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29 September 2023

To: The Assessment Manager Sunshine Coast Regional Council (SCRC)

By: email

mail@sunshinecoast.qld.gov.au

Dear Sir/Madam

RE: NOTICE OF SUBMISSION Application No: MCU23/0113 Proposal: De Vere Road, 232 - 284 Godfreys Road, Settlers Park Ocean Drive, 23 Stillwater Drive & 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 development involving Residential, Business, Community and Sport and Recreation uses - Stockland Developments Pty Ltd- Project Urban

OSCAR is committed to open and transparent processes in local government, sustainable development, protection of the SCRC and Noosa Planning Schemes and rates set as low as possible consistent with efficient and effective delivery of local government services.

OSCAR is a non-partisan umbrella organisation representing some 37 member resident/community associations united by their determination that the Sunshine Coast and Noosa Planning Schemes serve the public interest.

One of our member groups Twin Waters West and Surrounds Inc. has made a detailed submission to this application. OSCAR supports their detailed and well researched submission.

OSCAR has some serious concerns in relation to this application as listed in the following pages.

Yours sincerely

Melva Hobson PSM
President
OSCAR
(Organisation Sunshine Coast Association of Residents)

OSCAR SUBMISSION TO - MCU23/0113 Twin Waters West

This submission considers three topics/issues with this Development application as follows.

1. SETTLERS PARK

The Planning Scheme of 2014 **Performance Outcome (PO) 30 Development in the Emerging community zone (p7-219)** provides for the protection and enhancement of Settler's park as a recreation park, local heritage place and gateway entry feature for the Pacific Paradise and Twin Waters communities.

Acceptable Outcome (AO) 30 (p7-219) States that:

Development ensures that any reconfiguring of boundaries of Settler's Park required to accommodate upgrading of the David Low Way/Ocean Drive intersection, achieves the following:-

- (a) no net loss in the size of the park area;
- (b) no reduction in park embellishments;
- (c) improved levels of protection for all mango trees within the park with a minimum curtilage around the mango trees of 15 metres to the east and west and 10 metres to the north and south; and
- (d) high quality streetscape and landscape treatments that enhance the setting and interpretation of the local heritage place (including the in situ mango trees) and present an attractive gateway entry feature for the Pacific Paradise and Twin Waters communities.

How does the proposed development by Stockland relating to Settler's Park meet the Relevant Assessment Benchmarks?

Acceptable Outcome AO 30	How does Stockland meet the assessment Benchmarks?
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(a) no net loss in the size of the park area;

In theory this has been achieved where Lot 8 RP812125 original size was 2562 sq.m. (*SITE CADASTRE INFORMATION*), with the proposed Settlers Park being 5767sq.m. (*TWIN WATERS WEST PARKS - PLANS OF DEVELOPMENT (POD)*, p12 of 17)).

However, in reality and as identified by the community and as per the letter from SCRC to Stockland (Thursday 28 Sept.) *"areas abutting Settlers Park will include substantial fill (1:4 batters) placed within the park, rather than addressing the level change within the development. The response that this batter allows for landscaping to perform an amenity impact appears to indicate that the park is being utilised to provide screening between the park and new lots, rather than providing screening within the development site that would leave more relatively level and thus more usable park area."*

In addition to the above, analysis of the western end of the park as per the POD, approximately one third is shown as *"buffer landscape planting"*. As a rough estimate we suggest that overall of the 5767 sq.m. designated by Stockland as Settlers Park that probably in excess of two thirds of the "park" is screening for the development and the visual impact of the level of fill being proposed in the development in order to "mitigate" flooding. Based on rough estimations of the 5767sq.m of "supposed" Settlers Park only some 1922 sq.m is available for recreational use. That is there is a "net loss" in the park area and therefore it does not comply with PO 30 and AO 30(a). The map below has calculated the ratio of the three components of the park.

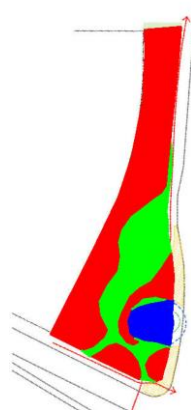
Ratios:

Legend:

Mango tree area (blue) - 7.5% of total area

parkland (green) - 27.5%

trees etc (red) - 65%



Also owing to the siting of the batters along the Southern side of the Park there is a swale drain at the foot of the batters and at natural and just below, ground level. This further reduces the area of useable open space of the park for active recreation, but also introduces some potential safety issues, eg. the swale drain uneven, wet and soft area of ground.

(b) no reduction in park embellishments;	From the POD it would appear that all existing embellishments have been maintained and some will be upgraded.
(c) improved levels of protection for all mango trees within the park with a minimum curtilage around the mango trees of 15 metres to the east and west and 10 metres to the north and south; and	<p>The arborists report by Arbor Australis Consulting (AAC) (Arboricultural Assessment Twin Water West July 2023) at 46(b) notes <i>"The current bike path is less than 3m from the tree canopy line whilst the current crash rail and road carriageway is approximately 7m from the tree canopy line. The 10m requested is not achievable based on the current infrastructure encroachment."</i></p> <p>The Arborists report includes the Concept Tree Protection Plan (TPP) 1 of 2 (p12 of 17) notes and includes a photo of the particular Mango tree, where with the <i>"approximate prune line to achieve assumed clearance over the bikeway of 2.7metres."</i></p> <p>On the same Plan and at the same point of reference the photo also clearly identifies <i>"the edge of the bikeway shoulder as marked out by surveyors"</i>.</p> <p>It demonstrates that the shoulder does not comply with the 10 metre minimum curtilage as required by AO30(c).</p> <p>One also questions, even given assurances from the developer that <i>"During the works (including demolition), site access will occur from outside the proposed Tree Protection Areas (TPAs)."</i> AAC Report p7 of 17 as to what the effect of the construction of the concrete Bikeway may have on the root zone of the tree. One assumes that this is why AO30(c) was included.</p>

I have very clear memories of the Judgement brought down in the P&E Court in 2022, where from memory His Honour Judge Everson commented to the developer that the issues on which he ruled were of the developers own making through the Plan of Development (POD). Although Judge Everson did not make those comments in relation to Settlers Park, one can extrapolate those comments to this version of Settlers Park.

In a different location the treatments applied to Settlers Park may respond to a different purpose.

However, the Settlers Park current design is intended to be a gateway to the proposed Stockland Development at Twin Waters West and NOT a gateway to Pacific Paradise and Twin Waters.

Hence both **Performance Outcome 30** and **Acceptable Outcome 30 (d)** are NOT met by the proposed changes to Settlers Park.

2. WESTERN BOUNDARY OF THE PROPOSED DEVELOPMENT INTERFACE WITH THE DEDICATED PUBLIC TRANSPORT CORRIDOR (CAMCOS)

The Planning Scheme Assessment benchmarks for this section of the development proposal are listed as per the Table below.

Performance Outcomes	Acceptable Outcomes
<p>PO36 Development in the Emerging community zone provides for a substantial landscape buffer and separation area to the Sunshine Motorway and the proposed Dedicated Public Transport Corridor (CAMCOS), in order to provide effective visual and acoustic separation and screening.</p> <p>Note—the landscape buffer and separation areas are to be designed in manner which does not compromise flood solutions for the site</p>	<p>AO36. Development adjacent to the Sunshine Motorway and the proposed Dedicated Public Transport Corridor (CAMCOS) provides a densely planted landscape buffer along the full frontage of the site, which:-</p> <p>(a) is located separate to the proposed Dedicated Public Transport Corridor (CAMCOS);</p> <p>(b) has a minimum width of 40 metres; and</p> <p>(c) incorporates fencing wholly contained within the site at the eastern edge of the landscape buffer.</p> <p>Note—the indicative location and extent of the landscape buffer is shown on Figure 7.2.18A (Maroochy North Shore local plan elements).</p>
<p>PO37 Development in the Emerging community zone does not compromise the provision or operation of the proposed Dedicated Public Transport Corridor (CAMCOS).</p>	<p>AO37 No acceptable outcome provided</p>

How does the proposed development by Stockland relating to the western side of the development proposal meet the Relevant Assessment Benchmarks?

The Stockland Development Application - Development Assessment Report – MCU23/0113 makes reference to the CAMCOS Corridor in

Element 2 – Protection of infrastructure corridors and sites where it states (p46 of 83)

“The development will not have any impact on existing or proposed infrastructure corridors or sites, including the CAMCOS corridor along the western boundary of the site.”

One might accept this based on thinking up until earlier this year. However, given that the State Government has only recently confirmed the ongoing preservation of this corridor for **heavy rail** to the Sunshine Coast Airport (Southern Sunshine Coast Transport Strategy 2023) OSCAR expects that the Precautionary Principle should be applied and that not only the Performance Outcome PO36 should be applied but also the Acceptable

Outcome AO36 which states: (b) has a minimum width of 40 metres. The purpose of the buffer as indicated in **PO36 is: in order to provide effective visual and acoustic separation and screening**. Noise levels from heavy rail carry over considerable distance and certainly more than 20 metre buffer proposed by Stockland.

OSCAR would then say that this part of the development proposal does **not** meet the Assessment Benchmarks:

PO36 – the noise mitigation intent expressed in the Performance Outcome and certainly does NOT meet the benchmark in AO36 (b) where a 40 metre buffer is the minimum.

It is our understanding that this application is a new application following the refusal of the previous application in 2022 and subsequent Appeal in the P&E Court, which dismissed the Appeal. During that Court hearing as a Corespondent in support of the SCRC refusal, I distinctly recall the discussion about the 20 metre buffer. My recollection at that time was that the 20 m buffer was accepted as there was considerable doubt as to whether the extension of the heavy rail from Maroochydore would ever happen. Since then the State has made it clear that although probably not being required until after 2041 that the corridor was to be preserved.

Why would we potentially compromise current and future residents of any development on this site the effective visual and acoustic separation and screening by having the 40 metre visual and noise separation?

Pedestrian and Cycle linkages.

PO33 states “ *Development in the Emerging community zone provides for an extension of the principal pedestrian and cycle linkage and the coastal path, as identified on Figure 7.2.18A (Maroochy North Shore local plan elements), which is designed to sensitively respond to site characteristics, protect ecologically important areas and enhance pedestrian and cycle connectivity*. On one of the diagrams in the Development application the pedestrian/cycle way is shown in the middle of the CAMCOS preserved area!

OSCAR assumes that this is a graphical error and that this provision to which there is *No acceptable Outcome*, has been included within the development proposal. If this is not an error then the development application does NOT meet the assessment Benchmark in PO33.

3. Development Application - Lake Management Plan - MCU23/0113

OSCAR has 2 concerns re the Lake proposal.

i) **Lake Design (p 10 of 47) – states that:** *The lake is proposed to be excavated to a maximum depth of approximately 12m.*

Council's policy on constructed water bodies (CWB) as identified in the Environment and Liveability Strategy is that such CWB's should not be more than 3 metres in depth. Should the developer decide to ignore this policy then OSCAR maintains that the Lake Tenure arrangements as follows should not apply.

ii) LAKE TENURE 6.1 (P13 of 47 of the Lake Management Plan))

Lake Ownership Details Ownership of the lake and its associated infrastructure will be progressively transferred to SCC on registration of the lake areas on relevant Plans of Survey.

6.2 Lake Owner's Responsibilities

The Lake is intended to be used by the community in a responsible way for their recreational enjoyment, with minimal adverse impact upon the amenity of those dwellings in proximity to the lake.

The following uses and rules are expected to apply:

- The lake owner shall be responsible for satisfying the lake management plan performance standards;
- The original lake owner (Stockland Development Pty Ltd) shall be responsible for the creation of lease areas (where permitted under the management plan) at or soon after settlement of each abutting allotment that entitles the abutting landowner to the exclusive use of the leased area for general recreational use, amenity, and/or for the purpose of a pontoon, jetty and/or deck.

Note: Lease fees will be payable to the Council for structures (e.g. deck areas, pontoons, etc.) that are built within the lease area. Lease fees thereafter shall be in accordance with Council's schedule of fees;

- Council shall be responsible for the erection, and maintenance of signs within and around the lake (if required) to notify relevant prohibitions and restrictions for activities on the lake in accordance with the relevant Local Laws prevailing at the time;

Notes: 1. Any request from interested parties to vary any of the provisions of this LMP, may be subject to public consultation to Council's satisfaction. Any public response will be given due recognition by Council in any decision it makes regarding the request for a change; and,

2. A copy of the relevant final Lake Management Plans (LMPs) will be available for purchase by any interested party at a fee fixed by Council.

At the P&E Court Stockland TWW Appeal in 2022 which was dismissed, the Council barrister Mitchell Batty made an emphatic statement about the Lake system ownership into the future. This was based particularly on the engineering and associated raft of issues being discussed in the Court. My recollection of the comments (made most emphatically) that Council did not want and would **Not** take on ownership of the Lake.

His Honour Judge Everson responded that the Lake and the Management Plan was now the responsibility of Stockland.

OSCAR as a residents and ratepayers peak/umbrella group endorses that stance taken by Council and hopes that it maintains such a stance, particularly when the characteristics of the feature do not match Council Policy. It is appreciated that a "sinking fund" is established but if one reviews the proposed amount in the 2022 Application Lake Management Plan and sinking fund and compares that with inflation rates over the last 3 years as well as the increasing costs in services and materials the then sinking fund can be seen as totally inadequate.

Development Services

Notice of Submission for Impact Assessment Applications

Section 53 (6) and Schedule 1 of the Planning Act 2016

To ensure your submission is 'properly made' you must ensure that it is:

1. Made to the assessment manager
2. In writing
3. Signed by each person who made the submission, unless the submission is made electronically
4. States the name and residential or business address of each person who made the submission
5. States what aspects of the proposed development you support or oppose and the reasons (facts and circumstances) for your decision, and
6. Received by council during the formal public notification period.

As required by the Planning Act 2016, all submissions, including individual details, are published on council's website (Development.i) and therefore will be accessible to internet search engines. All submissions are published, irrespective of whether or not they are 'properly made'.

1. Applicant details

File no- **MCU23/0113**

RE: Development application for: 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 development involving Residential, Business, Community and Sport and Recreation uses De Vere Road, 232 - 284 Godfreys Road, Settlers Park Ocean Drive, 581-593 David Low Way, Pacific Paradise and 23 Stillwater Drive, Twin Waters Lot 1 & 2 RP103117, Lots 4 - 8 RP98356, Lot 2 & 3 RP842858, Lot 1 RP811523, Lot 8 RP812125, Lot 261 SP124274, Lot 10 SP248472, Lot 3 SP310860 & Part Lot 1 RP98356 (subject to EMT A on RP98356)

Nature of proposed development Material Change of Use

2. Submitter details

Full name/s Melva Hobson President OSCAR The Organisation Sunshine Coast Association of Residents Inc

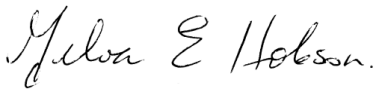
Postal address 9 Goongilla St

Suburb Yaroomba

State QLD

Postcode 4573

Signature/s



Date of submission

Note: This form has been designed for the convenience of the public; any persons wishing to lodge a submission are not obliged to use this form.

3. Details of submission

I (We), the above signed make the following submission: *(if necessary, use a separate sheet of paper and attach)*

I the above signed make this submission on behalf of OSCAR. Please see attached document for our submission.

Privacy

Council will use any personal information provided for the intended purpose only and for remaining in contact with you. Council is authorised to collect this information in accordance with the *Local Government Act 2009* and other Local Government Acts. Your personal information is only accessed by persons authorised to do so. Your personal information is dealt with in accordance with council's privacy policy.