

**Appendix E:**  
**Referral Comments**

# Memorandum

## Port Stephens

C.O.U.N.C.I.L.

... a community partnership

To: Leonard Allen  
From: Nallaih Sivabalan  
Date: 18 May, 2010  
File No: PSC2005- 4010  
Subject: 155 Salamander Way, Salamander Bay – 8 lot subdivision – Drawings No 90262 –issue C

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.
- *Monitor ???* 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 baffles 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 easement 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.
- I'll advise you to consult John Maretich or Rick Mackenzie about the road stability and other road related matters.

Nalliah Sivabalan  
Drainage Engineer

# Memorandum

## Port Stephens

C·O·U·N·C·I·L

... a community partnership

To: Leonard Allen  
From: Nallaih Sivabalan  
Date: 11 November, 2009  
File No: PSC2005- 4010  
Subject: **155 Salamander Way, Salamander Bay – 8 lot subdivision**

I have reviewed the drawings (90262) and the report for the above subdivision at Salamander Bay and am providing the following comments.

Mambo wetland is an estuarine wetland covering an area of 175ha. It is part of the Port Stephens Estuary, which has been listed on the Register of the National Estate. As Mambo Wetland is an integral part of the Port Stephens Estuary, it is important that the Mambo Wetland is protected from pollutants that may be transported into the wetlands from the stormwater system.

The existing site is very sandy in nature and it produces little or no runoff during storm events. Post development in this site will increase the impervious area to more than 90% and will increase the discharge and the volume of freshwater entering the wetland.

The development site has been divided into three sub- catchment areas, but the drainage system proposed for these sub-catchment areas are not supported with any drainage calculations, infiltration calculations or hydrological and hydraulic calculations. The drainage report and the drawings must include the followings;

- Sub- catchment areas
- Pre and post development flow calculations
- Hydrological and hydraulic calculations for minor drainage system (10 year ARI storm events) and major drainage system (100 Year ARI storm events).
- Overflow paths and overflows along the road, private properties etc.
- External catchment drainage must be incorporated into the drainage calculations.
- Easement details for public water to drain through private properties
- Details of detention basin (stage – storage – discharge relationship, side slopes, low flow and high flow outlets details, inlet details, erosion control measures etc)



- Infiltration trench details (x-sections, surface area for infiltration, lengths, invert levels, obvert levels, infiltration rates used for calculations, maintenance access and method of maintenance etc).
- Infiltration system and detention basin must be modelled with the proposed pipe drainage system
- All the drainage pits within road reserve must have the dimension minimum of 900SQ.

**All of the above details are necessary to assess the development.**

### **Stormwater Quality**

Council has received number complaints from Mambo Wanda Wetland Committee about the threat to the natural health of wetland eco-system as a result of increased runoff and velocity of run off entering the Mambo wetland. The committee believes that the stormwater from the development is a major source of sediments, pollutants and nutrients.

As indicated in the drawings, stormwater from the proposed development site will be directed into the wetland through three separate sub-catchments drainage outlets.

- The sub-catchment 1(eastern side of the development - from Lot7) – There is no water quality control proposed in the development.
- The sub-catchment 2(southern side of the development - from Lot2) -- There is no water quality control proposed in the development. Development must include appropriate stormwater treatment devices to control the quality of stormwater.
- The sub-catchment 3(western side of the development - from Lot5) – a detention pond and trash screen across the flow path has been proposed in the development. This is totally inadequate to control the water quality. Trash screen to control the gross pollutant would not be effective and the pollutant collected by the trash screen won't be retained.

Therefore, development must include appropriate stormwater treatment devices for the above mentioned sub-catchments to control the quality of stormwater prior to entering into the wetland.

Recently, I have visited to this site and found that there were lots of plastic bottles and plastic bags and other gross pollutants lying around this property. I believe that these pollutants would have been blown from the shopping centre carpark or the captured pollutants in the carpark GPT are by-passing the GPT. As the discharge pipes from the shopping centre carpark diverted through this proposed development to the proposed detention basin, a proper stormwater treatment devise must be installed at the inlet to the detention basin to control the pollutants.

### **Stormwater Quantity**

#### **Sub-catchment 1**

- Minor (10 year ARI) and major (100 year ARI) flows are not included in the report or drawings.
- Capacity of the proposed drainage system is not given in the drawings.
- Hydraulic gradelines for the pipe system is not given in the drawings.
- Section of the infiltration system is not provided in the drawings.
- Maintenance access and how to maintain the infiltration system is not provided in the drawings
- **Infil 1:**
  - Not supported by the calculations— it seems, the capacity of the infiltration system provided in the drawing is inadequate to control the predevelopment flows which is almost nil for majority of the storm events.
  - Located next to the building on adjacent property. Impact on the building need to be assessed.
  - No easement over the infiltration system
  - System may overflow on to the road or private property – need flow calculations to show this.
- It is not clear, the drainage system from P19 – P26 is located within Lot 7 or within road reserve. If it is located within lot 7, an easement is required over the drainage system.

## **Sub-catchment 2**

- Minor (10 year ARI) and major (100 year ARI) flows are not included in the report or drawings.
- Capacity of the proposed drainage system is not given in the drawings.
- Hydraulic gradelines for the pipe system is not given in the drawings.
- Section of the infiltration system is not provided in the drawings.
- Maintenance access for the infiltration system is not provided in the drawings
- **Infil 2:**
  - Not supported by the calculations— it seems, the capacity of the infiltration system provided in the drawing is inadequate to control the predevelopment flows which is almost nil for majority of the storm events.
  - Located next to the building on adjacent property. Impact on the building need to be assessed.
  - No easement over the infiltration system
  - System may overflow on to the road or private property – need flow calculations to show this.
- At present, this sub-catchment does not drain to Bagnell Beach road. The existing drainage system at Bagnell Beach road has insufficient capacity. Connecting a new additional drainage system will exacerbate the flooding on Bagnell Beach road and increase the flooding frequency.
- P30 – P33 must design to carry 100 year ARI flows.
- P30-P31 must have minimum of 3m easement over the drainage line.

- The proposed new roundabout makes P32 as a sag pit. Require additional inlet pits around P32.
- P29 must have a weir to control the stormwater for infiltration
- Part of the drainage from community centre and childcare centre drain westerly direction (through lot 3). An inter-allotment drainage system must be created along the boundary to collect runoff from community centre and childcare centre and connect to P27.
- Infil 3 does not have any downstream control to function as an infiltration system.

### Sub-catchment 3

- Minor (10 year ARI) and major (100 year ARI) flows are not included in the report or drawings.
- Capacity of the proposed drainage system is not given in the drawings.
- Hydraulic gradelines for the pipe system is not given in the drawings.
- Section of the detention/infiltration system is not provided in the drawings.
- Side slope of the detention/infiltration system must have slope 1: 6
- Obvert level of the basin is RL5.0 AHD and the invert level of the basin RL 3.65AHD. There is no low flow outlet for this basin. That means, this pond will have permanent water level at RL 5.0 AHD.
- Majority of the road drainage system from P1 – P 6 will be submerged before the storm event and may surcharge during storm events
- I believe that the groundwater level at this location may be higher than RL 3.65 AHD. So very little infiltration will happen at this location.
- Size of the detention/infiltration basin is too small to control the post development flows and volumes. Require proper modelling and calculations to support the size of the basin.
- Require longitudinal section to check the road surface levels and the pit surface levels. It seems, there are number of artificial sag points created on the road. This may cause water to pond at the sag points instead of flow along the road.
- Inter-allotment easement is required between Lot6 and the existing shopping centre to collect stormwater from Lot 6
- **Infiltration basins:** Stormwater discharge through an infiltration system is a very slow process and determining the critical storm duration for infiltration basin is not same as determining the time of concentration for pipe flows. Designing an infiltration basin must consider all duration storm events, in particular higher duration storm events. It must be recognised that higher duration storm events produce larger volume of stormwater and as a result the basins may fill up quickly and surcharge.

Determining the size of an infiltration basin depends on the inflow hydrograph and outflow hydrograph. Inflow (flow rate and volume) ----- Storage Capacity -  
 ---- Outflow (infiltration rate, volume).

- **Factor of safety for infiltration rate:** The infiltration rate is a parameter that may change with time due to clogging or lack of maintenance. As the bio-retention swale receives water from carparks and other areas, the surface infiltration may reduce significantly. Therefore, I believe that a higher factor of safety must be applied for designing the bio-retention swale.

In general,

- Consultation must be extended to Mambo Wanda Wetland Committee.
- Development advisory Panel minutes dated 7 August 2009, dot points under drainage/ detention/ infiltration have not addressed properly.
- Infiltration pipe system 1.5 to 2m behind the proposed kerb and guttering could be easily implemented to reduce the flow rates and volumes. This has not been considered in this subdivision.
- Road LS indicates that it has been graded toward Salamander Way. That means, major flows from the road and surcharged flows from the pits will flow along the road and flood Salamander Way and new roundabout. This is not acceptable. All the major flows must be directed to the proposed infiltration/detention basin.

If you have any queries regarding this please do not hesitate to contact me on ext 342.

Nalliah Sivabalan  
Drainage Engineer

Ext 342



# Memorandum

Port Stephens

C·O·U·N·C·I·L

... a community partnership

To: Leonard Allen  
From: Sally Whitelaw  
Date: 11 June 2010  
File No: 16-2009-881-1  
Subject: 155 Salamander Way – RPS letter re CKPoM

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Hi Len,

Please find below PSC-ES comment in relation to the above mentioned letter.

Given that the reason the proponent is asking for the waiver clause to be enacted is in relation to subdivision design and road networks I am not qualified to determine if the development could have been done in another way that would have decreased the need to remove koala habitat. If the advice from suitably qualified staff in relation to subdivision and road design concludes that the development could not have been done in other ways – as put forward by the proponent, then I can agree that the waiver clause can be enacted for performance criteria (a), (b) and (c).

Performance criteria (d) through to (h) have been adequately met.

I maintain that the use of community land as an offset (while apparently legally valid) will create no additional gain for koala habitat as the land is already adequately protected given its status as community land.

Although previous discussions have highlighted that community land can be created as a biobank offset site this occurs under the biobanking legislation which has its own checks and balances. The biobanking legislation also ensures that the ongoing care of the offset land is funded by the developer purchasing the credits generated by the offset land, in this case it is not clear if the developer intends to fund the offsets lands ongoing maintenance.

I note that the letter states that *'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.'* This plan should be forwarded through Environmental Services for approval prior to issue of the Subdivision Certificate. The developer should also be responsible for the plans implementation to adequately ensure that the offset benefits, which are stated in the ecological assessment as being necessary to mitigate the environmental impacts, are realised.

I note that the letter also states that a *'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.'* Both the construction environmental management plan and the vegetation clearing plan are to be submitted to environmental services for approval prior to issue of the Construction Certificate.

Lastly I would like to respond to the comment contained in the RPS letter dated 3<sup>rd</sup> June 2010 regarding the CKPoM being only considered a guide as an amending clause that requires development to comply with the CKPoM was not included in the LEP 2000. Port Stephens Council has previously researched this

issue and has written advice from the Parliamentary Counsel's Office that as long as the CKPoM has been prepared in accordance with SEPP 44 (which it has) then no amendment to the LEP is required. The advice also states that council's determination of a development must not be inconsistent with the CKPoM.

### **Conclusion**

- Performance criteria (d) through to (h) have been adequately met, and if advice from suitably qualified staff in relation to subdivision and road design concludes that the development could not have been done in other ways – as put forward by the proponent, then I can agree that the waiver clause can be enacted for performance criteria (a), (b) and (c), and as such the CKPoM will have been complied with.
- The Plan of Management for the offset land should be forwarded through Environmental Services for approval prior to issue of the Subdivision Certificate. The developer should also be responsible for the plans implementation.
- Both the construction environmental management plan and the vegetation clearing plan are be submitted to environmental services for approval prior to issue of the Construction Certificate.
- As per advice from the Parliamentary Counsel's Office the CKPoM is not to be considered a guide and does not need a clause in the Port Stephens LEP to give it effect.

Regards,

Sally Whitelaw  
Natural Resources Coordinator

# Memorandum

*Port Stephens*

COUNCIL

*... a community partnership*

To: Leonard Allen  
From: Lincoln Carter  
Date: 10 May 2010  
File No: 16-2009-881-1  
Subject: 155 Salamander Way – Eight Lot Subdivision

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Hi Len,

Please find below PSC-ES comment in relation to the above mentioned development application.

PSC-ES 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-ES 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-ES 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.

**Comment [s1]:** Are you saying that p criteria d, e and f must still be met even if they have met waiver provisions a, b and c? if so you jst need to reword this slightly to be clearer.

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-ES 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.

This issue leads to the debate of the use of "Community Land" as an offset. A weighty argument can be given that the land proposed an "Offset" by the applicant is currently adequately protected and for this reason would not see any real offset result benefit. The question must also be asked as it if as a planning authority and as a manager of community land Council would allow a developer to use community land as an offset. Advice should also be sought on the legality allowing a developer to use community land as an offset as per Division 2 of the Local Government Act 1993 'Use and management of community land'. Council should also be consistent in its approach to allowing developers to use community land as an offset regardless of who the developer is. Although previous discussions have highlighted that community land can be created as a biobank offset site this occurs under the biobanking legislation which has its own checks and balances. The biobanking legislation also ensures that the ongoing care of the offset land is funded by the developer purchasing the credits generated by the offset land, in this case it is not clear if the developer intends to fund the offsets lands ongoing maintenance. More discussion and a clear council decision into the validity of this proposal needs to be determined prior to moving forward as it forms an integral part of mitigation measures proposed in the 7 Part Test and CKPoM Performance Criteria.

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. Finally, considering that the applicant is council itself, in its current state 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 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.

Regards,

**Lincoln Carter**  
**Environmental Projects Officer**  
 Ext:139

# Memorandum

*Port Stephens*

C·O·U·N·C·I·L

*... a community partnership*

To: Leonard Allen  
From: Lincoln Carter  
Date: 27 Nov 09'  
File No: 16-2009-881-1  
Subject: 155 Salamander Way – Eight Lot Subdivision

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Hi Len, here are some prelim comments in relation to 155 Salamander Way. I think some of these need to be clarified prior to proper assessment.

1. Offset proposals include landscaping to include koala feed trees and retention of existing ones as well as dedication of Lot 21 DP 1044009 – 100 Salamander Way.  
Before making comment a detailed landscaping plan showing koala trees to be retained and planted should be submitted. Specific species list must also be provided and **MUST** be endemic to the locality. In addition to this more detail is needed in regard to the proposed offset. So far general statements of size and the property description is all that has been provided. One issue that stands out to me is that the land proposed as an offset is zoned as Community Land. Is it appropriate that a developer (wether it be council or not) proposes offset lands on public land? If this issue is overcome, detailed information in regard to offset size, specific locations (is it all of the property?) need to be provided. Also methodology on appropriate offset size for the removal of 4.2 Ha of EEC needs to be carried out to justify any offset proposal. The applicant will also need to enter into a planning agreement on the land to protect it in perpetuity for conservation purposes as proposed. Also of concern is that there are plans for development of 100 Salamander Way (western side of the site). Is the land proposed for offset for this development also the land ear marked as an offset for the 100 salamander way development?

All of these issues need to be clarified. Perhaps a meeting is needed? A separate plan for the offset is probably the most appropriate. There have been numerous surveys on the proposed offset site carried out by council in recent years. These reports can be used for this assessment.

2. Appropriate assessment of the EEC impact is dependant on the above points (landscaping details and offset details)
3. Appropriate assessment of the CKPoM is dependant on the above points (landscaping details and offset details)
4. There has been no survey effort during the flowering period of cryptic orchid species or juncea known to occur in the locality (endangered species). The habitat assessment for these species has also stated that suitable habitat is present on site. As the proposed development will result in basically all vegetation to be removed it can be said that there has been little to no consideration for preservation of these species habitats. In addition to this the applicant had the opportunity to survey during this period prior to lodgement and did not. It is unclear as to if additional suitable habitat for these species occurs outside the development site but within the immediate locality (eg Mambo wetlands / 100 salamander Way etc). This needs to be clarified. PSC-ES recommend that a survey be carried out during the flowering period of the identified orchids and juncea that potentially occur on site (winter/spring). More information is required as to the amount of suitable habitat for these species being removed from the immediate locality.

# Memorandum

*Port Stephens*

C·O·U·N·C·I·L

*... a community partnership*

TO: MR L W ALLEN

FROM: Joe Gleeson – Traffic Engineer

Date: 10<sup>th</sup> May 2010

File No: 16-2009-811-1

Property Description: LOT: 284 DP: 806310  
155 Salamander Way SALAMANDER BAY

**Subject: Assessment report for Eight (8) Lot Subdivision -  
TT**

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## Details:

The following is provided in response to the submission from the applicant, in order to assist with the assessment of the above application:

### **Traffic and pedestrian access**

1. Traffic signals shall be constructed at the intersection of Town Centre circuit and Bagnall Beach Road prior to development of lots other than proposed Lots 1, 4 & 6
2. Provision shall be made in any subdivision of proposed lot 7 to adequately cater for any road widening required for the construction of traffic signals and associated road works, at the intersection of Town Centre circuit and Bagnall Beach Road.
3. Provided that evidence of consultation with the owners of properties affected by the proposed roundabout at the intersection of Salamander Way and the proposed access road is provided, and that the property owners are accepting of those impacts, then no further objection is raised to this item.
4. Accepted
5. Accepted
6. Accepted
7. Accepted
8. Accepted

### **Public Transport**

1. Accepted – This comment was about retaining options for public transport should the bus interchange be relocated at some time in the future.
2. Accepted

**Leonard Allen**

**From:** Joe Gleeson  
**Sent:** Tuesday, 1 December 2009 9:58 AM  
**To:** Leonard Allen  
**Cc:** Rebecca Moroney  
**Subject:** 0081IPMEMO  
**Attachments:** 0081IPMEMO.doc

Len

Attached are comments from the traffic section regarding the above DA.

Regards

Joe Gleeson

14/12/2009

# Memorandum

*Port Stephens*

C·O·U·N·C·I·L

*... a community partnership*

TO: MR L W ALLEN

FROM: Joe Gleeson – Traffic Engineer

Date: 1 December 2009

File No: 16-2009-811-1

Property Description: LOT: 284 DP: 806310  
155 Salamander Way SALAMANDER BAY

**Subject: Assessment report for Eight (8) Lot Subdivision -  
TT**

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## Details:

The following report is provided by me to assist in the assessment of the above application:

- **Network impact and connectivity:-**
  - The traffic report states that traffic signals will be required at the Bagnall Beach Road/Town Centre Circuit intersection as a result of development of all of the lots. Council considers that the traffic signals are required to be conditioned to be constructed prior to issue of the subdivision certificate in consideration of the totality of this development.
  - Road widening and an additional travel lane are required on the northern side of the Town Centre Circuit connection to Bagnall Beach Road. This will be required to allow traffic signals to function efficiently at the intersection and to prevent traffic queuing into the circuit road and impacting the adjoining roundabout. Please provide concept plans and adjusted subdivision plan for consideration
  - The proposed roundabout on Salamander Way will have serious impacts on existing residents at properties No.152 & 154. The roundabout needs to be either relocated or to have an access drive to the properties included that demonstrates reasonable access solutions. Please provide concept plans and any adjusted subdivision plan for consideration.
  - The existing roundabouts on Town Centre Circuit do not function well, mainly due to the very small radius of the annulus. There is evidence of pavement failure caused by heavy vehicles turning over the roundabouts and this will be exacerbated by increased traffic volumes associated with further development. An analysis of the level of service is required to be provided for all the existing and proposed internal intersections in order to ascertain what internal infrastructure upgrades are required.
  - The road pavement widths do not comply with the commercial requirements of 11m to 13m wide pavement. The proposed 8m carriageways are too narrow to allow for reasonable access to the proposed lots. There is insufficient road width

to cater for turning/passing lanes and the result will be congestion of the travel lanes. This problem is already evident in the existing road network and considerable problems result in peak periods. Provide a revised plan and traffic strategy that addresses how vehicle entry into intersections and lots will be provided without compromise of the circulation function of the road network. Special consideration of heavy vehicle access is required in this commercial environment, and how each individual lot will be provided with vehicle access points. Please provide concept plans, revised report and adjusted subdivision plan for consideration.

- The proposed verge widths do not comply with the 4m wide requirements of council's DCP. Without a DCP, guidelines or master plan in place for this development the impacts of future loading docks, driveways and built-form presentation to the road reserves are unknown and not enforceable. The proposal to create sub-standard verge widths is not supported without controls in place to ensure that desirable outcomes are achieved. The recommendation is that verges, in accordance with Port Stephens Council's DCP 2007, are to be provided for all the roads fronting commercial lots unless controls are linked to the lots. Please amend verge widths and subdivision plans or provide alternate solutions to address the issue.
  - There is no practical consideration of pedestrian and cycle movements around the northern loop of Town centre circuit, it is unrealistic to predict that people not entering the site from the Purser Street connection will utilise the high level cycleway on the northern boundary of the site as a means to move from east to west (and visa versa). Please provide cycle/pedestrian connectivity on the southern side of the northern loop section of Town Centre Circuit. Please provide concept plans and adjusted subdivision plan for consideration.
  - Purser Street connection – The proposal has not considered vehicle connection to Purser Street to the north of the site to maximise connectivity to the commercial centre in accordance with B1.P7, B1C8 of Port Stephens Council's DCP 2007. This connection was also mentioned in the *Child Friendly Environment Case Study - GMU Salamander Bay Town Precinct, December 2008*. Please provide vehicle connection and amended construction plans for this connection
- **Public transport:-**
    - Provision for bus stops is required around the proposed circuit roads at four hundred metre intervals, including adjacent to the existing library/community centre and the proposed medical centre; on the northern loop of Town Centre circuit; and just north of the connector road to Bagnalls Beach Road. This is required to accommodate community and private/charter operators as well as potential changes to public bus services. Bus lay-by's shall be provided on both sides of the road immediately opposite each other. Please provide amended plans.
    - The concept plan submitted does not show pedestrian linkages to the existing bus stop on Salamander Way. Pedestrian facilities are to be provided to allow pedestrians and cyclists to connect to the proposed shared path on the eastern side of the proposed circuit road. Please provide amended plans.
  - **Heavy vehicles:-**
    - The 8m carriageway is too narrow to allow for heavy vehicles to track around the bends in the road without crossing the centreline. Swept paths need to be provided, as well as details regarding the priorities of intersections. Please provide amended plans.
    - Details of proposed loading/delivery areas, procedures and proposed delivery times are also required for all proposed lots.
  - **Pedestrian access:-**



- Bagnall Beach Rd is a sub-arterial, multilane road with no priority given to pedestrians. Increases in traffic due to development must be provided for by controlled pedestrian access across Bagnall Beach Road. Activity and work opportunities generated by the development will have a significant impact on connectivity with three schools and a TAFE adjacent to the site. The current disconnection for external pedestrians entering the site is not addressed in the subdivision proposal. Provide amended details.
  - Pedestrian access to the north of the site (Purser Street) will be very limited with the shared path being at a different level to the proposed road. Consideration should have been given to the provision of steps to at least provide connectivity for able-bodied people. The vehicle connection of Purser Street and subsequent regrading will amend this situation. Provide amended pedestrian/cycle details with the road regrading.
  - Child friendly principles also need to be addressed by providing improved internal connectivity and way-finding. Way-finding through large at grade car parks does not enhance safety or connectivity for both young and older road users. Sight lines, lighting and vegetation are to be considered at all crossing points within the site. This site is shown as an important link in Council's footpath and cycleway strategy. This should be addressed as part of a DCP for the site.
  - Pedestrian refuges or raised pedestrian crossings (wombat crossings) are required at footpath crossing points on Town Centre circuit. These will assist pedestrian safety as well as reducing traffic speeds. Provide concept plans for consideration which also demonstrate consideration of bus stops, pedestrian corridors and desire lines for existing and proposed lots/developments within the commercial precinct.
  - 1.2m footpaths are shown on some of the roads. These are inadequate for a commercial centre of this scale. Provide 2.4m wide shared pathway connecting throughout the site on all roads. 1.2m footpaths shall be constructed on the other side of Road 1 and Road 2.
  - A 2m shared path is required to connect on the northern side of Town Centre Circuit to Bagnall Beach Road.
  - Shared pathway is required along the external frontages of the site on Salamander Way and Bagnall Beach Road for all frontages adjoining Bagnalls Beach Road and Salamander Way.
- **Parking restrictions:-**
    - The 8m carriageways shown are too narrow to allow on-street parking and two way travel lanes. Consideration needs to be given to how this will be controlled with a minimum of ongoing maintenance for Council. Provide a traffic report outlining how traffic flows and parking are to be controlled.
  - **Minor Road 2:-**
    - The road cannot be approved in its current form. There needs to be connectivity provided through to the circuit road or alternatively a turnaround provided that will accommodate the design heavy vehicles. Provide amended details.

As responsible officer please pass this information on to the applicant.

Thanks

Joe Gleeson

**Leonard Allen**

**From:** Joe Gleeson  
**Sent:** Monday, 30 November 2009 4:27 PM  
**To:** Leonard Allen  
**Subject:** 155 Salamander Way DA

Len

In discussions with the traffic team the question was raised as to whether this DA, given the scale of development, should be considered by the regional development committee. What are your thoughts?

Regards

**Joe Gleeson**  
**Traffic Engineer**  
**Port Stephens Council**  
Ph: 49800207  
Fax: 49873612  
Email: [joe.gleeson@portstephens.nsw.gov.au](mailto:joe.gleeson@portstephens.nsw.gov.au)

14/12/2009

Your reference : 16-2009-811-1  
Our reference : DOC09/55965, FIL07/5186-03  
Contact : Nick Pulver (02) 6659 8225  
Date : 4 December 2009

Mr Peter Gesling  
General Manager  
Port Stephens Council  
PO Box 42  
RAYMOND TERRACE NSW 2324

Attention: Mr Leonard Allen

Dear Mr Gesling,

**Re: Development Application No: 16-2009-811-1 – Proposed eight (8) lot subdivision – Lot 284 DP 806310, 155 Salamander Way, Salamander Bay, NSW**

I write in reference to the letter from Port Stephens Council ('Council') dated 19 November 2009, received by the Department of Environment, Climate Change and Water ('DECCW'), regarding the above development application ('DA').

DECCW notes that DA 16-2009-811-1 was lodged with Council as an Integrated Development Application (IDA) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). DECCW understands that the development application seeks approval to subdivide Lot 284 DP 806310 into eight (8) Torrens Title lots at 155 Salamander Way, Salamander Bay, NSW.

A review of the documentation provided was undertaken by DECCW's Planning and Aboriginal Heritage Section (North East) to assess the potential impacts of the proposed development on Aboriginal cultural heritage (ACH) values. The following comments are provided to Council for consideration in its final determination. It is also recommended that the enclosed General Terms of Approval (GTAs) provided in Appendix A are reflected in any approval conditions for the project.

**Aboriginal cultural heritage values:**

DECCW notes that the field assessment undertaken by the applicant on 6 October 2009 located one (1) Aboriginal site within the project area, which was identified as an artefact scatter and called 'RPS SW AS1'. We note that the proposed development will impact this site and the applicant will be required to submit to DECCW an application for an Aboriginal Heritage Impact Permit (AHIP) in accordance with Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act). DECCW's GTAs confirm the need for this approval. In order to obtain an AHIP the proponent will also be required to consult with the local Aboriginal communities in accordance with DECCW's 'Interim Community Consultation Requirements for Applicants (2005)'.

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water



**Aboriginal community consultation:**

DECCW acknowledges that the applicant has provided a summary confirming the nature of the consultation processes with the local Aboriginal community. However, the applicant has provided no evidence of this consultation.

We recommend that prior to the determination of the DA, Council seeks evidence from the proponent to satisfy itself as to the adequacy of the consultation undertaken with the Aboriginal community, particularly in relation to confirming their support or otherwise for the field assessment methodology, significance assessment and ACH management recommendations. This evidence can take the form of consultation/conversation records, letters expressing interest in the project, review of draft documents or support for the recommendations, copies of all formal correspondence, newspaper advertisements, records of personal communications, and minutes to all Aboriginal community meetings and/or field inspections. DECCW's *Interim Community Consultation Requirements for Applicants* (2005) provide an appropriate framework for Aboriginal consultation.

**Significance assessment:**

DECCW notes the applicant has not included a discussion of the cultural significance of the Aboriginal site identified within the project area. We highlight that the cultural significance of a site can only be determined by the Aboriginal community. The complete absence of any cultural response from the community means DECCW is unable to comment on the appropriateness of the proposed management strategy for site. We recommend the ACH assessment is amended to include details confirming the cultural significance of the ACH values within the project area to complete the overall ACH significance assessment, prior to the determination of the consent.

**Potential Aboriginal sites:**

DECCW understands that there is a likelihood of finding evidence of Aboriginal usage of this area. If Aboriginal cultural heritage objects are uncovered due to the development activities, Council's approval should require that all works halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and local Aboriginal community representatives must be contacted to determine the significance of the find(s). Any new sites should also be registered in DECCW's Aboriginal Heritage Information Management System (AHIMS).

**Additional recommendations:**

DECCW recommends that custodial arrangements for any Aboriginal material salvaged as part of this project should be determined with the local Aboriginal community prior to the project's commencement.

**Conclusion:**

Subject to resolution of the above issues, it is recommended that the enclosed GTAs, provided in Appendix 1, are reflected in any approval conditions for the project.

If you have any additional questions or concerns regarding this advice please contact Nick Pulver on (02) 6659 8225.

Yours sincerely



**BRETT NUDD**

**A/Manager North Coast Region**

**Environment Protection & Regulation Group**

Attached: Appendix 1

## APPENDIX 1

### Proposed General Terms of Approval for Aboriginal Cultural Heritage Values for DA 16-2009-811-1 – Torrens Title Subdivision – Lot 284 DP 806310, 155 Salamander Way, Salamander Bay, NSW.

The following General Terms of Approval are provided in accordance with section 91A (2) of the *Environmental Planning & Assessment Act 1979* and section 70 (1)(a) of the *Environmental Planning and Assessment Regulation 2000*.

1. The applicant must apply for an Aboriginal Heritage Impact Permit in accordance with the *National Parks & Wildlife Act 1974 (NPW Act)*, prior to disturbing, damaging or destroying Aboriginal objects that occur on the land which is the subject of the development application.
2. An application for an AHIMS Care & Control Permit must be lodged along with any application for an Aboriginal Heritage Impact Permit (issued under *NPW Act*). The applicant must provide evidence of the support or otherwise of all registered Aboriginal stakeholder groups with any application for a care and control agreement.
3. If human remains are located during the project, all works must halt in the immediate area to prevent any further impacts to the find or finds. The NSW Police, the Aboriginal community and DECCW are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, DECCW should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by DECCW. In the event that a criminal investigation ensues works are not to resume in the designated area until approval in writing from the NSW Police and DECCW.
4. If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the find(s). The site is to be registered in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.
5. The applicant must continue to consult with and involve Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values.

