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Mail: PO Box 105
Coolum Beach QLD 4573

Email: mail@oscar.org.au

Assessment Manager Sunshine Coast Council,

Sunshine Coast Council, Locked Bag 72, Sunshine Coast Mail Centre, QLD 4560

Email: mail@sunshinecoast.qld.gov.au

1. Applicant details

MCU18/0350 - Combined RAL18/0199

De Vere Road, Pacific Paradise, 232 - 284 Godfreys Road, Pacific Paradise, Settlers Park Ocean Drive, Pacific Paradise, 23 Stillwater Drive, Pacific Paradise, 581-593 David Low Way, Pacific Paradise.

Preliminary Approval for Material Change of Use of Premises (including a Variation Request to vary the effect of the Sunshine Coast Planning Scheme 2014) for Residential, Business, Community, and Sport & Recreation uses & Development Permit to Reconfigure a Lot (4 Lots into 174 Lots, new road, park and balance lot, over 2 Stages)

2. Submitter details

Full name: Organisation of Sunshine Coast Association of Residents (OSCAR)

Postal address: PO Box 105

Submitted by: OSCAR Secretary

Suburb: Coolum Beach

State: QLD

Postcode: 4573

Signature: Not required as submitted electronically

Date of submission: 5 July 2019

3. Details of submission

- A. OSCAR supports in full the submission re this development made by one of our member groups, the Twin Waters West and Surrounds (TWWS) community group. TWWS have been extensively involved in research, community engagement, information sharing and advocacy to the community, Sunshine Coast Regional Council (SCRC), the developer and the State government.
- B. Further, OSCAR would submit that SCRC and the developer should keep front and centre in their deliberations on this development, Chapter 1 Section 3 of The Planning Act 2016 Purpose of the Act and Section 5 Advancing the purpose of the ACT as copied below.

Section 3 Purpose of Act (The Planning Act 2016)

(1) The purpose of this Act is to establish an efficient, effective, transparent, integrated, coordinated, and accountable system of land use planning (planning), development assessment and related matters that facilitates the achievement of ecological sustainability.

(2) Ecological sustainability is a balance that integrates—

(a) the protection of ecological processes and natural systems at local, regional, State, and wider levels; and

(b) economic development; and

(c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

(3) For subsection (2)—

(a) protecting ecological processes and natural systems includes—

(i) conserving, enhancing or restoring the life-supporting capacities of air, ecosystems, soil and water for present and future generations; and

(ii) protecting biological diversity; and

(b) achieving economic development includes achieving diverse, efficient, resilient and strong economies, including local, regional and State economies, that allow communities to meet their needs but do not compromise the ability of future generations to meet their needs; and

(c) maintaining the cultural, economic, physical and social wellbeing of people and communities includes—

(i) creating and maintaining well-serviced, healthy, prosperous, liveable and resilient communities with affordable, efficient, safe and sustainable development; and

(ii) conserving or enhancing places of special aesthetic, architectural, cultural, historic, scientific, social or spiritual significance; and

(iii) providing for integrated networks of pleasant and safe public areas for aesthetic enjoyment and cultural, recreational or social interaction; and

(iv) accounting for potential adverse impacts of development on climate change, and seeking to address the impacts through sustainable development (sustainable settlement patterns or sustainable urban design, for example).

5 Advancing the purpose of Act

(1) An entity that performs a function under this Act must perform the function in a way that advances the purpose of this Act.

(2) Advancing the purpose of this Act includes—

(a) following ethical decision-making processes that—

(i) take account of short and long-term environmental effects of development at local, regional, State and wider levels; and

(ii) apply the precautionary principle, namely that the lack of full scientific certainty is not a reason for delaying taking a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and

(iii) seek to provide for equity between present and future generations; and

(b) providing opportunities for the community to be involved in making decisions; and

(c) promoting the sustainable use of renewable and non-renewable natural resources, including biological, energy, extractive, land and water resources that contribute to economic development through employment creation and wealth generation; and

(d) valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition; and

(e) conserving places of cultural heritage significance; and

(f) providing for housing choice, diversity and affordability; and

(g) encouraging investment, economic resilience and economic diversity; and

(h) supplying infrastructure in a coordinated, efficient and orderly way; and

(i) applying amenity, conservation, energy use, health and safety in the built environment in ways that are cost-effective and of public benefit; and

(j) avoiding, if practicable, or otherwise minimising the adverse environmental effects of development (climate change, urban congestion or declining human health, for example).

C. OSCAR recommendation to SCRC:

Given the Purpose of the 2016 Planning Act as listed above and particularly in relation to environmental effects and the precautionary principle as per the quote below:

“5 Advancing the purpose of the Act

(1) An entity that performs a function under this Act must perform the function in a way that advances the purpose of this Act.

(2) Advancing the purpose of this Act includes—

(a) following ethical decision-making processes that—

(i) take account of short and long-term environmental effects of development at local, regional, State and wider levels; and

(ii) apply the precautionary principle, namely that the lack of full scientific certainty is not a reason for delaying taking a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and

(iii) seek to provide for equity between present and future generations;”

Planning Act 2016 Chapter 1 Section 5 Advancing the purpose of the Act.

OSCAR believes that the application should be withdrawn by the developer or refused by SCRC until such time as the SCRC Coastal Hazard Adaptation Strategy (CHAS) is complete, the next assessment by the Intergovernmental Panel on Climate Change (IPCC) is released (early 2022) and Regional Flood Modelling that is independently verified is undertaken. The Regional flood modelling should include areas immediately south of the Maroochy River and north of the Maroochy River to include all of Marcoola (the Shores and airport development).

Given the potential impact of climate change on the environment including: biodiversity; habitat protection; Maroochy River riparian area; increased flood levels to the Maroochy River Conservation Park, Maroochy Waters, Maroochydhore and the Motorway, it would be irresponsible of SCRC to approve this development until both the CHAS and IPCC report are released and applied to this area. Any development in these areas will be subject to climate change, particularly sea-level rise, storm surge and the interface with the TWW area.

Furthermore, given that there are now three proposed developments on flood plains between the Maroochy River and Marcoola, Regional flood modelling is an imperative and no further approvals should be issued until considered against such modelling.

As **no Overriding Need in the Public Interest** has been demonstrated, there is no urgency for this development to be approved.

D. OSCAR also submits that the following issues relating to the TWW development are of great concern to its member groups:

1. *Habitat protection for Species of Significance*

As reported in the media recently the world is facing an “Extinction crisis” relating to our biodiversity and Australia’s record is very poor in preventing extinctions of wildlife in Australia. The Planning Act 2016 (sections included above) is very clear in Section 3 (2) a i and ii as copied below:

“(3) For subsection (2)—

(a) protecting ecological processes and natural systems includes—

(i) conserving, enhancing or restoring the life-supporting capacities of air, ecosystems, soil and water for present and future generations; and

(ii) protecting biological diversity;”

Planning Act 2016 p4

The SCRC Planning Scheme requires as a Performance Outcome that development on or adjacent to land containing an *ecologically important area* (EIA) retain, enhance and restore supporting habitat of significant flora and fauna species. (*SCPS 2014 Section 8.2.3 Biodiversity, waterways and wetlands overlay code Protection of Ecologically Important Areas PO2*).

Both the Wallum froglet (*Crinia tinnula*) and the water mouse (*Xeromys mooides*) are listed for protection under the EPBC legislation. Active nests of the water mouse are in the adjoining Maroochy Conservation Wetlands and the ecology report identifies a small area of saltmarsh present in TWW area as well as mangroves. Saltmarsh and mangroves are recognised habitat for the water mouse.

Referral guidelines for the water mouse and acid frogs include trigger distances of 50 m and 100 m respectively. Any development within this distance should require application for assessment as a controlled action under the EPBC Act.

Stockland propose to locate roads, residential lots, treated fill, lake excavation and saline waters within the trigger buffer distances for the EPBC listed species of the water mouse and wallum froglet.

2. **Acid Sulphate Soils**

Stockland propose using treated **acid sulphate soils (ASS) material** from the lake excavation as fill material to 2.5 m above current ground levels for the developed area.

The ASS Investigation Report findings found the presence of ASS, occurring as both actual acidity after oxidation and ASS yet to be oxidised was found within the soil profile across the site. The development was assigned the highest risk category applied in Queensland being “Extra High”.

The site is adjacent to KRA 150, rejected for the airport runway expansion in part because of environmental issues with ASS management including:

“The management of tailwater would be a major technical operational challenge of this option. The process would produce a lot of dirty water (sediments and acid sulphate “slimes”). This would present significant environmental risk to receiving waters (i.e. Maroochy River)”

The state guidelines on ASS management advises that extra difficulties may be encountered in the management of ASS in an urban area and immediately adjacent to environmentally sensitive areas as is the case in TWW. Management is required under the Planning Scheme’s ASS overlay code to “avoid or minimise the release of acid and metal contaminants” and the SCRC Planning Scheme nominates that “where potential or actual ASS is identified, they are managed in accordance with an ASS management plan”.

This project is huge requiring 1 million cubic metres of fill. The airport required 1.3million cubic metres. Treatment of ASS will require neutralising agents (aglime as proposed in this development) to be used. The State ASS guidelines warns of the impacts of using these neutralising products in naturally soft acidic freshwater habitats such as TWW which can alter naturally low PH environments and can increase water-hardness causing shifts to habitat that ultimately result in species, population and ecological system shifts. In circumstances where PH-sensitive ecosystems are to be preserved, the required alkaline PH targets may pose unacceptable risks and an appropriate buffer zone may be needed to separate disturbed ASS from the sensitive ecosystems.

Stockland propose to apply fill from the lake (neutralised ASS material) to within metres of both the wetlands and the habitat of EPBC-listed species.

We have serious issues in relation to how Stockland are proposing to deal with this issue:

- Stockland has not committed to the isolation and containment of all ASS affected water and materials from storm and flood events.
- Scheduling of the disturbance and treatment of ASS material is critical to flood management yet the impact of any containment on downstream flooding has not been determined. The ASS management plan that would inform the flood report has not been developed.
- The impact of alkaline treated fill immediately adjacent to soft, acid wetlands has not yet been recognised let alone addressed.
- The project will not develop a management plan until after approval.

OSCAR supports the opposition of TWWS to any approval being considered for the TWW project in the absence of an ASS management plan that states clearly the project’s controls to be employed to contain, isolate and manage all hazardous materials.

3. **Flood impacts and the water mouse habitat.**

Flood modelling demonstrates that increased flood heights and increased flood velocity will occur in the habitat of the water mouse and froglet occur under different flood events. That is a significant portion of the adjoining Maroochy Conservation Park.

4. **Flooding and the TWW development**

Chapter 1 Section 5 Advancing the Purpose of the Act Part 2 states:

(2) *Advancing the purpose of the Act includes:*

a. *Following ethical decision-making processes that-*

i. *Take account of long and short term environmental effects; and*

- ii. *Apply the precautionary principle namely that the lack full scientific certainty is not a reason for delaying taking a measure to prevent degradation of the environment if there are threats of serious or irreversible environmental damage; and*
- iii. *Seek equity between present and future generations*

OSCAR supports the TWWS call for an Independent Audit of Stockland's Flood Report, to be conducted by VMA Water, an expert engineering consultant previously engaged by the State. TWWS and OSCAR feel that SCRC is conflicted on the TWW assessment as SCRC currently it would appear supports the TWW development.

Issues related to Stockland's flood modelling include:

- The independent Audit is required to confirm that the TWW development is safe to our communities and to prove to insurers that flood insurance premiums to local residents should remain unaffected.
- Stockland's flood report does not contain an adequate calibration or verification statement to provide evidence that the flood model is accurate.
- On Friday 20 June, 2019 Stockland released flood maps of flood height change that include some Maroochydore residential suburbs. Adverse impacts are shown for Maroochy Waters and Maroochydore as a result of the Stockland development.
- Adverse flood impacts beyond the boundary of the development are identified in the flood model outputs. The development does not comply with the planning scheme. It is clear that flood level increases beyond the site boundary occur over an extensive area of the Maroochy Conservation Park, as well as the Sunshine Motorway, pockets of Pacific Paradise and an increase in the Maroochy River itself to the south beyond the reporting limits is suggested.
- There appears to be no reference to impacts on Bradman Ave, the southern boundary of the Maroochy River.
- The impact of climate change must be taken into account, hence OSCAR's call to delay any approval until after the Coastal hazard adaptation strategy (CHAS) has been developed and the IPCC issues its next assessment in 2022. What will be the effect of "a perfect storm" – increasing sea levels, increasing storm surge, high tides and a cyclone? Such an event MUST be considered in relation to this development site as well as other estuarine/land contiguous sites.

5. *Priority of existing residents to increase flood resilience*

It is OSCAR's understanding that TWWS was advised in 2018 that council has adopted a policy affording existing residential communities priority to increase their resilience to climate change up to 2100. SCRC requested Stockland to undertake "a revised Flood Study Report which includes the results of a 1% AEP climate change impact assessment which assumes filling of existing communities".

To cater for the increased flood levels which would occur under climate change conditions, SCRC considers that individual property owners may elect to demolish their existing house, fill their property to a level above the 2100 flood level, and rebuild their homes at a higher level. A sensitivity analysis was carried out assuming all of the private property within the model study area (8000 individual lots provided by SCRC) was filled to a 2100 flood immunity level.

Our understanding is that:

- The modelling demonstrates a widespread increase in flood heights across the floodplain with priority fill
- Flood height increases of >50 mm will occur in Twin Waters and Pacific Paradise with increases >100 mm in Pacific Paradise.
- Increasing flood risks will be experienced by existing house owners as fill priority is exercised by other owners.
- The storage capacity of the Maroochy River lower estuary floodplain has been exceeded by the priority fill of current lots.
- Any further development fill will be at the expense of current house owners.

Clearly if one considers the definition of Ecological sustainability in the Planning Act 2016 Chapter 1 Section 3 (2):

Ecological sustainability is a balance that integrates-

- a. The protection of ecological processes and natural systems at local, regional, State and wider levels; and*
- b. Economic development; and*
- c. The maintenance of cultural, economic, physical and social well being of people and communities.*

And, Chapter 1 section (3) for subsection (2)

- b. Achieving economic development includes achieving diverse, efficient, resilient and strong economies, including local, regional and state economies that allow communities to meet their needs but do not compromise the ability of future generations to meet their needs.*

And, Chapter 1 section (3) for Subsection (2)

- iv. Accounting for potential adverse impacts of development on climate change, and seeking to address the impacts through sustainable development (sustainable settlement patterns or sustainable urban design).*

6. Character of the development

In the years prior to the submission of the Planning Scheme amendment in relation to this site it was reported that in discussion between Twin Waters Residents Association and Stockland it was agreed that Twin Waters West be “equal to or better than Twin Waters”. The concern was that TWW should have a similar feel and character to the existing Twin Waters and not be significantly more crowded and dense. This does not appear to be the case as the following table indicates and they are non-compliant with the North Shore Local Plan Code:

Density, Lot Size and Character summary

TWW house lot density	16% > Twin Waters
TWW Unit density	59% > Twin Waters
TWW all dwellings density	23% > Twin Waters
TWW overall density 12.98 dw/ha	Twin Waters 10.56 dw/ha
TWW average Lot Size 552 m ²	Twin Waters 705 m ²
Lots < 650 m ² TWW 95%	Twin Waters 35%
Lots > 700 m ² TWW 2%	Twin Waters 58%
TWW front building setback 4.5 m (6 m garage setback)	Twin Waters from building setback 6 m
TWW Rear building setback 1.5 m	Twin Waters rear setback 4 m

These figures imply that rear gardens would potentially be much smaller and landscaping and green space to the front of homes would be reduced, thus creating a very different “character and feel” to that of the existing Twin Waters Estate.

There has been recent discussion in the media re the absence of backyards in current developments and the problems that is creating for “outdoor” play for families and reduction of “screen” time for children. This is one of the social issues being created by the current flawed thinking about residential land use.

7. Other issues of concern to OSCAR include:

Erosion: The Stockland DA does not discuss impact of the new TWW lake pumping station on the serious erosion issues in the TW canals near to the TW weir.
Key resource area: Development is proposed within the key resource area separation area clearly marked on council maps within which increased resident numbers are not to be permitted.
Maroochy River riparian area: Development has failed to establish the correct separation distances to the tidal zone or the declared fish habitat area of the river by using the incorrect highest astronomical tide.
Noise & dust: Approximately 1 million cubic metres of material is to be excavated from site and used as fill but noise and dust issues have not been addressed.
Settlers Park: The roundabout design and bike-way threatens heritage-listed mango trees. The loss of the park would not be necessary if the estate entrance returned to the earlier proposed location opposite Toyango St.
Traffic: Traffic impacts have been underestimated, and walking north to Pacific Paradise school and shops will become more difficult.
Vegetation buffers: Development has essentially ignored the provision of effective buffers to native vegetation and particular wetlands with separation distances being reduced to only metres in places.
Insurance: Coastal Hazard and Flood Mapping has not been updated by Council and is relied upon by insurers to assess risk of flooding as per SPP 2016.
Wetlands: Flood modelling indicates that the central wetlands on site are to be starved of water resulting in significant impacts to plants and animals.

8. Needs

An Overriding Need in the Public Interest (ONPI) has **not** been demonstrated for this particular housing estate at this time to permit exemption from compliance with the SCRC 2014 Planning Scheme and the Purpose of Planning Act 2016.

ABS statistics confirm that SCRC has met growth targets by 120%. SCRC has stated that 50% of all growth accommodation targets 2040 were met in the first year of SEQRP with 17 developments either “in the pipeline or committed”.

The SEQRP also states that “not all land in the urban footprint is suitable for development owing to constraints, such as flooding” (p 101).

Such a proposal has already been dismissed by the Planning and Environment Court on many grounds, with Judge Rackemann agreeing at the time that there was no need, “to place a substantial new residential community into a floodplain, with the attendant risk of a substantial number of persons becoming isolated in times of a major natural disaster” (p 201).

OSCAR feels that the same response still applies today and even more so given what we know about climate change and what we will learn from current studies.

Clearly the issues raised here and in greater detail in the TWWS submission, demonstrate many non-compliances with a range of National, State and Local Planning directions and are totally at odds with the sentiments espoused in the Planning Act 2016 Purpose of the Act (Chapter 1 Section 3-5 inclusive) and has the potential to disadvantage members of our community who do not have the capacity to address privately these issues and future generations will be left asking “how did this happen?”

What legacy do we want to leave our grandchildren and their children?

If SCRC allows the TWW development, will it and/or Stockland indemnify any purchaser who buys, in good faith a block of land or house in any of the affected areas who then finds they are subject to flooding?

Knowing what we know and what has been gleaned from reports so far, what protection has the ratepayer against increased rates from a decision of SCRC made by the current Mayor and councillors?

If this development is approved by the Current Mayor and Councillors, will they personally indemnify individuals impacted by this decision?