

PO Box 44
Bonny Hills
NSW 2445
Email bhpa@bonnyhills.org.au

19th June 2009

The General Manager
Port Macquarie- Hastings Council
PO Box 84
Port Macquarie
NSW 2444

Attention: Fiona Tierney

Dear Sir,

**Re: DA 2009 / 139
Lot 1, DP1091253 Beach St Bonny Hills**

Thank you for this opportunity for Bonny Hills Progress Association to comment on the proposal by Pacific Drive Estate Pty Ltd for residential cluster housing and subdivision for ten new homes, in this magnificent setting in the heart of our village.

Council will be well aware that BHPA has held concerns over the planned development of this Lot since our critique of the original DA which was lodged in 2005. The community has consistently expressed the high importance it places on the conservation of environmental/habitat values in this location, backing onto Saltwater Creek, and the importance of the contribution this and adjacent Lots make to the health and survival of the wildlife. BHPA has maintained that Council made a mistake in originally rezoning the subject Lot as Residential when we considered it should have been preserved and zoned 7(h) for Habitat Protection (as per the recommendations of the RDM 1995 report) due to the known presence of various Threatened Species. BHPA since proposed that this Lot would be an ideal candidate for a BioBanking agreement.

It is therefore with a sense of relief that we now commend the proponents for taking on board many of the community's concerns regarding this Lot expressed in several earlier meetings and our submissions to Council. We congratulate them on appreciating the value of having their various consultants working in concert to achieve a successful outcome – most particularly the ecologist, arborist, and landscape and architectural designers. In marked contrast to the 2005 DA, the Koala Plan of Management (KPoM) is one of the best examples we have seen. The measures proposed therein, and in the associated Vegetation Management Plan, should in the medium to long term succeed in replacing and reinforcing existing habitat, and strengthen the local corridors connecting the site to surrounding wildlife habitat, provided they are carried out according to the details incorporated in the Action Plans.

The proponents appear willing to embrace measures to minimise anthropogenic harm to koalas by such things as limitations on fencing and the prohibition of keeping of

cats and dogs through controls on Title and Community Title Agreement, and other measures such as limiting vehicle speed, informative signage, and appropriate lighting. This approach is commendable, although it remains unclear exactly whose responsibility it will be to report stray or feral animals (potential predators) to Council's Ordinance Officer (KPoM p29).

The ecologist's conclusion in Volume 2 of his assessment states that *'the proposal will have a negative effect on the current ecological values of the site most prominently in the short term, but the overall negative effect should be sufficiently mitigated in the medium to long term to minimise the loss of viability of any local population of a threatened species or local occurrence of the EEC'*.

It is in the short term mentioned above that BHPA has its greatest concerns for the welfare of displaced wildlife when the trees identified are cleared for development, including both koalas and squirrel gliders which are listed as Threatened Species.

We know from residents reporting to the Bonny Hills Community Koala Watch group (refer to our reports to DECC for the NSW Wildlife Atlas over the past five years) that there is only a small number of koalas in Bonny Hills forming a stable breeding population whose home range centres on the Saltwater Creek corridor. Our best estimate at present is that there are four koalas known to use this area fairly regularly, although we believe there is at least one other breeding female and several other individuals with overlapping home ranges in the corridor roughly between the Tavern in the west and the STP in the north. The viability of this local aggregate must not be compromised by this proposal in the short or longer term.

In the short term, the loss of such a significant part of their habitat will undoubtedly affect these koalas, with the risk of site dependent behavioural stress potentially leading to disease and threatening their survival until the compensatory plantings have had time to mature, which will likely be not less than ten years. The Action Plan I (KPoM p77) indicates the actions which are proposed to address disease, but we would query its reliance on observations by unqualified volunteers to make such an important assessment of the health of koalas in the study area, although residents' feedback may provide supplementary information. We would suggest that annual monitoring of the health status of local koalas by the ecological consultant is not sufficient and should be done more frequently, at least during the time it takes for replacement trees to mature sufficiently to be utilised.

Habitat loss for the squirrel glider will be even more significant as there are so few suitable hollow bearing trees remaining locally, and this is recognised as a key threatening process in the legislation. How the squirrel gliders will survive the destruction of this vital habitat, which takes hundreds of years to develop, remains to be seen. The intention to salvage and re-use hollows may go some way toward amelioration.

Loss of their preferred forage species of flora particularly in the vicinity of the old stormwater basin will also impact on their survival in the shorter term, although this food source will be replaced by new plantings which will mature sooner than the koala food trees. We appreciate that landscaping works and replanting of these

species is to be staged to help limit this loss of habitat but point out that the first few years will be a critical time and the following of the Action Plans as proposed in the KPoM will indeed be essential. Success will thus depend on this replacement habitat being established well before the loss of the existing habitat.

It will be crucial to have appointed an appropriately qualified person (the equivalent of the ecological consultant) whose ongoing responsibility is to monitor and ensure that the Action Plans are understood by all contractors on site and complied with rigorously both during and post construction, as detailed in the KPoM Action Plan A (p61). To give this teeth, contracts must be framed to ensure that contractors do comply with the protection of designated trees, and we support the proposed security bond being a very substantial sum (\$250,00 has been suggested) with staged refunds over time when all landscaping is deemed successful (via review of annual monitoring reports and site inspections by Council) and no longer in need of maintenance, the vegetation management plan has achieved its objectives, and Council can confidently give a final certificate of approval.

The KPoM in 7.3 (p48) discusses Compliance and Performance Criteria. It is proposed that the ecologist undertakes annual monitoring and reporting to Council as required by the Dept of Planning. A copy of his annual report could be provided to the Bonny Hills Progress Association for review and information of interested community members who may assist with observing the ongoing health of the koalas and other wildlife on the site, and to assist with compliance assessment, and our annual koala census. We would also find this information useful in assessing the success of amelioration measures in review of any future development proposals with similar impacts.

It is noted that the KPoM includes the provision (p 33, 6.1.1.2.1 b) under the heading ‘Community Title Agreement (CTA) and Title Covenants’: *‘All trees retained on private Lots will be protected by title covenants to ensure their protection from frivolous applications for removal under the TPO, future development applications (eg for pools) etc.’*

This must clearly exclude the possibility of building later additions and outbuildings which could trigger further tree removal. Council thus must satisfy itself that adequate and robust safeguards are established to prevent any risk of long term erosion of koala habitat which will undermine the success of the KPoM and Council’s approval.

We are concerned that the proposed Community Title Agreement may not sufficiently protect the long term sustainability of the 7(h) Habitat Protection zones, with potential for conflicts to arise over time. Council will need to ensure that the legal documents are binding and responsibilities are clearly stated.

As we stated at the outset the plan looks promising but the greatest challenge Council faces is adequately and assuredly enforcing and monitoring the comprehensive controls and checkpoints contained within the Action Plans included in the KPoM and ecological impact assessment. Success of this proposal, and most importantly its ameliorative measures, is entirely dependent on strict adherence to these carefully explained provisions by the developer and future residents, and Council’s due

enforcement of the provisions (eg dog control). Sadly, there are too many examples of development approvals with such dependence on complex and numerous ameliorative measures where the developer, residents and Council have failed to comply, with threatened species and ecosystems continuing to decline as a result. Council has obligations to ensure Ecologically Sustainable Development under the Local Government Act, to ensure such outcomes are achieved. We ask that Council gives the Bonny Hills community an assurance that an effective mechanism is established for funding and conducting compliance enforcement to ensure the projected outcomes are obtained.

Yours sincerely etc