local community.

Council's recommendation to redesign the proposal to reduce the development of the commercial zoned land would significantly reduce the amount of collocation of commercial shopping development for the Tomaree Peninsular, with the local community missing out on these services as a result. 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. Limiting the development of the zoned commercial land will significantly limit the addition of services for the centre and 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 will occur if it is developed is not reduced, 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.

Drainage and Water Quality

The proponent for the development is Port Stephens Council and the certifier for the development will be Port Stephens Council. Therefore, the drainage and water quality comments are noted and are matters that can be addressed at the Construction Certificate stage for the development. The proponent has no objection to the matters raised or requested by Council's Drainage Engineer. The proponent has been working with Council's Drainage Engineer through the development of the project and will continue to do so for the detailed design stage, where all of the matters raised by the Drainage Engineer can be addressed.

Flora and Fauna Issues

The project ecologist has prepared a response to the general ecological matters raised by PSC-Environmental Services. Please find a copy of this response attached.

PORT STEPHENS COUNCIL
6th June 2010

In addition to the project ecologist response attached further comment is provided in regard to the matters raised under Flora and Fauna Issues.

CKPoM

It is considered that the development is consistent with some aspects of the CKPoM but in this circumstance the socio-economic benefits of the proposal are more significant than the matters listed under the performance criteria. The performance criteria for development applications does not concede any option for development of a site which is strategically important for non-koala matters if koala habitat is present. This is considered a significant issue with the application of the CKPoM as a *one solution outcome for all sites* option.

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.

With regard to the assessment of development applications and the application of the CKPoM, it is noted that the CKPoM states:

All development applications in the Port Stephens LGA will be required to comply with the provisions of this appendix of the Port Stephens Council CKPoM to comply with State Environmental Planning Policy No. 44 – Koala Habitat Protection. This requirement is activated by the proposed amending clause of the Port Stephens LEP.

This recommendation was made in the CKPoM in June 2002 for amendment of the Port Stephens Local Environmental Plan (PS LEP) 1987. The PS LEP 1987 was

PORT STEPHENS COUNCIL
6th June 2010

amended with the gazettal of the PS LEP 2000 and it is noted that the recommendations of the CKPoM regarding the addition of the requirement to comply with the CKPoM where not incorporated in the revised PS LEP 2000. Therefore, the CKPoM is considered a guide to assist with the assessment of development application as it has not been formally adopted in the PS LEP 2000.

While PSC Environmental Services has quoted selected phrases from the CKPoM, PSC Futures Strategy and PSC Sustainability Policy, it is also Council's responsibility to balance the social, economic and environmental needs of the community when undertaking any Council related proposal. The documents quoted also contain additional sections that relate to the development of the site as a key strategic location for a shopping centre and the requirement that Council also uphold their social and economic responsibilities.

The suggestion of PSC Environmental Services to relocate potential development from the west of the site to the east of the site when no significant environmental impact will result from the proposal, demonstrates their lack of economic and commercial understanding of the proposal and is not a simple matter of moving potential end users around the site.

Therefore, Council is requested to carefully consider the socio-economic benefits of the proposal against the development guidelines listed in the CKPoM and in accordance with the EP&A Act balance the determination of the proposal against the environmental, social and economic matters of the development.

Traffic and Pedestrian Access

As outlined in our last correspondence the requirement for a turnaround facility in relation to minor road 2 is considered unnecessary.

If you have any further enquiries regarding the above please do not hesitate to contact the writer.

Yours faithfully

ENVIRONMENTAL PLANNING SERVICES PTY LTD



Steve McCall
Principal
BEnvSc

Attachment:

Response Letter from Gary Worth – Project Ecologist.