

5 December 2012

Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir

Subject: Submission on Proposed Modification of the Catherine Hill Bay Project Mod 1 - (MP10_0204 Mod 1)

I refer to your letter of 19 November 2012, in which you invited Council to make a submission on the proposed modification to the Catherine Hill Bay project MP10_0204 consent. Council's submission is provided below.

1. Minor Layout Modifications

Council does not have any objection to the minor layout modifications other than the proposed subdivision within the Wallarah House Heritage Precinct.

2. Wallarah House Heritage Precinct Subdivision

Council strongly objects to the proposed two lot subdivision of the Wallarah House Precinct (Walarah House/ Jetty Masters cottage). The single lot was an explicit condition of the PAC approval as reproduced below;

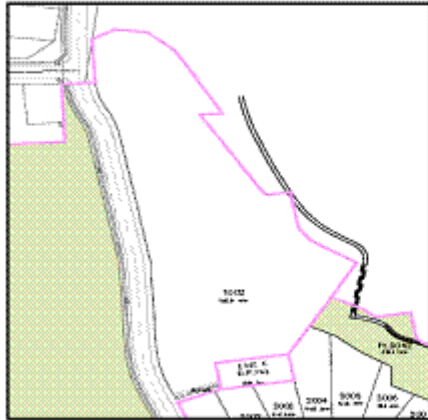
A7 Amendments to Subdivision Plan

(a) Lots 1117, 1118, 1119 and 1120 are to be deleted and the residue allotment resulting from the proposed realignment of Hale Street is to be consolidated into one single allotment comprising the Wallarah House Precinct.

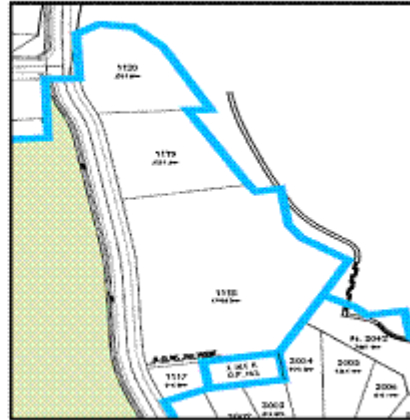
As per the *Report on Project Approval Condition A7 Amendments to Subdivision Plans Prepared by Coastal Hamlet Pty Ltd Revision C 21st October 2011*, the applicant amended the subdivision plan as per condition A7(a) and consolidated the subject lots into a single allotment.

Condition A7(a)

Lots 1177, 1118, 1179 and 1120 are to be deleted and the residue adjoining resulting from the proposed realignment of Hale Street is to be consolidated into one single allotment comprising the Wallarah House Precinct.



Extract from new subdivision plan to comply with condition A7.



Extract from subdivision plan included in Preferred Project Report.

The Wallarah House Precinct is now one lot to comply with this condition.

Lake Macquarie City Council is concerned that separate lot subdivision of the Wallarah House Precinct invites future pressure for visual and physical separation of the two lots that would compromise the scenic and heritage values of the site. The NSW Heritage Office specifically included this key visual catchment in the statement of significance for the Catherine Hill Bay Cultural Precinct (State Heritage Register 01828) ; [...] *The urban pattern of the Catherine Hill Bay Cultural Precinct can be appreciated in its bush and coastal setting, particularly on the northern approach.* [...]

The Statement of Heritage Impact prepared by Giles Tribe (2011) for the subdivision application does not support the proposed two lot subdivision of the Wallarah House Precinct, and makes recommended conservation policies for the retention of the Wallarah House Precinct curtilage. Furthermore, the Catherine Hill Bay (South) Development Control Plan (Department of Planning 2012) identifies the curtilage for the Wallarah House Precinct as;

The curtilage includes Wallarah House, the Jetty Master's Cottage and the surrounding landscape generally bounded by the proposed Hale Street to the west, the access road from Lindsley Street to the surf club to the north, the cliff to the east and the property boundary to the south.

The SEPP (major development) allows for additional uses of the Wallarah House Precinct as follows without subdivision that would ensure suitable reuse of the two buildings:

(1) Despite any other provision of this Part, development for the following purposes may be carried out on the following land with development consent:

(a) bed and breakfast accommodation, dwelling houses, home-based child care, home businesses, home industries and information and education facilities—on land within 20 metres of the following buildings:

(i) "Wallarah House", 1a Keene Street, being Part Lot 103, DP 1129872, as shown hatched and labelled "1" on the Additional Permitted Uses Map,

(ii) "Jetty Master's Cottage", Part Lot 103, DP 1129872 and Part Lot 1, DP 1151628, as shown hatched and labelled "2" on the Additional Permitted Uses .

In summary, Council strongly objects to any departure from the PAC requirement for a single lot that encompasses Wallarah House, the Jetty Masters Cottage and the visually prominent setting of both.

3. Vegetation Management

Council has no objection to the proposed addition of Condition B10(12), but recommends that the following two dot points be included in the condition.

- No native trees over 3 metres in height can be removed unless the removal is in accordance with RFS requirements; and
- Trees and shrubs which are felled shall be salvaged for re-use, either in branch form or as woodchip mulch for erosion control and/or site rehabilitation.

4. Cat and Dog Prohibition

Council has no objection to the proposed modification to Condition D9.

5. Amendment to Statement of Commitments

Council has no objection to the proposed change. If possible, Council would like the commitment to include a statement that Council will be kept informed of the community consultation programme.

6. Administrative Amendments

Council has no objection to the proposed amendments to the following conditions:

- B5 the approval of the Construction Waste Management plan by a private certifier is acceptable to Council.
- B12(2) Erection of the nest boxes prior to the commencement of works is acceptable to Council.
- B24 This condition relates to Hunter Water's activities, but Council does not object to the proposed change.

However, Council is strongly opposed to the other proposed amendments to conditions.

Prior to the determination of the major project application, the Planning and Assessment Commission requested a meeting with Council officers. Seven Council officers met with the PAC and answered technical questions from the PAC and were given an opportunity to expand on Council's submission.

The primary focus of these discussions with the PAC was about the design of the assets that would be dedicated to Council and the various management plans. It was the view of Council that the major project application did not contain adequate information or engineering

designs to properly assess these issues. Council officers recommended that the PAC seek more detailed information from the applicant prior to the application being determined.

It is considered, that in consideration of Council's request, the PAC approved the subdivision but included specific conditions that required that all of these matters needed to be checked and approved by Council prior to the issue of a Construction Certificate or a Subdivision Certificate. It is the view of the Council officers that met with the PAC, that the PAC agreed that the application did not contain adequate information to consider these matters prior to the determination of the application. By imposing these conditions, the PAC ensured that the matters would be fully investigated by the applicant and Council after the consent was issued.

It is totally unacceptable to Council to amend these conditions to now allow a private certifier to approve these matters.

It is also the view of Council that the various environmental management plans under conditions B7, B10 and B12 could not be approved by a private certifier as there is no relevant category of accreditation under the Building Professionals Board's accreditation scheme, that would qualify a certifier to approve these management plans.

With respect to condition B1, for the Coastal Walkway Design, it is not appropriate for a private certifier to approve this design as there are more important issues, other than the structural adequacy of the walkway, to be considered including:

- Whether the walkway has been adequately located;
- That the walkway facilitates and encourages public access;
- That the walkway ensures the safety of members of the public; and
- The design of the pathway takes into account coastal processes, coastal hazards and potential impacts, including sea level rise.

The coastal walkway will be a significant element within the open space network and an asset, which Council will ultimately inherit.

In summary, Council strongly objects to the amendment of these conditions as it will undermine specific conditions imposed by the PAC to ensure that Council would have input into the design of public assets and the outcome of the environmental management plans. These public assets will be dedicated to Council and Council will be responsible for all ongoing maintenance and safety issues and should therefore, have some control over the designs.

Council undertakes to assess all these matters in a timely and efficient manner that will not impact on the developer.

Should you require further information, please contact me on 4921 0281.

Yours faithfully

Greg Field
Chief Subdivision Engineer
Development Assessment & Compliance Department