

12 October 2023

Melva Hobson PSM
President
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Dear Melva

Thank you for your letter dated 4 October 2023 expressing concerns regarding the application process for the Twin Waters West development application.

After consultation with the assessment team, Development Services Branch, please see below a response to each of your concerns:

Deadline for submissions

I understand that Council officers received a call from OSCAR representatives, where they were advised the deadline for submissions was 11.59pm on Friday 29 September 2023. Council officers also advised that an addendum to the submission could be submitted in the days after the due date, enabling further supporting information to be provided for Council's consideration in its assessment of this application. To enable third party appeal rights, the original submissions needed to be received during the formal notification period.

Compliance of Public Notice

It should be noted that 230 Godfreys Road was added to the application as part of the applicant's response to Council's information request (refer to item 19). The additional site was added because the applicant proposes to construct outlet pipes for the proposed lake through an existing drainage easement on this property. This physical aspect of the proposal has not changed, and no other development or works are proposed on the 230 Godfreys Road site. The property was added to the application for purely administrative reasons.

Item 19 of Council's Information Request states:

"It has not been confirmed that construction and operation of the lake outlet pipes proposed in Easement ARP98356 can be constructed and maintained under the terms of the easement.

Either:

- (a) Amend the development application to include Lot 1 RP98356, or*
- (b) Demonstrate that construction and maintenance of the proposed lake outlet pipes can be undertaken under the terms of Easement ARP98356. A copy of the terms of the easement would be required, or*

- (c) *Provide an alternative alignment for the lake outlet pipes that does not traverse privately owned lots which are not part of the application site, while also avoiding conservation reserves.*

In relation to this item, the applicant's response states:

"In accordance with item (b) of Council's information request, it is confirmed that construction and maintenance of the proposed lake outlet pipes can occur under the terms of the current easement. The easement is an easement in gross (public utility easement) in favour of Council, and includes a broad right to "use and to keep constructed and maintained such drain or drains as the Grantee [ie Council] considers advisable and for these purposes and for the purpose of constructing [...] all such drains and doing all other acts that may be found necessary or expedient". The proposed outlet pipes would be covered by this broad right.

It is noted that the term "drain" is not legally defined in this context, but its ordinary meaning would include a pipe. This is consistent with the definitions of the more specific terms "stormwater drain" in the Local Government Act 2009 (Qld) (section 76(2)) and "drainage" (relating to sewerage) in the Plumbing and Drainage Act 2018 (Qld) (schedule 1), both of which include a pipe.

Despite the above, and to avoid any doubt, in response to this information request, the development application will be changed as contemplated in item (a). A changed DA Form 1 is attached including that part of Lot 1 on RP98356 which is subject to Easement A on RP98356. It is noted that owner's consent will not be required, consistent with paragraph (a)(i) of the definition of "excluded premises" in the Planning Act 2016 (Qld)."

Under Section 53(3) of the *Planning Act 2016*, Council is satisfied with the notification process that has been followed. In particular, Council does not consider that the omission of the street address for 230 Godfreys Road from the public notices would:

- (a) adversely affected the public's awareness of the existence and nature of the application; or
- (b) restricted the public's opportunity to make properly made submissions about the application.

Further Advice Letter

Council routinely sends 'Further Advice' letters to applicants during the notification or decision periods of development applications, particularly where further clarification is required on aspects of the application to enable Council to make a fully informed decision. Further Advice letters are not formal information requests under the *Planning Act 2016* and are not a formal step in the application process. The Act enables the assessment manager to write to an applicant and seek additional further information at any time during the application process, be it before, during or after public notification.

As mentioned above, the intention of the Further Advice letter is to seek further clarification or information to enable Council to make an informed decision on the application. There may be instances where Council suggests amendments or changes to a proposed development in either its Information Request letter and/or Further Advice letter, to improve compliance with the requirements of the planning scheme.

I trust the above information clarifies those matters raised in your correspondence. If you have any further questions in relation to this development application, I recommend that you contact Stefan Martin, Principal Development Planner on 0459 055 064 or email stefan.martin@sunshinecoast.qld.gov.au.

Yours sincerely



Greg Lavery
ACTING CHIEF EXECUTIVE OFFICER

cc. Councillor Jason O'Pray, Councillor Division 8, Sunshine Coast Council
Councillor Maria Suarez, Councillor Division 9, Sunshine Coast Council
Debra Robinson, Group Executive Customer & Planning Services, Sunshine Coast Council
Patricia Jensen, Manager Development Services, Sunshine Coast Council