

Council Reference: DA10/0239 LN: 41062
Your Reference: 08_0118

7 May 2010

The Director
Regional Projects
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Tom Fitzgerald

Dear Sir

**Environmental Assessment - 08_0118 13 lot residential
subdivision at Lot 4 DP 876253, Willow Avenue Bogangar**

I refer to your letter dated 16 April 2010 in which you request comments regarding the abovementioned Environmental Assessment (EA) currently on exhibition.

Council has reviewed the EA and makes the following comments:

Due to the limited timeframes provided by the Department of Planning, Council officers have not been able to provide a detailed assessment of engineering matters relating to the subject proposal. A preliminary review of the submitted plans raises concerns regarding the provision of public road and drainage infrastructure in Willow Avenue, potential flooding of adjoining land, the configuration of lots including shared driveway accesses, grading of lots to Willow Avenue and lawful stormwater discharge to the residual lot at the rear.

The development must comply with Council's Subdivision Manual (Development Control Plan Section A5) and its referenced design and construction specifications in order to ensure that all public infrastructure provided in conjunction with the subdivision is of an appropriate standard, and so that the development works will not adversely impact on adjoining land or existing infrastructure and development in the area. Based on the information provided by the applicant, Council officers cannot properly determine whether the subdivision is capable of achieving these requirements.

As such Council is unable to recommend conditions of consent that will guarantee a valid and workable consent can be issued. If based on this advice the Department considers it appropriate to grant approval to the development, Council officers can provide consent conditions within an appropriate timeframe, however the Department would in doing so accept all risk associated with the feasibility of the development and any adverse impacts of the development on the locality. Further it may not be possible for Council to adequately maintain in the future faulty public infrastructure assets.

Alternately, and preferably, the Department could provide Council officers with additional time to carry out a detailed assessment of the application in order to properly identify the amendments to the application and/or additional information necessary to demonstrate a compliant and acceptable the subdivision design and servicing plan. This would enable the Department to issue the applicant with a request for information that would assist the applicant in satisfying Council's usual requirements.

It is considered that the Department's approach to the assessment of the subject major project is wholly inadequate and unreasonable, due to the limitations placed on Council,

being the public authority that ultimately accepts maintenance responsibility of new public infrastructure, and that inherits the problems associated with developments that adversely impact on the existing community and environment. As the Department clearly does not have adequate technical expertise in the area of infrastructure provision, ample opportunity should be provided at the major project application stage to resolve issues relating to compliance with Council's DCPs and specifications, with relatively minor issues relating to be dealt with via conditions of consent and the construction certificate details. Reliance on consent conditions to resolve key issues a part of the construction certificate process usually proves to be a more difficult and confrontational process when the applicant has already gained a development consent with stamped subdivision plans.

Acid Sulfate Soils and Dewatering

- It is noted that the submission does not indicate whether or not dewatering is required. As the EA indicates that groundwater levels on the site are variable, consideration should be given to potential dewatering during placement of services. Any dewatering requirements will require close scrutiny and treatment/controls to ensure minimal impact on Cudgen Lake.

Contaminated land

- The EA states within the site history review and soil analysis that the subject land is not contaminated. However, Council considers that confirmation (statutory declaration) should be provided from a person with suitable historical knowledge which confirms that fill material was not introduced to the site from sand mining activities which may have contained potential radioactive materials.

Water Quality Monitoring

- In regards to the Water Quality Monitoring Program (WQMP) nominated under the Soil and Water Management Plan, Opus November 2009, the Monitoring Frequency provisions do not appear appropriate. It is considered that the monitoring frequency provisions do not frequent enough during critical earth works periods. Also, Council is unsure exactly what the references to 'as per 26' and 'as per 29' in the Reporting section mean and the document does not identify the stormwater detention areas or monitoring locations.
- The applicant should be requested to provide a modified WQMP for consideration.

Sewerage

- It is noted in the EA (Section 11) that some significant errors in the detail in the calculation of Peak Wet Weather Flows (PWWF) appears to be in an order of magnitude above Tweed Shire Council (TSC) estimates for this pump station. The EA PWWF for ultimate development states 258L/s compared with TSC's estimate of 12.4L/s.

However, despite this obvious error, the correct conclusion that the existing sewer pump station was capable of receiving the additional flow from 12 new lots was reached.

Planning Matters

- It is considered that proposed Lot 12's configuration is not appropriate given that it only has minimal road frontage and requires a right of carriageway to gain lawful access.

Also, the orientation of this allotment is not desirable given the close location of Council's sewerage pump station. Council will also require constant access to the sewerage pump station for maintenance and future upgrading works and it is considered that the orientation of the allotment may obstruct these activities.

- It is considered that proposed Lots 3 and 4 do not achieve good planning outcomes as the nominated lot frontage for these two lots are only 4.0m in width. As this is a greenfield development, it is considered that it would be a better planning outcome if the frontages were wider than 4.0m and have a more regular configuration.
- Appropriate buffers to the rear of all allotments should be imposed as they adjoin the 7(l) Environmental protection (Habitat) Zone.

Ecology

- Council considers this site to be within an ecologically sensitive area and therefore respectfully requests the Department of Planning to have due consideration.

Contributions

Contributions will be provided upon request by the Department of Planning.

Integrated Water Cycle Management

- It is a requirement within the Tweed that all new development include a commitment to mandate a minimum rainwater tank size in accordance with Council's Demand Management Strategy:

Single Dwellings Minimum 5000L rainwater tank with a minimum 160 m² roof area connected to it.

These tanks shall be plumbed to provide water for external uses, toilet flushing and laundry cold water for washing machines.

In addition to these comments, a list of recommended conditions (but not exhaustive) have been attached for your consideration.

Should you require further information regarding any of these matters please contact Adam Henson on (02) 6670 2661.

Yours faithfully

Lindsay McGavin
Manager Development Assessment