

File no.	MCU17/0095, MCU17/0096, REC17/0056	8 May 2018
To	Marc Cornell	
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From	Stephen Patey	
Subject	CONFIDENTIAL – Advice in relation to Yaroomba Beachside development applications	

1. Introduction

The following advice and information is provided by Strategic Planning Branch to Development Services Branch in respect to the development proposal by Sekisui House Pty Ltd for the Yaroomba Beachside site:-

- Strategic Planning Branch review of the merits of the revised proposal (refer to summary of advice and body of this memo)
- Comments relating to the Preliminary Approval document (refer **Appendix 1**)
- Outcomes of review of revised proposal by the Urban Design Advisory Panel (*to be provided under separate cover*).

2. Summary of advice

The Strategic Planning Branch is of the view that the proposed development for the Yaroomba Beach site is in conflict with the *Sunshine Coast Planning Scheme 2014* (SCP2014). That conflict relates primarily to the height of buildings proposed to be established as part of the proposed development and the consequential affects this has in terms of the overall scale and intensity of the proposed development. The conflict is on the serious side of the spectrum because of the degree of the departure from the planning scheme and the recognised sensitivity of Yaroomba as a small coastal community which generally sits lightly within the landscape with buildings that are generally low rise.

In order to approve a development which is in conflict with the planning scheme it is necessary to establish that there are sufficient grounds to justify approval despite the conflict.

The Strategic Planning Branch has set out in this memo a framework which is considered to provide a reasonable basis upon which to establish whether sufficient grounds exist. This framework seeks to weigh the potential community benefits of the proposed development against any potential adverse impacts as well as lost opportunity impacts.

In respect to the first and third of these elements, the proposal is considered to present an opportunity to secure a much needed form of tourism development that would increase the diversity of accommodation in the region and lead to significant flow-on opportunities. Allied with this would be the provision of an additional beach node to service the Yaroomba area, with the associated access trails, extension of the coastal path, open space, car parking, surf lifesaving facilities and amenities. The site's large size (at approximately 20 hectares), adjacency to the waterfront and proximity to the Sunshine Coast Airport together with the very limited opportunities to establish comparable facilities in other locations are also significant relevant considerations.

In respect to the second of these elements, it is considered that the proposal does not result in an adverse visual impact in that it protects views to the site from key public viewing points. The proposed development is based on a site responsive building height envelope that allows for reasonable ocean views from the upper levels of the 5 star resort complex (and some apartment buildings), but which does not compromise key public regional view lines across the site from locations such as Mount Coolum and the Point Arkwright Lookout. The size of the site enables impacts of taller buildings to be managed or contained largely within the site. The extent to which the planning scheme intent is offended by buildings that are significantly higher than the limits specified in the Height of buildings and structures overlay is mitigated to a large degree by the size and characteristics of the site and the design response proposed.

It is acknowledged that there have been a large number of submissions received in opposition to the

proposed development and that this level of community concern cannot be dismissed lightly. In fact, the number of submissions received to the proposed development is unprecedented and for this reason there is a significant question about the reasonable expectations of the local community in terms of the development outcome proposed, particularly in respect to the height of buildings and the consequential impact this has on the overall scale and intensity of the development.

The most recent version of the proposed development appears to respond to a number of the concerns raised in those submissions. Significantly, the overall density of the development has been reduced and the area of public open space increased as part of the revised plan received after the close of the submissions period. Whilst there have been no changes made to the proposed height of buildings the other changes have the effect of mitigating some of the impacts associated with allowing higher buildings on part of the subject site.

It is the view of the Strategic Planning Branch that the matters in favour of and opposed to the proposed development are finely balanced given the degree of conflict identified with the planning scheme and the large number of submissions received expressing concerns about the form of the proposed development and the implications of a significant departure from the planning scheme. In this context, a decision could reasonably be made to recommend either approval or refusal of the proposed development.

Significant departures from the planning scheme need to be carefully considered and the reasons for departing from the planning scheme ought to be compelling. It is generally accepted that once Councils depart from important policy positions expressed within a planning scheme the court is also free to make such determinations.

In this case, it is considered that the threshold of sufficient grounds has been met on the basis of the test outlined above and accordingly it is considered that there is a case to justify approval of the development application despite the conflict with the planning scheme.

The proposed development will provide a demonstrable public benefit, the most significant potential adverse impacts of the proposed development appear to have been successfully mitigated and there are likely to be substantial lost opportunity impacts for the locality and the region if the tourism oriented component of the proposed development does not proceed.

The Strategic Planning Branch does not believe that approval of the development as currently proposed would undermine the planning scheme. The site and the development combine to create a set of circumstances which are unlikely to be present in other situations.

The views expressed above are predicated on the basis that the public benefit as described will be delivered and that there is an infrastructure arrangement in place to ensure such an outcome. In the event that such an arrangement cannot be executed or lawfully enforced then this may stand against a recommendation for a development approval.

3. Proposal

The subject proposal is for an integrated tourism / residential development that incorporates approximately 740 dwellings, a 220 room 5 star resort complex with allied shops, offices and cafes and public realm improvements including public open space, car parking and beach access as detailed in relevant development applications (MCU17/0095, MCU17/0096 & REC17/0056).

The public notification of the proposal has attracted a large number of submissions. Whilst the content of these submissions is variable, a large majority of submitters are opposed to the development in general terms. The height and scale of the proposed development and its appropriateness in the context of the Yaroomba Beachside site are key arguments made against the proposed development. Conflict with the planning scheme and the precedent set by approving the development are other significant grounds.

It is noted that as part of the most recent response to the issues raised by submitters, the proponent has lowered the maximum number of equivalent dwellings proposed to be established on the subject site (from 1,086 to 740 equivalent dwellings) and proposed other measures aimed at reducing potential adverse impacts and increasing potential positive impacts of the proposed development.

4. Consistency of proposal against SCPS 2014

A review of the development application by the Strategic Planning Branch has determined that the proposed development conflicts with the SCPS 2014. In particular, the proposal conflicts with building height provisions of the planning scheme. The conflict is considered to be on the serious side of the spectrum although it does not go to whether the proposed land uses are appropriate in general terms. It is accepted that the proposed uses are acceptable and generally consistent with the intent of the planning scheme.

The subject site is included in the Emerging Community zone and the Height of buildings and structures overlay provides for a maximum building height of 8.5 metres. It is noted that under the existing Preliminary Approval applying to the subject site a range of building heights are provided for, including a small section of the site where the building height limit is 16 metres (or 4 storeys plus a rooftop deck).

The development application seeks approval for a variety of building heights, ranging from 9.5 metres to 24.5 metres. In this key aspect of the planning scheme, the proposed development is considered to be in conflict with the provisions of the SCPS 2014. The enforcement of maximum building height standards for development on the Sunshine Coast has a strong historic basis with a consistent approach taken to determining and applying building height controls to shape the urban form and acknowledge community expectations. Even taking into account the existing preliminary approval the proposed buildings are substantially higher than previously contemplated for the subject site.

The subject site is identified as a Tourism Focus Area in Part 3 (Strategic framework) of the SCPS 2014 (along with Palmer Coolum Resort). On this basis, the site has been identified to accommodate major tourism facilities. Importantly, under the SCPS 2014 this does not by itself correspond to an allowance for additional building height, as this designation occurs across the region with a range of different land use and building height parameters that reflect local contexts and settings. Strategic Planning Branch does not accept the argument made by the proponent that there is internal conflict within the planning scheme in terms of the relationship between the Strategic Framework and the allowable maximum height specified by the Height of buildings and structures overlay.

The Strategic framework intentionally seeks to restrict more intensive forms of development to within Activity centres and within the Enterprise Corridor and recognises the importance of retention of the character and identity of individual places within the Sunshine Coast as well as the protection of public view lines. These provisions are reflected in increasing levels of detail in the Height of buildings and structures overlay and local area plan provisions.

5. Assessment considerations

Given that there is considered to be a serious conflict with the SCPS 2014, it must be established that there are sufficient grounds to justify any decision to approve the proposed development despite the conflict.

Strategic Planning Branch suggests that the determination of sufficient grounds should include consideration of the following factors:-

- the public benefit associated with the proposal;
- any detrimental impacts resulting from the proposal; and
- the consequences of the proposed development not proceeding.

If there is clearly an overriding public benefit in favour of the development with no obvious detrimental impacts and an obvious adverse impact if the development does not proceed, then this may provide a reasonable basis to consider that sufficient grounds exist to justify an approval despite the conflict with the planning scheme.

6. Public benefit

Strategic Planning Branch considers that there are two key items of potential public benefit associated with the revised development proposal. These are:-

- the provision of a new 5 star resort complex; and
- the provision of a new 'beach node' through the dedication of public recreation land located proximate to Yaroomba Beach, to facilitate and complement public access to and from the beach (the proposal also provides for dedication of a coastal pathway, public car parking and surf life savings facilities and amenities as part of this beach node).

The introduction of a new 5 star resort complex is deemed to be an aspect of key public benefit, owing to the absence of such a facility in the Sunshine Coast Council area and the consequential contribution that such a facility could make to the diversity and attractiveness of the Sunshine Coast's tourism offer.

Previous advice from MacroPlan Dimasi indicated that while a 5 star resort complex in this location would only result in modest ongoing economic benefit on its own, it would introduce greater tourism diversity and potentially lead to significant flow-on opportunities. MacroPlan Dimasi also noted that the construction budget for such a facility would be significant by national standards and that the proposal would also result in considerable short to medium term employment opportunities during construction. These last two points are not considered to be material in establishing public benefit but are relevant to any form of development that would likely occur on the site.

The public benefit of a 5 star resort complex depends significantly on the ongoing provision of the 5 star hospitality service standard at the complex. This standard, if provided, would be unique to the Sunshine Coast at this time, not only contributing to the diversity of the region's tourism offering, but also serving to potentially elevate the profile of the region and encourage further investment in this level of facility.

The development of the subject site by virtue of its large size and beachside location, presents an opportunity to create a high quality public recreation park and beach access point. The most recent iteration of the proposed development includes the creation of a 4,200m² public park located directly adjacent to the beach access point and a 6,600m² public park located in proximity of the main access point. The public open space infrastructure is proposed to be embellished and maintained at no cost to Council for 99 years. It is noted that the public open space outcome presented in the proposed development, while it shares some parallels with the existing Master Plan Preliminary Approval over the site, is considered to represent a better outcome for the community, owing to the nature of facilities provided and the improved arrangements for public access.

There are a range of other positive aspects of the proposed development that are noteworthy in their own right but less relevant to the consideration of public benefit, including:-

- proposed 6 Star Green Star community rating and 5 Star Green Star resort (and Eco Tourism Certification);
- Mount Coolool National Park upgrades to trails, car park and toilets;
- beach ecology and indigenous interpretive centre and indigenous heritage trail; and
- 10 year sponsorship for local Indigenous Arts Program.

7. Potential adverse impacts resulting from proposal

The most significant conflict with the planning scheme relates to building height, and consequently, consideration of the potential visual impacts that may result are of critical importance.

Key public views that currently exist in the area of the Yaroomba Beachside site include:-

- views obtained from the public park at Point Arkwright facing south (in which almost no nearby buildings are visible)
- views obtained from the first viewing ledge on the main Mount Coolool public walking track facing east (in which the interface between coastal dune vegetation and coastal waters is not interrupted when looking over the site)
- views obtained from Yaroomba Beach facing towards the development site (in which no buildings are visible)
- views obtained from various points on the David Low Way (where large buildings have no or

minimal impact on current views)

In addition to this, a range of other important views have been documented in the area, through the consideration of previous development proposals. In particular, the Visual Impact Assessment undertaken by GHD on behalf of Council as part of Council's consideration of a previous request for a planning scheme amendment in respect to the subject site is still considered to be relevant in terms of the viewing points that it identifies (refer to Attachment 7 of Special Meeting Report (Planning Scheme Amendments – 27 April 2015)).

It is noted that the proposed development bears a broad resemblance to the 'Moderated Development Concept' presented in the Council Report dated 27 April 2015, relating to considerations of an earlier development concept for the site (in which a planning scheme amendment to facilitate site development was contemplated). This 'Moderated Development Concept' sought to present a theoretical compromise between maximising development yield and maintaining regionally significant views, and thus it broadly reflected some of the findings of the site investigations undertaken. At the time it was unknown whether this option would be suitable to hotel operators or whether it would receive general community support, and consequently was not recommended to be considered by Council at the time.

In respect to broader Strategic framework matters it is noted that there is a clear preference for higher building forms to be limited to the Enterprise Corridor and higher order activity centres. The proposed development provides for buildings ranging from 9.5 metres up to 24.5 metres in height which although not considered substantial within the context of existing larger buildings on the Sunshine Coast generally is significant in the context of Yaroomba and the North Shore.

The proponent has prepared 3D modelling images to accompany various iterations of the development proposal and has undertaken analyses to demonstrate that the design of the proposal minimises adverse impacts on key views in the locality. While recently prepared 3D modelling suggests that the proposal may not impact significantly on key views within the area, it is considered prudent and appropriate to confirm this on the basis of up-to-date imagery.

8. Adverse consequences of proposal not proceeding

If the key public benefits proposed as part of the proposed development were not realised, it is considered that the adverse community impacts that may result would be significant. Tourism features significantly in the Sunshine Coast economy, with the robustness of this sector depending on the provision of a broad range of tourism experiences and facilities.

Council has sought to promote the tourism industry, including by facilitating the upgrade of the Sunshine Coast Airport to full international standard. Presently, there is no certified 5 star resort complex operating within the Sunshine Coast region and, on account of this, it can be argued that a key tourism market sector is not being accommodated. The proposal for a 5 star resort complex is a rare occurrence, on account of the significant investment required to develop such a facility as well as the limited range of opportunities for such a facility. It was noted by MacroPlan Dimasi on page 4 and 23 of their report accompanying the 27 April 2015 Special Meeting Report that, in historic terms, it has been extremely difficult to attract investment in five star hotels in Australia.

In not realising a 5 star resort complex through this proposal, there could be significant adverse effects relating to the unrealised economic benefits of attracting significant investment at a range of scales, as well as maintaining tourism and development industry confidence. The lost opportunities for the community would relate to the local employment and training opportunities specifically associated with a 5 star resort complex.

It is noted that the need for new investment in one or more premium hotels on the Sunshine Coast has been specifically identified in relation to previous investigations pertaining to the Yaroomba Beachside site (refer 27 April 2015 Special Meeting Report – 'Tourism needs assessment outcomes'). This report noted that, in 2015, there had not been significant new premium hotel infrastructure investment in the region for over 20 years, and that there was a demonstrated need for premium hotel developments offering an array of ancillary services (e.g. conference facilities) in key coastal locations. The report pointed to the possibility that such tourism facilities could be located in a range of locations on the Sunshine Coast, and while that may be the case, those other opportunities are limited largely to existing developed areas. Indeed, the only comparable large

scale undeveloped beachside site on the Sunshine Coast apart from Yaroomba Beach is the Bokarina Beach site, some 20 kilometers south of the subject site. Bokarina Beach is subject to a range of recent development approvals, is currently being developed and is unlikely to incorporate a 5 star tourist resort. The potential for such a facility to be established elsewhere and proximate to the Sunshine Coast Airport is also limited.

Furthermore, it is considered that the rejection of the proposed development is unlikely to lead to a revised proposal for a 5 star resort complex that complies with the 8.5m building height provisions for the subject site as currently specified in the planning scheme. While there are examples of 5 star resort complexes in Australia and internationally that are 1-3 storeys in height, the subject site provides ocean views from four storeys and above, which provides significant incentives to the development of a 5 star resort complex which otherwise may not be possible. The proposed development balances the need for ocean views with protection of regional viewlines.

The loss of potential public open space infrastructure associated with the proposal not proceeding would also be of significance. Although the provision of a beach access point in relation to the site is likely at some stage into the future (as an urban development site), the proposal results in a better outcome and would further reduce pressure on other existing beach access infrastructure.

9. Public submissions

There have been a large number of submissions received in opposition to the proposed development and this level of community concern cannot be dismissed lightly. The number of submissions received to the development proposal is unprecedented and there is a significant question about the reasonable expectations of the local community in terms of the development outcome proposed, particularly in respect to building height and the consequential impact this has on the overall scale and intensity of the development. The most recent version of the development proposal responds to a number of the concerns raised in those submissions. Significantly, the overall density of the development has been reduced and the area of public open space increased as part of the revised plan currently subject to assessment. Whilst there have been no changes made to the proposed height of buildings the other changes have the effect of mitigating some of the associating impacts associated with allowing higher buildings on part of the subject site.

10. Conclusion and recommendations

The matters in favour of and opposed to the proposed development are finely balanced given the degree of conflict identified with the planning scheme and the large number of submissions received expressing concerns about the form of the proposed development and the implications of a significant departure from the planning scheme. In this context, a decision could reasonably be made to recommend either approval or refusal of the proposed development.

Significant departures from the planning scheme need to be carefully considered and the reasons for departing from the planning scheme ought to be compelling. In this case, it is considered that the threshold of sufficient grounds has been met on the basis of the test outlined above and that accordingly there is a case to justify approval of the development application despite the conflict with the planning scheme.

The proposed development will provide a demonstrable public benefit, the most significant potential adverse impacts of the proposed development appear to have been successfully mitigated and there are likely to be substantial lost opportunity impacts for the locality and the region if the tourism oriented component of the proposed development does not proceed.

Strategic Planning Branch does not believe that approval of the development as currently proposed would undermine the planning scheme. The characteristics of the subject site and the development combine to create a set of circumstances which are unlikely to be present in other situations.

Should the development proposal be approved, it is recommended that:-

- appropriate conditions and/or infrastructure arrangements be put in place to ensure that a 5 star resort complex is delivered as part of the first stage of development;
- the public recreation park and beach access point components of the development, along

with associated parking, be required to be constructed as part of the first stage of development;

- care be taken to avoid management responsibility for infrastructure items which do not have key demonstrable community benefits and/or may be costly to maintain in the future; and
- clear and certain assessment provisions be incorporated into the Preliminary Approval document to enable the delivery of the development as promised and to avoid the risk associated with incremental or other creep outside of the terms of the approval, particularly in respect to the potential impact of higher buildings.

In the event that arrangements cannot be executed or lawfully enforced to achieve the above outcomes then this may stand against a recommendation for a development approval because the certainty of these requirements is fundamental to determining the overall merit of the proposal.

APPENDIX 1

Comments on the Preliminary Approval document

A review has been undertaken of the Preliminary Approval document. Key comments in relation to specific sections of the document are provided below. These comments should be read with reference to the Preliminary Approval document.

Section 1.6 – Applicability of SCPS 2014 overlay codes to the Preliminary Approval document

The overlay codes from the SCPS 2014 apply to the assessment of development even if there is no change to the actual level of assessment. There is a need to redraft this section to specify that the overlay codes are nominated. It is recommended that this document be redrafted to replace the words “requires a higher level of assessment” with “is applicable”.

Section 4. Development Density

This section does not specify a maximum retail and commercial development floorspace allowance. Elsewhere in the Preliminary Approval document, the maximum floorspace allowance for retail and commercial development is identified as 2,800m² GFA (i.e. PO1(g)). It is recommended that a maximum retail and commercial development floorspace allowance be nominated in this section to ensure clarity and certainty in relation to the development outcomes intended.

Creation of new Local Plan Precinct – COL LPP-2 Yaroomba Beach

The Preliminary Approval creates a new local plan precinct - COL LPP-2 Yaroomba Beach. The Preliminary Approval is not clear that the site is to be removed from COL LPP-1 Palmer Coolum Resort and The Coolum Residences.

Addendum to Coolum local plan code – PO1

A number of concerns have been identified in relation to this provision:

- c) “touches the ground lightly” – while the sentiment is sound, it is uncertain as to whether the proposed development could achieve this outcome in practice.
- c) “undue visual impact” – this term is difficult to define. It is recommended that this should be “avoiding impacts on significant local views”.
- d) Reference to “routes” would be better expressed as “public routes” in relation to the concepts being communicated in the application.
- e) “Green Mesh” does not need to be in capitals – could be better defined as an “interconnected network of site-scale natural landscape corridors”.
- g) The GFA limit nominated should be repeated elsewhere in the Preliminary Approval document, including section 4., so that it is not overridden by a higher provision.

In relation to the provision being replaced – PO16 applying to COL LPP-1 Palmer Coolum Resort and The Coolum Residences, it is noted that PO16(d) “protects the natural vegetated character of the coastal foreshore and foredunes” has not been repeated in the proposed PO1. The inclusion of a such a standard is advisable.

Addendum to Coolum local plan code – PO9 – visual impact

The nominated AOs do not deliver the PO, because they do not require building siting to avoid impacts on key views. It is advisable to redraft this section to avoid the intrusion of buildings or associated structures into the following specific public views, expressed in the following outcomes:

- That no buildings be visible from Point Arkwright when facing Yaroomba Beach generally
- That views of coastal waters from the first viewing ledge on the main Mount Coolum public walking track are not interrupted
- That buildings on-site are not visible from Yaroomba Beach

- That on-site buildings have no or minimal impact on views obtained from the David Low Way

Map 3 – Height of Buildings and Structures Overlay

The role of Map 3 is unclear in terms of its intent and capacity to regulate certain building height matters, as follows:-

- What is the level of assessment that would apply where a proposal exceeds the building heights provided for in the preliminary approval? Given the significant visual sensitivity of the proposal and its location, it is strongly recommended that any exceedance of building heights would be impact assessable.
- How storeys provided for on Map 3 are intended to be regulated – i.e. are they an assessment consideration or do they require a higher level of assessment with non-compliance? For example, the lowest maximum building height of 9.5m for a '2 storey' outcome actually provides potential for a 3 storey outcome (unless both height and storeys are to be regulated). An alternative might be to provide for minimum floor to ceiling heights (e.g. 3.3m for residential, 3.8 for commercial/office and 6m for retail).
- The potential for conflict between preliminary approval documentation and the *Dwelling house code* in SCPS 2014, in terms of the 9.5 metre building height provision. A dwelling house of 9.5m in height would therefore potentially be in conflict with the *Dwelling house code*, which specifies as an Acceptable outcome, an 8.5m maximum building height for dwellings.

Finally, the PA document and Map 3 refers to finished surface level (FSL). This may not be necessary given the Round 2 amendment to SCPS 2014 which is about to commence and provides for flood hazard allowance for measuring building height.

Clarifications and corrections in relation to the Preliminary Approval document

The following matters require clarification in the Preliminary Approval:

- The Preliminary Approval mentions 'Exempt' development in Table 6.1, but this term has been made redundant by the *Planning Act 2016*. This term would need to be changed to be 'Accepted development'.
- Section 4.1 relating to development density refers to a "220 room hotel". It is understood that this should refer to "resort complex".
- PO1(g) – it is uncertain as to whether it should state "compete with other centres"
- AO6 - It is uncertain as to whether the standards relating to balconies and stepping are clear – essentially there appears to be no upper limit on the standards set out in the second and third dot points.
- PO9 - Discusses "hotel development" – should refer to resort complex development.
- It is unclear as to why the previous Map 3 – Access and Mobility Plan was withdrawn from the document. Such a document may give clarity and certainty in relation to the intended access arrangements for various parties.
- It is uncertain as to how Map 4 – Infrastructure Staging Plan is called up.

Preliminary Approval document - spelling and grammatical corrections

The following matters requiring correction of spelling or grammar have been identified:

- AO6 – "as set out below"
- AO7(a) should be "to the street"
- AO8 – should read "elements"
- The word 'Esplanade' is misspelt in the maps.

Need to review to determine impact on the entitlements within the existing Hyatt Coolum Preliminary Approval and Infrastructure Agreements/Other Agreements (Beach Club)

There is a need to ensure that the Preliminary Approval document considers the entitlements granted to the Palmer Coolum Resort and its residential communities in relation to access and the provision of facilities on the site. Notably, there does not appear to be an allowance for the provision of a Beach Club facility, as envisaged in the current Preliminary Approval.

It is also noted that the proposed Preliminary Approval document no longer contains an Access and Mobility Plan. The provision of such a document within the plan may be necessary to provide the necessary certainty in relation to arrangements for through access across the site by various parties.