

SHOALHAVEN CITY COUNCIL

DEVELOPMENT COMMITTEE

To be held on Tuesday, 3rd February, 2009
Commencing at the conclusion of the Crown Reserve, Community and Commercial Operations
Committee (commencing at 4.00pm).

28th January, 2009

Councillors,

NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, **to be held in Committee Rooms 1, 2 and 3, City Administrative Centre, Bridge Road, Nowra on Tuesday, 3rd February, 2009 commencing at the conclusion of the Crown Reserve, Community and Commercial Operations Committee (commencing at 4.00pm)** for consideration of the following business.

R D Pigg
General Manager

Membership (Quorum – A majority of members)

Clr Ward – Chairperson
Clr Young
Clr Findley
Clr Bennett
Clr Fergusson
Clr Brumerskyj
Available Councillors

BUSINESS OF MEETING

1. Apologies
- 2. Report of the General Manager**
 - Strategic Planning & Infrastructure
 - Development & Environmental Services
- 3. Addendum Reports**

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:

- a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
- b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
- c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP's or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

LOCAL GOVERNMENT ACT 1993

Chapter 3

Section 8(1) - The Council's Charter

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

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REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 FEBRUARY 2009

STRATEGIC PLANNING & INFRASTRUCTURE

1. Jerberra Estate Rezoning Investigations Update – Rezoning Investigations **File 2653-04 PDR**

Purpose of Report:

The purpose of this report is to outline Council's representations and outcomes arising from Council's resolution dated 13 May 2008, and to seek a resolution to allow the rezoning investigations to be progressed.

Details/Issue:

Background

Since being briefed of the findings and recommendations of the Flora and Fauna Assessment for Jerberra Estate in September 2006, Council has been attempting to persuade the Department of Planning (DoP) and Department of Environment and Climate Change (DECC) to consider social and economic circumstances as well as the environmental legislation for Jerberra Estate. Council's most recent resolution in this regard was on 13 May 2008, when Council resolved to:

...invite Mr Pearson, Rural and Regional Planning Executive Director, to meet with Council on the matter of the Jerberra Estate Rezoning Investigations Update - Rezoning Investigations as soon as possible.

Copies of relevant documents are included in Councillors Information Folder:

- A. Map indicating Council's preferred option.
- B. Written submission to Ministers dated 12 November 2008.
- C. Correspondence from NSW Planning Minister dated 16 December 2008.
- D. Copy of potential development option 2 involving protection of areas of high conservation value.
- E. Correspondence from Department of Planning dated 16 December 2008.

Historical Summary

A brief historical summary is provided in the submission to the Ministers for Councillors not familiar with the history of Jerberra Estate.

Economic, Social & Environmental (ESD) Consideration:

Council's Representations to Resolve Threatened Species Issues

Council's efforts in recent months to gain support from DoP and DECC on Council's preferred option for Jerberra Estate have included:

- Meeting and site inspection with Richard Pearson (DoP) and DECC on 30 July.
- Meetings on 12 November 2008, with the NSW Planning Minister, The Hon Kristina Keneally MP, and the NSW Environment Minister, The Hon Carmel Tebbutt MP. A written submission was presented to the Ministers.
- Meeting with Richard Pearson, Executive Director of Rural & Regional Planning on 28th November 2008.
- Numerous phone calls and emails to the Minister's staff, Richard Pearson and other DoP staff.

Council has consistently urged DoP and DECC to support Council's preferred option due to:

- Jerberra Estate is NOT a greenfield site – the environment has been substantially modified.
- Biodiversity issues must be resolved having regard to social as well as environmental issues – this will require compromise.
- Council has levied special rates on landowners to pay for the rezoning investigations and road upgrading. The owners have an expectation that a decision will be made.
- Unauthorised structures in the Estate cannot be regularised until the land is rezoned.

Department of Planning's Position

Correspondence from the NSW Planning Minister, The Hon Kristina Keneally MP, dated 16th December 2008 indicated that DoP will not support Council's preferred option due to DECC's opposition, impacts on biodiversity and inconsistency with environmental legislation unless other land could be used as a conservation offset.

Alternatively, if other land cannot be used as a conservation offset, DoP would favour a slightly altered version of Option 2 which was recommended by BES involving protection of areas of high conservation value and considering the remaining areas for possible residential development.

The Minister's letter stated that the Department is committed to continuing to work closely with Council and DECC to achieve the most appropriate outcomes for both residential development and the conservation of environmentally significant areas of the Estate.

The Minister's letter reiterated correspondence dated 16th December 2008 from DoP's Executive Director of Rural and Regional Planning, Richard Pearson.

Possible Conservation Offsets?

It is likely that a significant area of land would be required to offset habitat loss in Jerberra Estate. Advice has been sought from DECC on the precise area required, but it is likely to be considerably larger than Jerberra Estate (80 ha). Some options are outlined below.

Crown land north of Jerberra Estate

Jerberra Estate is bounded to the north-east, north and north-west by Crown land comprising Lot 99 and Part Lot 73 in DP755968, and Lots 7013 and 7014 in DP1029759. This Crown land:

- o has a total area of approximately 98 ha;
- o is zoned rural 1(b) and rural 1(d);
- o forms part of the Wildlife Habitat Corridor in the Jervis Bay Regional Environmental Plan, 1996 (JBREP); and
- o is contiguous with the Jervis Bay National Park approximately 1km east of Jerberra Estate.

Advice received from DECC during preparation of this report is that the Crown land to the north of Jerberra Estate is unlikely to be considered as an offset for Jerberra Estate as it is currently in Crown ownership.

Land owned by Council

A preliminary review of Council land that could potentially be used as a conservation offset identified the following:

- Comberton Grange (subject to Contract of Sale) classed as 'operational'.
- Part of Coomonderry Swamp (southern end) classed as 'community'.
- Land associated with the Huskisson Recycling and Waste Depot that will not necessarily be used for operation of the facility. Classed as 'operational'.
- Council currently owns one lot (lot 46 DP 11629) within Jerberra Estate. This property was identified as 'moderate level ecological constraints' by BES (2007). The property is too small to provide a conservation offset.

'Community' land would need to be reclassified to 'operational' to be eligible. This would require a separate LEP process.

Equity considerations would apply in respect of the Huskisson waste facility and Coomonderry Swamp, from the broader community perspective and land owners in other similar subdivisions that are/will be the subject of rezoning investigations, such as Nebraska Estate, Heritage Estates, and the Woollamia Farmlets.

Zoning Options for 'High Conservation Value' Land and Implications for Existing Unauthorised Structures

The following zones are proposed to be used in the draft Shoalhaven LEP, 2009 and could potentially be considered for parts of the Estate with significant environmental constraints:

E1 National Parks & Nature Reserves - can only be applied to land reserved under the *National Parks & Wildlife Act, 1974*.

E2 Environmental Conservation – it is proposed that dwellings be permissible in this zone in the draft Shoalhaven LEP, 2009.

E3 Environmental Management – dwellings will be permissible and a wider range of other developments than E2 would be permissible.

Dwellings are proposed to be permissible in draft SLEP 2009 in all of these environmental zones except E1.

R5 Large Lot Residential. The objectives of R5 include: *“To provide residential housing in a rural setting while preserving and minimising impacts on, environmentally sensitive locations and scenic quality.”*

The primary control affecting the permissibility dwellings on individual lots in these zones, would be the minimum lot size map that will form part of the SLEP 2009 mapping.

Environmental Planning and Assessment Amendment Act 2008

The Environmental Planning and Assessment Amendment Act 2008 includes provisions to assist in the resolution of “paper subdivisions”. These provisions should ultimately assist with overcoming various implementation barriers and equity issues. Eligibility criteria for these provisions will include having support of at least 60% of landowners and owners of at least 60% of the land area. Regulations (which may provide additional detail to underpin the Act) have not been tabled at this point in time. The provisions however do not overcome the ecological issues which must be considered under the relevant legislation.

Financial Considerations:

The cost of potential offsets can not be valued on a monetary basis at this preliminary stage. Transfer of part of Coomonderry wetland to NPWS would appear to have minimal direct financial cost to Council.

Options:

DoP and the Planning Minister will not support Council's preferred option on the basis that this option does not adequately address environmental constraints and legislation, unless other land can be used to offset some loss of habitat within the Estate. While the Crown land to the north of Jerberra Estate had previously been raised by DECC as a possible offset, this now seems unlikely. If the rezoning investigations are to be progressed, Council will need to hold further discussions with DoP and DECC and accept that further concessions will need to be made.

RECOMMENDED that:

- a) **Accept that the current preferred option is not viable to progress due to opposition from Department of Environment & Climate Change (DECC) and Department of Planning (DoP) and direction from political leaders.**

-
- b) **Seek further discussions with DoP and DECC aiming to maximise the number of dwelling entitlements and capable of being supported by 60% of landowners and owners of 60% of the land.**

E J Royston
DIRECTOR, STRATEGIC PLANNING & INFRASTRUCTURE

J Gould
ASSISTANT GENERAL MANAGER

R D Pigg
GENERAL MANAGER

REPORT OF GENERAL MANAGER

DEVELOPMENT COMMITTEE

TUESDAY, 3 FEBRUARY 2009

DEVELOPMENT AND ENVIRONMENTAL SERVICES

2. **Proposed 3 Lot Subdivision of Lot 27 DP 1010083, Sanderling Place, Bawley Point.**
Applicant: Rygate and West. Owner: Buttenshaw. File SF10054
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PURPOSE OF THE REPORT

A subdivision application has been submitted to subdivide an existing lot in the unsewered coastal village of Bawley Point into three (3) lots. This report is submitted for Council's consideration to vary the current Effluent Pump-out Policy - POL07/90, adopted 28 August 2007 and Development Control Plan 78 - On-site Sewage Management.

Assessment of the application is not yet completed, the focus of this report is the policy variations only. A comprehensive section 79c assessment will be completed prior to determination once direction is given on the policy issues.

DETAILS/ISSUES

Subject Land

The subject land is Lot 27 DP 1010083 Sanderling Place, Bawley Point. It has an area of 2646m², is generally triangular, with a curved frontage to Sanderling Place.

The land is zoned Residential 2(e) Village. The land is unsewered, as is all of the existing development in Sanderling Place which currently rely on pump-out effluent disposal systems in accordance with the approval issued for the parent subdivision SF8560. Lots fronting Malibu Drive and adjoining the Sanderling Place subdivision have lots sizes ranging from 600m² to 1200m² and are serviced by Council's pump-out contractor.

The Proposal

- # The application is for a 3 lot subdivision of the subject land, (see **Attachment 'A'** - plan of subdivision), Lot 1: 877.5m², Lot 2: 891.3m² and Lot 3: approx. 723m² excluding the access handle with a minimum handle width of 4.5m. The proposed lot areas and layout comply with those specified in DCP 100 as acceptable solutions.

Subdivision History

SF6881 - The parent lot of Lot 1 DP 538640 was subdivided into 25 residential lots and two residues, Lots 26 and 27, being approved 6 October 1990. The consent does not impose or make any reference to effluent disposal and the residential lots created by this subdivision are serviced by pump-out systems.

SF8154 - Subdivision of Lot 26 DP 538640 into 42 residential lots, was approved on 22 March 1996. This consent is consistent with the lot sizes created in the previous subdivision consent of SF6881 and are not of sufficient size to support on-site effluent disposal. The application was considered to be the second stage of SF6881 and it appears that the geotechnical information submitted with SF6881 was used in assessing this application. The consent does not impose or make any reference to effluent disposal. This subdivision consent was not acted upon.

SF8650 - Subdivision of Lot 26 DP 538640 into 11 residential lots, approved 6 November 1998. This application, which was subsequently developed, is over the same lot as the previous approved subdivision SF8154. The applicant, Watkinson Apperley, stated that *"subdivision of this land would be more favourably received if it provided a mix of larger lots sizes"* (Letter dated 24 June 1998). The application also stated that the larger lots *"are more capable of accommodating on site effluent disposal"* (Letter dated 24 June 1998).

Policy Variations

This subdivision application would normally be determined under delegated authority, however, as the proposed lots are considered too small to provide on-site effluent disposal and a pump-out service is proposed for the new lots, the subdivision would be contrary to the current Effluent Pump-out Policy - POL07/90, and Development Control Plan 78 - On-site Sewage Management.

Effluent Pump-out Policy - POL07/90

Council's Effluent Pump-out Policy was adopted on 28 August 07. The purpose of this policy is to *"specify where effluent pump-out services can be made available, and provide staff and customers with guidance in the implementation of this policy"*.

Exemptions to this Policy can only be granted where approved by Council resolution.

Pump-out services are made available in towns and villages in the City of Shoalhaven and where reticulated sewerage services are not available. The Council may approve of effluent pump-out services in other circumstances, for example for protection of the environment and where no sewerage services are available. Pump-out services are not cost effective or efficient compared to on-site sewerage management or reticulated

sewerage. Transportation of effluent by truck (tanker) can create traffic and pollution issues.

The Policy sets out the criteria for determination an effluent pump-out application, which include:

- *New effluent Pump-out services be generally allowed on existing lots within the existing unsewered residential or commercially zoned area within the City.*
- *That **new Pum-pout services not be provided to new subdivisions** or new rezonings.*
- *That Pump-out services not be provided to multi unit development in villages not designated for future reticulation services. Future reticulation services are identified in Council's adopted 20 year financial and capital forward plan.*
- *For proposed multi dwelling and subdivisions in villages identified for future reticulation services, Pump-out services only be provided by resolution of Council, and if so approved the applicant meets all associated costs in relation to provision of the service including the reticulation services within and outside the land (to properly serve the land) and pay the full calculated developer charge for any newly created dwellings and/or lots.*

The Bawley Point area is not included Council's financial and capital forward plan. The existing lots fronting Malibu Drive and adjoining the Sanderling Place subdivision are currently serviced by the pump-out contractor.

The applicant makes the following statement in support of the use of pump-out on the proposed lots; i.e.

"This proposal seeks to utilise existing policy applicable to the land to provide each proposed allotment with pump-out effluent services for all lots at the full cost to the future users. There are two particularly relevant policies, and these are:

Council resolved on 27 October 1998 that in the assessment of subdivision over Lot 26 DP 860926 (now Lots 27-31 DP 1010083) Murramurrang Road, Bawley Point, pump out services be required for all lots created and that the full cost of providing the pump out service be met by the users. (SF8560); and

The siting of any dwelling on this allotment should be considered in the light that the allotment can be further subdivided. Affects lots 27-38 DP 1010083, Sanderling Place, Bawley point. (1 December 1998 SF8560)."

It is clear from the above that further subdivision of the land was anticipated, however, it does not follow that the approval of pump-out services would automatically apply to lots subject of further subdivision applications. In accordance with the procedures in place at that time the following notation was included on the Section 149 Certificate, i.e.:

"Council resolved on 27 October 1998 that in the assessment of subdivision over lot 26 DP 860926 (now Lots 27-31 DP 1010083) Murramurrang Road, Bawley Point, pump-out services be required for all lots created and that the full cost of providing the pump-out service be met by the users. (SF8560)"

The Effluent Pump-out Policy was adopted by Council on 28 August 2007, after the subdivision consent, SF8560 which was approved 6 November 1998. Council's previous policy for the provision of new pump-out services (file 77/2419) with regard to new subdivisions was:

"New pump-out services not be provided...and that other means of on-site disposal be used as the design criteria for the development."

Development Control Plan 78 - On-site Sewage Management (DCP78)

DCP 78 applies to on-site effluent disposal. When on-site disposal is proposed for subdivisions of 4 lots or less, DCP 78 details the information to be provided. There is a creek less than 150m to the south of the subject land. The location of this creek and associated wetlands indicates that on-site effluent disposal may not be an option.

Section 3.1.2 of this policy states the problems arising from the use of pump-out systems:

"Cart-away (pump-out) systems incorporate both the use of a conventional septic tank to remove solids from the wastewater and a holding tank to store the wastewater for collection in a road tanker. These systems are costly and therefore some property owners will try to reduce pump-out costs by illegally discharging effluent to the environment. Council has experienced numerous public health and pollution problems where there are large numbers of pump out systems."

"Consequently, Council is aiming to minimise the numbers of these systems. Over a number of years, Council has been aiming to ultimately phase out pump out systems as all major villages are eventually provided with a sewerage system."

Advice from Shoalhaven Water

Shoalhaven Water has provided the following comments, i.e.:

"Bawley Point is an unsewered village, which has pump-out services to the village zoned area. Lot 27 DP 1010083, Sanderling Place is located within the village zone. Bawley Point has not been identified as an urban area to be serviced by a town sewerage system. On-site disposal systems also exist."

"Council's current pump-out policy POL07/90 specifies that all new subdivisions not be provided with pump-out services unless the village has been identified for future reticulation services."

"Pump-out services can be made available to the proposed lots. Shoalhaven Water currently has 285 services in Bawley Point. An additional two (2) services will not impact on the pump-out services provided. Noise levels will not significantly increase nor will it impact on the surrounding area."

"The developer will be required to ensure that each proposed lot can be serviced in accordance with Council's and the pump-out contractor's requirements. Additional requirements may be required to service proposed lot 3 (battle-axe lot)."

Policy Issues

Subdivision created prior to current Effluent Pump-out Policy

Prior to the current policies relating to effluent pump-out, the Subdivision consent SF8560 was approved with the following conditions and a subdivision layout that were aimed clearly at permitting further subdivision of the land, i.e.

“4. (a) No development on any lot unless it is demonstrated to Council’s satisfaction that the development will not frustrate the future subdivision of the lot. In this regard, Lots 36, 37 and 38 must be capable of subdivision into a minimum of two lots; Lots 27, 28, 29, 30, 34 and 35 must be capable of subdivision into a minimum of three lots; Lots 31, 32 and 33 must be capable of subdivision into a minimum of four lots.

(b) No effluent pump-out will be provided to any lot unless it is provided at full cost by the users.”

An application to modify the SF8650 consent was approved on 1 December 1998 which deleted the restriction-as-to-user (Condition 4 (a)) requiring that siting of dwelling to facilitate further subdivision. However, the following notation was added to the Section 149 Certificate:

“the siting of any dwelling on this allotment should be considered in the light that the allotment can be further subdivided. Affects lots 27-38 DP 1010083”.

Creation of additional lots with effluent pump-out services is contrary to Effluent Pump-out Policy and DCP 78

On-site effluent disposal is potentially compromised in this location as there is a creek within 150m of the subject land. There is an existing pump-out service operating at Bawley Point, i.e. 285 services. As Shoalhaven Water has advised, *an additional two (2) services will not impact on the pump-out services provided. Noise levels will not significantly increase nor will it impact on the surrounding area.*

Further subdivision is not possible without effluent pump-out services

Further subdivision can only be carried out to the extent envisaged by the original parent consent, i.e. for the subject lot, Lot 27 to be subdivided into three lots, if the area was connected to sewer or if a pump-out service was made available. As sewer is not available and is not being considered at this time, and the possibility of on-site disposal is uncertain, it appears that the only available mechanism permitting further subdivision is the provision of pump-out services.

If the application for effluent pump-out service is refused, then as a consequence, the subdivision application would most likely be determined by way of refusal (i.e. after completion of a Section 79c assessment).

Insufficient information to assess whether or not on-site effluent disposal is a feasible option

No geotechnical advice or information about possible on-site effluent disposal accompanied the current application for subdivision. The current application relies solely on the provision of pump-out services to the proposed lots, a position based on the prior

approvals and geotechnical advice supplied for subdivision SF6881, (approved 6 October 1990).

Considerable advances have occurred since 1990, in the area of on-site effluent disposal and a greater variety of systems are available. It is possible that on-site disposal may now be a viable option for this land, albeit with a possible reduction of lot yield. However, as there is a creek less than 150m to the south of the subject land, this may prove to be an unfeasible option.

Submissions

Three (3) submissions have been received, all objecting to the proposed subdivision, the reasons for objection include:

Issue	Quotes from objectors
Adverse impact on existing amenity	• <i>The reason we purchased and built here in the first place was the spaciousness and country feel of a very well thought out and attractive subdivision. We feel that to start carving land here up into smaller lots would be a betrayal of all the current rate-paying residents.</i> • <i>The ambience we currently experience will be destroyed and should they be two storey along with the ambience goes our privacy.</i> • <i>...dividing the current property would adversely effect the neighbouring properties along Malibu Drive with such impacts as privacy, noise, overshadowing and obstruction of views.</i>
Adverse impact on streetscape	• <i>A subdivision of this size would not fit in with current streetscape as all allotments are larger size.</i> • <i>The application does not address how the proposed development of smaller lots compliments and positively relates to the streetscape... (DCP91 setback requirements do vary depending on lot size)</i> • <i>...would set a precedent...changing the entire streetscape to one that does not characterize or compliment the current dwellings of Sanderling Place.</i> • <i>...If tanks (septic) are placed at the front of blocks...this will not be consistent with current streetscape.</i>
Pump-out services not supported	• <i>Subdivision SF8560 consent condition 4 (b) did not resolve that pump-out services be required for all lots created. The only mention of pump out was the cost to provide this service would be born by the users.</i> • <i>We maintain that Council deliberately did not give the go ahead for the installation of pump-out systems as they were following the Council policy set out in items 2.2 and 3.1.2 DCP 78 (On-site Sewage Management) which in future limits the quantity of new pump out installations they could at a future date decide that a more appropriate system be used including a reticulated sewerage system connection if it became available.</i> • <i>...will create more noise due to pump out requirements...</i>

Moratorium requested until sewerage system available	<i>...respectfully request that the application be denied at least until such time as sewerage becomes available in the area. There are far too many septic tanks and we feel that there should be a moratorium on any further subdivisions of this nature.</i>
Contrary to previous advice from Council	<i>Before we bought .. spoke with Council...told that subdivision of lots would not be allowed until a connection to a sewerage .. system was available...took the view this would not happen for a number of years and bought the house accordingly. Had we been told that a subdivision be allowed using pump-out systems which could be approved at any time we would not have bought... extremely disappointing</i>
Adverse precedent for other applications	<i>Shoalhaven Council Effluent Pump-out Policy POL07/90, Part 2, It states "that new pump-out services not be provided to new subdivisions or new rezoning". We would maintain that should this application ...be approved it opens the floodgates for the owners of other allotments to take advantage of the approval resulting in a proliferation of new pump-out installations which is against Council policy.</i> <i>I would request that Councillors abide by this policy and reject the application. The approval of this application sets a precedent which developers naturally will take advantage of the ruling and in future propose numerous subdivision of small half and one acre lot which Council if they approve this application will find hard to reject.</i>
Onsite disposal of septic waste	<i>...leaching of septic waste from 3 building lots may be too much for the for the current lot size to absorb in wet periods. ...the excess has potential to run into stormwater and drainage easements... easement drains to a catchment dam ... and any overflow from this dam then carries into the adjoining wetlands.</i>

Comment on Submissions

Most of the objections are directly related to possible adverse impacts on the existing levels of amenity enjoyed by existing property owners in this area. Such impacts being attributable either to future dwellings on the proposed lots, or related to the proposed method of effluent disposal.

If all lots in Sanderling Place were to be subdivided in the future, there may be the potential to create a total of 30-33 lots (subject to lot configuration, assessment and approval). Although given the location of existing dwellings it is unlikely this maximum development scenario would be achieved. Nevertheless, considering there are currently 12 lots in Sanderling Place, any substantive increase in lot numbers represents a significant increase of lots/densities in this cul-de-sac.

OPTIONS

1. Refuse the application for pump-out services on the proposed lots.

If the application for effluent pump-out service is refused, then as a consequence, the subdivision application would most likely be determined by way of refusal.

2. Approve the provision of pump-out services to the proposed lots subject to full cost to user.

In accordance with advice from Shoalhaven Water, *"pump-out services can be made available to the proposed lots. Shoalhaven Water currently has 285 services in Bawley Point. An additional (2) services will not impact on the pump-out services provided. Noise levels will not significantly increase nor will it impact on the surrounding area"*.

The land is zoned Village 2(e), and is within the Bawley Point township. Subject to compliance with Council policies including those relating to effluent disposal, and DCP100 - Subdivision Code, it would be reasonable to expect further applications for subdivision in this location.

Regard should be given to the precedent that this application could represent to future applications in both the immediate Bawley Point area, and the City as a whole. In Sanderling Place there is potential for a maximum of 30-33 lots to be created, i.e. an additional 20 services. However, in some cases, subdivision would require part or complete demolition of existing structures, and existing residents may elect not to subdivide, but rather choose to maintain the large lot size.

3. Seek further information from applicant.

The original geotechnical information on which prior subdivision was based was attached to the 1990 consent SF6881. This information is now somewhat outdated and considerable advances have occurred in the area of on-site effluent disposal and a greater variety of systems are available. However, there is no guarantee that on-site disposal will be an option, and even so, could result in a lessened lot yield. In any case, the applicant has requested that effluent waste be disposed of via a pump-out service.

CONCLUSION

There is an existing pump out service in the Bawley Point area, with 285 services. This application represents an increase in that service by 2 (consideration is given for the existing lot).

There is a notation on the 149 certificate for this land that states:

"the siting of any dwelling on this allotment should be considered in the light that the allotment can be further subdivided. Affects lots 27-38 DP 1010083".

The subdivision consent that created this lot, (SF8560) was modified on 1 December 1998 to delete the restriction-as-to-user (Condition 4 (a)) requiring that siting of dwelling to facilitate further subdivision.

Council adopted the Effluent Pump-out Policy on 28 August 2007.

Council's Effluent Pump-out Policy clearly states that new pump-out services **not** be provided to new subdivisions or new rezonings. Pump-out services are not cost effective or efficient compared to on-site sewerage management or reticulated sewerage. However, in this location, a pump-out service is most likely to be the only possible means of effluent disposal.

RECOMMENDED that:

- a) the request for pump-out service for the proposed subdivision SF10054 for the 3 lot subdivision of Lot 27 DP 1010083, Sanderling Place, Bawley Point, be approved subject to the full cost of the pump-out service being met by the users, and this be noted on the Section 149 (Planning) Certificate and the Title Deed of the affected allotments; and
 - b) The application be determined under delegated authority.
3. **Proposed Demolition of an existing dwelling and construction of a 3 storey Residential Flat Building containing 3 Units, on the 1st and 2nd Floors, in addition to 2 Tourist Accommodation Units and a Car Parking area for 9 vehicles, located on the Ground Floor - 19 Fegen Street, Huskisson. Applicant: ES Engineering Pty Ltd. Owner: PLM Investments Pty Ltd.** **File DA08/2051**
-

PURPOSE OF THE REPORT:

A development application has been submitted to Council for a 3-storey residential flat building containing 3 residential units (permanent accommodation), in addition to 2 tourist accommodation units at 19 Fegen Street, Huskisson (See **Attachment 'A'** - Location Plan and **Attachment 'B'** - Plans of the subject proposal).

The submitted proposal does not comply with a number of the 'Acceptable Solutions' provisions, contained in Council's DCP 99 (*Huskisson Foreshore Business Development Zone 3(g) Duncan, Bowen, Fegen and Nowra Streets*), and, as such, the applicant has sought a merit-based assessment of this application by requesting a number of variations which they have specified as being an alternative approach to complying with the requirements of this DCP.

The proposed development is non-compliant with DCP 99, in respect to:

- (1) the provision of permanent residential living on-site which conflicts with the identified land use objective to "*promote and encourage*" tourist accommodation within this 3(g) zoned precinct and the statement in A1.1.3 of the *Acceptable Solutions for Land Use Activities* which states that "*Medium density housing will not conform to the objectives of this DCP*";
- (2) the provision of a building design which appears to be out of character and unsympathetic to the scale and appearance of other developments within the existing

streetscape, especially in terms of required roof pitches and single/two storey combinations with single storey elements orientated to activate street frontages;

- (3) the proposed building exceeds the requirement of having an overall appearance of a two storey structure with any third storey being contained within the roof area; and
- (4) the failure to provide a building entryway which is easily identified and accessible from the street frontage;

Direction is sought from Council on these policy variations prior to the determination of this application.

DETAILS/ISSUE:

Background

The subject allotment has an area of 643.18m² and is zoned 3(g) "Business" which, as stated in the Shoalhaven Local Environmental Plan (1985) (SLEP) 'objectives' for this zone, provides "*higher density residential, commercial and tourist combinations..*" with development consent.

The applicant was advised at Council's Development Advisory Unit (DAU) meetings of 30 April and 25 June, 2008 that the tabled concept plans did not comply with the 'Acceptable Solution' requirements, specified in DCP 99. As the current submission remains largely unchanged from that presented at these meetings, this proposal requires a performance-based merit assessment against the 'Performance Criteria' stipulated for each of the elements that do not comply with the 'Acceptable Solutions' to determine the suitability of this development in the subject location.

Since the introduction of DCP 99 over 7 years ago, there have been no other development applications submitted or proposed for this area.

The Proposal

The proposal involves the construction of a 3-storey residential flat building containing 3 units comprising 1 x 4 bedroom and 2 x 3 bedroom respectively, on the 1st & 2nd floors, in addition to 2 tourist studio-style units and a car parking area for 9 vehicles, located on the ground floor.

The Site

The subject is Lot E DP384715, 19 Fegen Street, Huskisson located towards the southern end of the Fegen/Bowen/Duncan Street 3 (g) precinct near the intersection with Nowra Street. It is located only 60 metres from the Beach/Nowra street 3 (g) precinct for which Council recently commissioned Noni Ruker and Associates to undertake an urban design strategy for Beach and Nowra Streets, Huskisson.

Policy Matters

DCP 99 - Huskisson Foreshore Business Development Zone 3(g) Duncan, Bowen, Fegen and Nowra Streets.

(1) Land Use Objective - *to promote and encourage tourist orientated activities which promote the areas strategic location near beaches, public reserves and waterways.*

Under the section of the guidelines to DCP 99 titled “*Land Use Activities*” and, virtually word for word, the relevant “*performance criteria*” states “*ensure that land use activities maximise the area’s strategic location and tourist resources being beaches, public reserves and water bodies*”. Consistent with this, the only land uses mentioned in the “*Acceptable Solutions*” include guesthouses, conference/accommodation outlets, small resorts, tourist accommodation units, holiday cabins and the like. It goes on further to state that “*medium density housing will not conform to the objectives of this DCP*”. Therefore, it is reasonable to conclude from this that a performance based approach and assessment is not available to medium density housing developments under the terms of the DCP.

Although the stated ‘Objectives’ associated with DCP 99 “*promotes and encourages*” tourist accommodation in this precinct, the Environmental Planning & Assessment Act 1979 stipulates that the zoning provisions contained in an Local Environmental Plan override the local DCP requirements and, as such, would prevail in terms of its identified permissible uses. In this regard, as the identified “*higher density residential*” uses within the 3(g) zoning are permissible, under SLEP, any DCP can only **discourage** but not prohibit such uses.

The proposal is for a mixed tourist/residential development although, based on the plans, it is predominantly residential apartment living. Given that the DCP does not provide guidance on the acceptability or otherwise of such mixed use developments, some direction is sort from Council on this aspect.

(2) Building Design Objective - *to encourage development which recognises good aesthetics and urban design principles and which compliments the surrounding natural environment.*

The relevant performance criteria for this objective includes “*to encourage development that considers the characteristics of the site and adjacent or adjoining sites at the outset of the design process and to ensure development is compatible with and sympathetic to the scale and appearance of the existing holiday seaside character of Huskisson*”.

It is questionable whether the design, scale and appearance of this proposal is compatible with existing developments within Fegen Street which are essentially single detached houses and at a domestic scale. While it is acknowledged that the 3(g) zone will eventually encourage redevelopment, it is clear that DCP 99 encourages an essentially two storey scale of development with the third storey in the roof space. Given this policy direction, there is concern that the future desired amenity of this area will be compromised, particularly when there has been no intention to retain the overall appearance of a two storey structure (by not containing the 3rd storey within the building’s

roof area) or the provision of a building entryway which is readily apparent from the street frontage.

However, in the past 12 months, there have been a number of other 4 storey residential flat buildings in 3(g) zones approved in close proximity to this precinct. These applications were assessed against their individual 3(g) Planning Statements which identified that either “*High rise*” or “*Higher density*” development were envisaged for these areas and, therefore, could be of a higher order than those captured under DCP 71 (Medium Density Housing). It must be noted that the former ‘Planning Statement’ for this precinct was superseded by DCP 99 and did not contain this type of provision other than a requirement to contain any 3rd storey component within the proposal’s roof area in order to maintain the appearance of a 2 storey structure on site.

As the land, lying adjacent to the foreshore, between White Sands Park and Moona Moona Creek is either zoned Business 3 (g) or is occupied by caravan parks, the question of whether there needs to be some consistency in the application of planning guidelines needs to be addressed. There are three separate 3 (g) zones in this section of foreshore namely, Beach/Jervis Streets, Beach/Nowra Streets and the mostly northerly – Fegen/Nowra/Bowen and Duncan Streets. Due to the developments in the other two precincts, Council commissioned Ruker and Associates to undertake an urban design strategy for the Nowra/Beach streets precinct. Prior to this and in consideration of the three major development applications in this general area, Council sought expert urban design advice from Gabrielle Moorish and Associates on the acceptability of the nature, form and design of those developments.

The Ruker strategy sought to:

- a) *Understand the location and importance of the site within the settlement, particularly its relationship to the coastal edge.*
- b) *Recognise the importance of built form continuity along foreshore streets.*
- c) *Recognise the importance of the place as a pedestrian environment for relaxation and enjoyment of the coastal foreshores.*
- d) *Encourage design excellence in future built form in terms of architecture, urban design and landscape design.*
- e) *Reduce the dominance of vehicle manoeuvring areas whilst still allowing car access and movement.*
- f) *Create high quality buildings that are great to live in and enhance Beach and Nowra Streets as public places.*
- g) *Encourage the potential of sites to ensure the highest and best use of the land and to encourage quality redevelopment.*

It addressed these objectives in a co-ordinated approach addressing local scale, visual setting, built form and massing (including building height, setbacks and separation distances) and open space/landscape design treatments. The resultant development of Precinct Control Plans for the Beach/Nowra Street 3 (g) area could be similarly developed for the other 3(g) precincts, including that containing the subject site.

In comparison, DCP 99 seeks as a performance criteria – *“Development is compatible with and sympathetic to the scale and appearance of the existing holiday seaside character of Huskisson.”*

The Aims of this ‘Performance Criteria’ in the DCP are to ensure that:

- *Buildings are detailed and articulated to provide an appropriate scale when viewed from outside the site, add visual interest and reinforce the typical detached built character of the area*
- *Building height should be sympathetic to the built character of Huskisson (excluding the shopping centre) and minimise overshadowing to private open space areas.*
- *Building setbacks should increase in proportion to the density of a development to maintain privacy and amenity to surrounding neighbour’s.*
- *Building setback should encourage the sharing of views whilst not restricting the reasonable development potential of a site.*

Comment

The principal difference between DCP 99 and the Ruker findings at other 3(g) sites is that of acceptable height, setbacks and building form and massing. DCP 99 aims to seek development that is typically single storey or a combination of single and two storey detached developments with the single storey elements being orientated to active street frontages. Site density is to be a maximum of 0.6:1 and comply with a maximum height of 8.5 metres (two storeys) although a third storey may be contained within the roof area provided the building retains the overall appearance of a two storey structure.

- # The submitted front (eastern) elevation of the subject proposal, reads as a substantial 3 storey structure when viewed from the public domain which is exacerbated by the presence of a flat roof above the top floor. As a result, the external design of the proposal appears to be incompatible and unsympathetic when compared to other existing development in this precinct particularly, as the DCP also requires the implementation of a pitched roof with a gradient of 25-45°. The building has a strong emphasis on horizontal articulation expressed through incremental, recessed setbacks proposed on the 1st (9.5 metres) and 2nd floors (11 metres) to the front boundary with balconies which present in a linear fashion along the site frontage which are setback 5 and 6 metres, respectively, from the front boundary. (See **Attachment ‘C’** - 3D Perspective).

The defined building articulation associated with this proposal is confined to the glazed unit balconies which are not considered to be substantive, distinctive architectural elements that provide sufficient relief and enough visual interest to positively contribute to the public domain and justify the variations from the acceptable solutions.

Building Setbacks

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development (SEPP 65) and the associated Residential Design Flat Code (RFDC) applies to residential flat buildings comprising 3 or more storeys in height. In this regard, both SEPP 65 and the RFDC apply to the subject proposal. While this is a ‘Policy’ report and not a Section 79c assessment, a thorough analysis of this proposal in conjunction

with the applicable 'Policy' and 'Code' will still need to be completed prior to the final determination of the subject Development Application.

However, for the purposes of determining the appropriate setback provisions for this proposal, a review has been undertaken in accordance with the '*Building Separation*' provisions recommended in the RFDC.

Even though the associated building setbacks increase in proportion to the density of this development, both the Level 2 and 3 apartments have balconies and habitable areas orientated toward the adjoining lots to the north, west and south of the site which fail to reflect the RFDC's requirement of having the recommended 6 metre separation distances setback from these common boundaries. Currently, this proposal fails to provide 50% of these distances on-site in order to adopt the required 12 metre 'separation' distances between habitable/balconies of similar buildings on adjoining sites:-

This proposal fails to provide these 'separation' distances in the following instances:

- (i) Level 2 – Unit 3: The distance between the front terrace and; living room, master bedroom and bedroom '3' windows are setback 1.5 metres from the southern boundary which represents a deficiency of 4.5 metres;
- (ii) Level 2 – Unit 3 (back terrace): The distance between the Level 2 back terrace to both the southern and western boundaries is 3 metres which represents a deficiency of 3 metres;
- (iii) Level 2 – Unit 4: The 'communal' covered walkway and front terrace are setback 1.7 metres from both the western and southern boundaries which represents a deficiency of 4.3 metres;
- (iv) Level 2 – Unit 4: The distance between the living room and bedroom '3' windows are setback 3 metres from the northern boundary which represents a deficiency of 3 metres;
- (v) Level 3 – Unit 5: The distance between the terrace area and; kitchen, bedroom '3' and bedroom '4' windows are setback 4.5 metres from the southern boundary which represents a deficiency of 1.5 metres; and
- (vi) Level 3 – Unit 5: The distance between the terrace area and; living room, bedroom '2' and master bedroom windows are setback 4.5 metres from the northern boundary which also represents a deficiency of 1.5 metres.

Whilst the applicant has submitted a comprehensive assessment (see **Attachment 'E'**) against the provisions of SEPP 65 and the RFDC, the assessment report appears to have failed to correctly identify the applicable building separation distances for buildings up to four storeys/12 metres in height. The applicant's consultant has noted the building separation required for 5 to 8 stories and over and concludes that they are not applicable but does not discuss or justify the deficiencies in the submitted proposal in respect of the requirements for up to 4 stories.

The applicant should be requested modify the current design in order to fully comply with DCP 99 if Council is of the opinion that the DCP should be retained in its present form. Alternatively, modifications could be made to meet the requirements of the RFDC or demonstrate some alternative measures which can be employed to mitigate any direct viewing into the dwellings of private open space areas on adjoining properties, prior to the final determination of the subject proposal.

By increasing the separation distances in accordance with the recommendations contained within RFDC, there will also obviously be increased opportunity for sunlight to infiltrate the dwellings and private open space areas which adjoin the subject site to the south and west. By failing to comply with these 'distances', there is also concern that the north facing window in the adjoining dwelling, to the south, will be overshadowed by the new building for longer periods during mid-winter.

Again, the applicant should be requested to amend their plans to optimise solar access and improve any loss of privacy to the adjacent dwellings/properties; and to enable equitable development opportunities on adjoining 3(g) zoned land, within this precinct, by providing suitable separation between apartment blocks. Alternatively, the applicant may decide to delete the 3rd storey component which would result in the revised proposal having to comply with the less stringent "Views, Visual and Acoustic Privacy" provisions, contained in DCP 71, as opposed to the 'building separation' distances recommended by the RFDC. This last option would enable the proposal to more readily comply with DCP 99 in its present form.

(3) Maintaining the Appearance of a 2 Storey Building - *the proposed building exceeds the requirement of having an overall appearance of a two storey structure with any third storey being contained within the roof area.*

Providing DCP 99 is retained in its present form, it is envisaged that any departure from the requirement to retain the overall appearance of a two storey structure, by not containing the 3rd storey component within the building's roof area, will result in a development which is potentially inconsistent with other future proposals in this locality and one that fails to reinforce the typical detached built character of the surrounding area.

- # The only other recently constructed building, within this 3(g) precinct, is located at No.42 Bowen Street, Huskisson. This building clearly reads as a 3 storey building and was assessed prior to the adoption of DCP 99. The high quality of the design and the reduced footprint of the top floor setback from the main building façade presents as an acceptable scale and bulk of development when viewed from the public domain. (See **Attachment 'D'** – 42 Bowen St).

Front Entry - *the failure to provide a building entryway which is easily identified and accessible from the street frontage*

The proposed residential flat building does not have a defined entryway which is easily identified and directly accessible from the street frontage. The current entryway is located on the ground floor, half way down the building's northern (side) elevation which fails to provide a public presence and interface within the public domain which contributes to the physical and visual connection between Fegen Street and the entry to this building.

For these reasons the applicant should be requested to amend the current plans in order to implement a building entryway which is easily identified and apparent from the street frontage.

Strategic Planning and Infrastructure Group's Comments

The application was specifically referred to Council's Strategic Planning and Infrastructure Group in relation to the relevance of DCP 99. The following comments were provided:

"In relation to the reason for referral it appears that the applicant has effectively responded to the DCP issues raised at the DAU meetings, and has provided sufficient information to determine, under Section 79C, as to whether the proposed variations to the DCP can be supported."

Community Consultation and Comment

The proposal was placed on public exhibition between 5 August 2008 and 19 August 2008. A total of seven (7) submissions were received during the exhibition period which expressed 'objection' to this proposal. A summary of these submissions are as follows:

Concerns were expressed in relation to the:

- Height, scale, bulk and proposed setbacks of the proposed development do not comply with the provisions specified in DCP 99;
- Detrimental impact on neighbouring and surrounding properties as a result increased overshadowing and loss of privacy as a result of this development;
- Loss of cultural heritage and the natural environment as a result of this proposal;
- Proposal will be aesthetically unattractive;
- Exacerbation of the existing stormwater drainage system due to the increased impervious areas which must implemented as a result of this development.

Summary of Issues

The key issues for consideration by Council are:

- a) Council's commitment to the design principles of DCP 99, especially in regard to 2 storey height limit, pitched roofs and 3rd storey in roof space.
- b) The desirability of achieving consistency in planning controls across all 3(g) precincts in the White Sands Park to Moona Moona Creek foreshore area given that a substantial amount of work has been undertaken on other 3(g) sites and the development of the Ruker guidelines.
- c) Need for greater adherence to SEPP65 and the RFDC or the submission of proper justification for departures based on a performance assessment by the applicant.

OPTIONS:

There are essentially four options for Council to consider, which are to:

1. Accept the current proposal, as submitted for the reasons set out in their submission, by giving a policy direction to staff to accept the height, scale, bulk and setbacks of the development, in its proposed form, including any requirement to implement the 3rd storey component within the building's roof area or to provide an entryway which is visible and easily accessible from Fegen Street; **or**
2. Consider the proposal on merit, in accordance with the detail contained in this report, and give a policy direction to staff that the bulk and scale of the development is unacceptable, unless the highlighted recommendations are adopted in order to mitigate the overall impact of the current proposal and comply with the specified provisions adopted in DCP 99. Applicant be invited to revise proposal/application; **or**
3. Not support the applicant's request for variation to the Acceptable Solutions as outlined in DCP 99 and the application be determined under delegated authority.
4. Defer consideration of the application pending review of DCP 99 in light of the Ruker Guidelines.

Note: The Director of Strategic Planning and Infrastructure has advised a detailed review of DCP 99 has not been programmed in the Environmental Planning and Assessment work program and no resources are currently available.

CONCLUSION:

This matter is being reported to Council to ascertain whether or not Council is supportive of the requested variations, as discussed in the body of this report, in accordance with the specified DCP 99 requirements.

However, there is a broader issue for Council to firstly address. That is, whether Council believes that the DCP should be reviewed in light of the work that Ruker and Associates have undertaken for the adjacent 3(g) precinct in Jervis/Nowra Streets. Such review could provide for an opportunity to update the ideology behind DCP99 and create planning controls which are in keeping with community expectations and more consistent with those in other 3(g) precincts in Huskisson.

Under DCP 99, the policy assessment process has concluded that there should be design modifications that would mitigate the bulk and scale of the proposal to improve integration of the development within the existing and anticipated future development of this 3(g) zoned precinct. Whilst the applicant could be requested to redesign this proposal in order to comply with the designated DCP provisions and be more consistent with the recommended state-wide planning objectives for residential flat buildings, namely SEPP 65 and the associated RFDC, it is recommended that Council address the broader policy issue in the first instance.

RECOMMENDED that in respect to Development Application (DA08/2051) for a Mixed Residential and Tourist Development at 19 Fegen Street, Huskisson, Council support Option 4 of the above report, that is the subject application be deferred pending a review of DCP 99 in light of the 3(g) guidelines prepared by Ruker and Associates.

4. Quarterly Progress Report - Key Performance Indicators

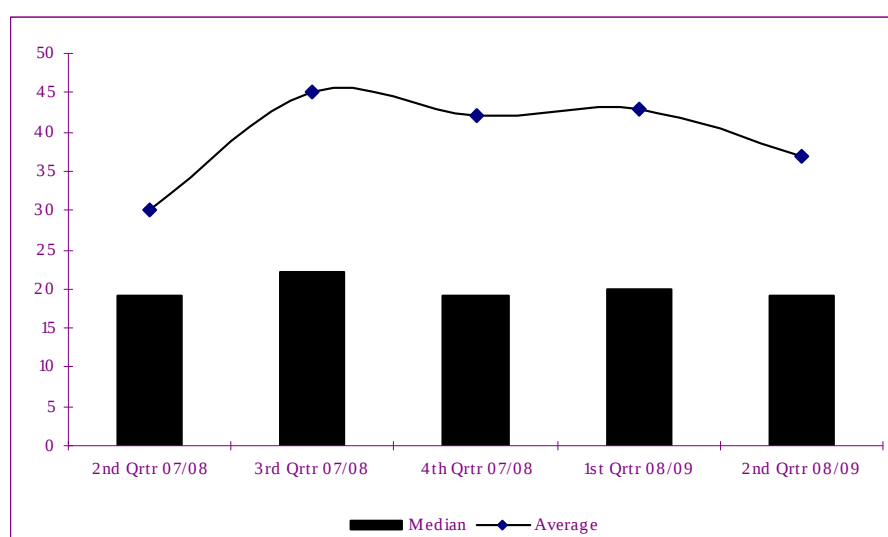
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PURPOSE OF THE REPORT:

This supplementary report to the Quarterly Report is provided given the interest in development related matters. It provides a summary of some of the key performance indicators used to monitor Group performance and development activity. The report also contains detail on the status of major applications as well as policy reviews and formulation.

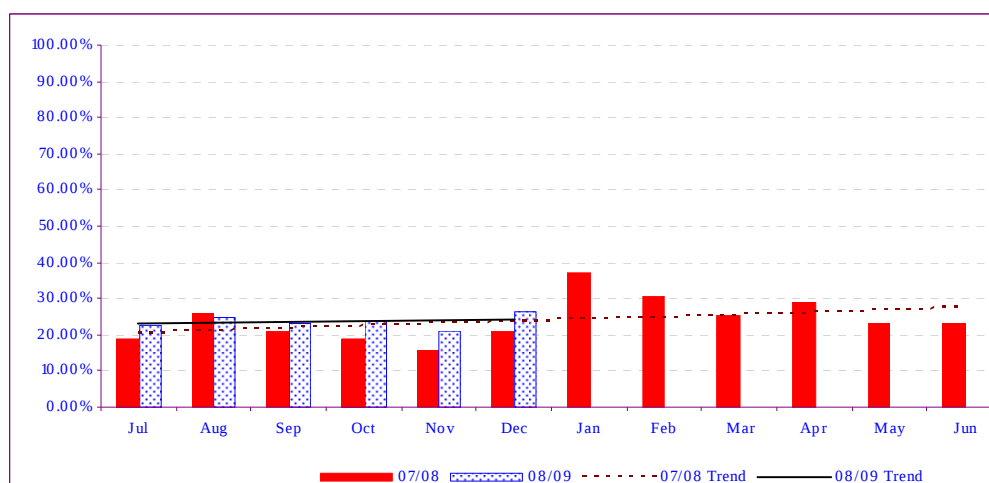
Details/Issue:

Processing Times Summary - Development Applications



Processing times for all DAs continue to track well with an improvement in the average figure in the last quarter. The median time of 19 days is similar to previous quarters and is a sound result.

Percentage of DAs determined exceeding 40 days



The percentage of DAs taking longer than 40 days to determine has settled at approximately 20% which is a reasonable position. The longer term trend is slightly flatter than last year although the results for the last quarter are slightly higher than for the same time last year; this situation needs to be monitored carefully.

Applications Received and Approved

Period	Received	Determined	Difference
06/07			
Quarter 1	643	654	-11
Quarter 2	497	564	-67
Quarter 3	478	520	-42
Quarter 4	619	536	83
Total 06/07	2237	2274	-37
07/08			
Quarter 1	607	598	9
Quarter 2	574	545	29
Quarter 3	448	476	-28
Quarter 4	517	491	26
Total 07/08	2146	2110	36
08/09			
Quarter 1	482	514	-32
Quarter 2	428	448	-20

It is pleasing to see that more DAs were processed in the last two quarters than received. While it is acknowledged that there has been a reduction in overall numbers received, by processing more any back log is minimised.

Undecided Development Applications - ILAPs

These older applications (old system) are now virtually completely resolved with only two still outstanding. These applications invariably involve complex planning issues where policy changes have required detailed consideration and applicants have further submissions to make.

Development Application	Date Lodged	Proposed Development	Property Address	Application Status
DA04/3419	Dec 2002	New dwelling and demolition of existing residence	390 Leebold Hill Rd Red Rocks	Legal advice on a proposed refusal of the application has been obtained and is being considered.
DA04/2639	Jul 2004	New building for retail and residential use (3 shops & 2 units)	102 Queen St Berry	Required information submitted by Applicant - assessment continuing - to be reported to Council due to financial implications of Section 94 Plan.

Undecided Development Applications - DARTS

At the time of preparing this report there were 192 applications outstanding for more than 60 days under the DARTS system. This is substantially less than the 260 that were within the system when reporting on the DARTS system commenced. This represents an improvement of approximately 26% in the last 2.5 years

Status of Major Development Applications

- **New Woolworths Supermarket Complex, Boree and South Streets Ulladulla** - Traffic, sewer infrastructure and design issues. Notification complete, awaiting comments from RTA and internal infrastructure. Submissions being reviewed to determine issues to be addressed by applicant prior to further assessment.
- **Permanent Occupancy Caravan Park, Inyadda Drive, Manyana** - Residents Briefing Meeting held 5 June 2008. Threatened Species and Social Impact issues major concern. Threatened Species Issues resolved. Application refused on social impact issues. Request to review under Section 82A received including amendment to tourist caravan park with no permanent occupancy. Currently on notification to residents and submitters.
- **High Care Senior Living Development, Bishop Drive, Mollymook** - Bushfire, Threatened Species and Traffic issues. Threatened Species issues nearing resolution, Traffic issues to be resolved. Assessment nearing completion with some engineering issues to be resolved to enable a deferred commencement consent to be issued.

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- **Masterplan Development for Expansion of William Campbell College, Albatross and Gannet Roads, Albatross** - Reported to Development Committee on 7 October 2008. Council resolved to conduct a Councillor site inspection and briefing on 5 November 2008. Reported to December Development Committee and Council meetings - Resolved to accept proposal as an in nominate use, an acoustical report be submitted prior to determination, confirm consistency with DCP 69 based on 2014 ANEF Forecast, noise mitigation measures to be incorporated in the building design and be certified upon completion and further discussions be held with the Department of Defence and that the application be dealt with under delegated authority.
 - **Tourist Facility, Cabins/Conference, Bendeela Road, Kangaroo Valley** – Reported to January Development Committee and Council meetings – Resolved that approval be granted subject to conditions.
 - **29 Unit Mixed Commercial/Residential Complex, Owen Street, Huskisson.** Reported to July Development Committee - Amended submission completed by the applicant addressing design matters and directions of the Committee. Notice of Motion considered by Council on 21 October 2008 and lost - Section 79C Assessment Report and Determination finalised by the granting of 'Deferred Commencement' Development Consent.
 - **New 4 Storey Hotel - Huscorp - Council Precinct, Bridge Road, Nowra** - Issues resulting from referrals and notifications (e.g. Access for service vehicles, garbage disposal and loading dock; Pedestrian impacts; Traffic volume generation; Pedestrian footpath treatment along Bridge Road; Social and economic impact statement) were forwarded to applicant to respond. Formal response received and forwarded to independent consultants who are finalising a Section 79C Assessment Report. Applicant has sought additional time to address the remaining outstanding matters - two weeks allowed - proposal to be reported to a future Development Committee meeting.
 - **New Supermarket Complex, off Island Point Road, St Georges Basin** - Section 79C Assessment and draft development consent has been discussed with developer who is preparing a formal response including a request that some Section 94 Contributions be off-set against works in kind. Report on drainage funding reported to Works and Finance Committee on 21 October 2008. Section 79C Assessment Report and consent finalised.
 - **Four Storey Residential Flat Complex (14 units) with Basement Car Parking, 2 Murdoch Street, Huskisson** - Policy issues reported to Development Committee in July. Section 79C Assessment and determination completed, consent granted.
 - **Four Storey Residential Flat Complex (12 units) with Basement Car Parking, Corner of Jervis and Beach Streets, Huskisson** - Reported to Council on 21 October 2008. Section 79C Assessment Report finalised and consent granted.

Status of Department of Planning 3A Applications

- **Hotel (MP08_0027) - Four Storey Hotel, Basement Level Car Parking and Associated Landscaping - Scenic Drive, Nowra** - Determined to be a 3A Application on 15 April 2008. Project Application submitted 27 May 2008. Key Issues and Assessment Requirements issued 8 July 2008. Director-General's Requirements for Environmental Assessment issued 11 July 2008.
- **Shaolin Tourist Residential Development, Comberton Grange (MP06_0135) - Concept Plan for the Construction of a Mixed Tourist, Residential, Commercial Facility - Comberton Grange Road, Comberton Grange** - Major Project status confirmed and application received 4 June 2008. Key Issues and Assessment Requirements submitted 15 July 2008. Director-General's Requirements for Environmental Assessment issued 16 July 2008, amended and re-issued 11 September 2008.
- **Bayswood Retirement Living Village, Vincentia (MP08_0096) - Comprising: 166 Predominantly Single-Storey (attached and detached) Dwellings on a Single Lot with 18 Dwellings in a Two-Storey Scale Building with Basement Car Parking; a Village Centre comprising 'resident only' facilities and associated works - Corner of Jervis Bay Road (Naval College Road) and The Wool Road, Vincentia** - Project Application form dated 21 May 2008. Director-General's Requirements for Environmental Assessment issued 14 May 2008. Public Exhibition of Environmental Assessment 28 May to 30 June 2008. Council submission forwarded 1 August 2008. Proponent's preferred project report and response to submissions submitted 8 October 2008. Project Application currently being assessed by Department of Planning.
- **Rural Residential Subdivision (MP07_0015) - Three Lot Rural Residential Subdivision - Garrads Lane, Milton** - Major Project application received 7 May 2007. Council submission forwarded 25 June 2007. Director-General's (DGs) Requirements for Environmental Assessment issued 2 August 2007. Council to assess Environmental Assessment under delegation of the Minister issued 28 April 2008. Proponent is required to submit Environmental Assessment by 1 August 2009 (i.e. within two years from DGs requirements).
- **Additions to Existing Caravan Park (MP05_0141) - 20 Additional Short Term Sites and 90 Additional Camp Sites, Kioloa Beach Holiday Park - Murramarang Road, Kioloa** - Major Project Application received 4 May 2006. Council submission forwarded 11 May 2006. Comments on Draft Beach Management Plan forwarded to Cowman Stoddart on 25 July 2007. Public exhibition of Environmental Assessment from 1 May to 30 May 2008. Council submission forwarded 10 July 2008. Proponent is currently preparing a response to submissions to the Department of Planning.
- **Tourist Development at Goodnight Island and Commercial Development at Greenwell Point Road, Greenwell Point (MP06_0034) - Orama Crescent, Orient Point and Greenwell Point Road, Numbaa** - Major Project Application received 30 March 2006. Council submission forwarded 8 May 2006. Director-General's Requirements for Environmental Assessment issued. Public Exhibition of Environmental Assessment 21 July 2008 to 19 August 2008. Council submission forwarded 16 September 2008. Proponent is currently preparing a response to submissions to the Department of Planning.

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- **Residential and Tourist Development (MP07_0126) - Low and Medium Density Residential Development, expansion of the existing 9-Hole Golf Course to 18 holes, including ancillary structures, upgrading of existing course and a new clubhouse, tourist development, open space and ancillary infrastructure and dedicated conservation areas - Badgee Lagoon, Sussex Inlet** - Application submitted 28 August 2007. Application pending rezoning. Director General Requirements issued 20 February 2008.
 - **Expansion of Ethanol Production (MP06_0228) - Upgrade of Ethanol Production, reduction of odour and waste water treatment measures for existing and proposed operations at Shoalhaven Starches Factory - Bolong Road, Bomaderry** - Request for comments on Preliminary Environmental Assessment on 4 December 2007. Council submission forwarded and Director-General's Requirements for Environmental Assessment issued on 17 January 2008. Council comments on Draft Environmental Assessment submitted on 24 July 2008. Public Exhibition of Environmental Assessment from 15 August to 17 September 2008. Proponent is currently preparing a response to submissions to the Department of Planning.
 - **170 Lot Residential Subdivision (MP05_0024) - Highview Drive, Dolphin Point** – Director-General's Requirements issued 11 February 2006, Environmental Assessment exhibited 11 October - 30 November 2007. Council comment on Environmental Assessment submitted 4 April 2008. Proponents Preferred Project Report issued. Council's responses to the PDR submitted 17 December 2008. Project currently being assessed by the Department of Planning.

3A Applications Approved

- **Vincentia District Town Centre (MP06_0205) - Discount Department Store, Supermarket, Medical Centre, Childcare Centre, Restaurants and Speciality Retail. Proposal includes car parking, loading bays, landscaping, public open space and associated services and infrastructure - Corner of The Wool Road and Naval College Road, Vincentia** - Director General's Requirements were issued 23 November 2006. Public Exhibition of Environmental Assessment 28 May to 30 June 2008. Council submission forwarded 1 August 2008. Approved 7 January 2009.
- **Bamarang Gas-Fired Power Station - Stage 2 (MP08_0021) - Construction and Operation of Stage 2 of Delta Electricity's Gas-fired Power Station at Bamarang -Yalwal Road, Bamarang** - Major Project application lodged 24 January 2008. Public exhibition of Environmental Assessment 16 April to 19 May 2008. Council submission forwarded 23 May 2008. Proponent's response to submissions submitted 8 August 2008. Approved 29 October 2008.
- **168 Lot Residential Subdivision and Reserves (MP06_0276) - Comprising 168 Freehold Torrens Title Residential Lots and Three Reserves - Leo Drive, Narrawallee** - Application made 13 October 2006, determined to be a 3A Application on 20 October 2006, Director-General's Requirements for Environmental Assessment issued 31 October 2006, Public Exhibition of Environmental Assessment 5 July to 6 August 2007. Council submission forwarded 26 October 2007. Preferred project report submitted 17 March 2008. Approved 10 June 2008.

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- **Vincentia Coastal Village (MP06_0060 and MP06_0058) - Residential and Commercial Development - The Wool Road and Naval College Road, Vincentia** - Approved on 25 January 2007. Modification of Approval application 19 November 2007. Exhibited from 26 November to 11 December 2007. Modification approved 9 July 2008.
 - **South Coast Correctional Centre (MP07_0053) - Accommodation for 500 Maximum Security Beds and Associated Facilities and Services - Princes Highway, South Nowra** - Application made 12 April 2007. Environmental Assessment requirements issued 11 May 2007 and reissued 11 October 2007. Exhibition of Environmental Assessment 21 November to 21 December 2007. Council submission forwarded on 10 January 2008. Conditional Approval issued 10 June 2008. Revised Council conditions submitted 18 July 2008.
 - **180 Lot Residential Subdivision (MP05_0059) - Berringer/Cunjurong Point Roads, Manyana** - Major Project Application received 23 December 2005. Director-General's Requirements for Environmental Assessment issued on 7 March 2006. Public exhibition from 20 October to 18 December 2006. Approved 8 July 2008.

Policy Formulation and Review

The following policy and procedures have formed part of our current work program:

- Procedure for Displaying Referral Comments on DA Tracking - Adopted 19 December 2008 and circulated to relevant staff.
- Procedure for Dealing with DA Documentation on DA Tracking - Adopted 19 December 2008. DA forms and guidelines updated.
- Adult Shops Policy - Draft amendments commenced.
- Procedure for Dealing with Development Applications Lodged by Council Staff/ Councillors - Commenced. For adoption early 2009.
- DES Group Policy Review (Round 1) (10 items) - Finalised for reporting to January 2009 Development Committee meeting; briefing to be held.
- DCP 82 - Signage Strategy for the City of Shoalhaven (Section 2) (Amendment No 3) became effective on 16 November 2008.
- DCP for Areas of Coastal Hazards - Initial draft formulated December 2008. On-going discussions with Strategic Planning Group on further details, to correspond with draft SLEP 2009.
- DCP for Industrial Areas - Formulation of DCP commenced. Initial draft to be prepared by early 2009.
- DCP for Business use of Footpaths - Formulation of DCP commenced. Initial draft to be prepared by early 2009.
- Review of DCP 57 (Dual Occupancy) - Councillor Briefing held in December 2008, in conjunction with DCP 100 (Subdivision). For reporting in March 2009.
- Review of Dual Occupancy Subdivision Provisions in DCP 100 - Councillor Briefing held in December 2008, in conjunction with DCP 57. For reporting in March 2009.

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- Policy for Assessing Council's Own Applications - Adopted by Council on 17 December 2009.
 - Beach Street (North) Huskisson - 3(g) Guidelines - Councillor Briefing held December 2008. To report draft DCP for public exhibition in April 2009.
 - Update of Protocol on the Implementation of the *Native Vegetation Act 2003* between Shoalhaven City Council and Southern Rivers Catchment Management Authority - commenced, in conjunction with Strategic Planning Group. On-going.

CONCLUSION

Overall, processing times for Development Applications remain sound and the number of applications determined continues to be greater than received. However, it must be acknowledged that there has been a reduction in the number of applications received. Sound progress has also been made on the policy review program but careful monitoring is required of the number of applications approved over 40 days as this has been tracking slightly higher in the last quarter.

SUBMITTED for information.

Tim Fletcher

DIRECTOR DEVELOPMENT AND ENVIRONMENTAL SERVICES

R.D Pigg

GENERAL MANAGER