

ATTACHMENT 5

DEVELOPMENT WATCH INC

PO Box 1076, Coolum Beach, QLD, 4573
ABN 53 627 632 278

25 June 2006

Councillor Bruce Dunne
Maroochy Shire Council

Dear Bruce,

DEVELOPMENTS UNDER SUPERSEDED PLANNING SCHEME

The Integrated Planning Act 1997 (the IPA) provides for a two year period of grace for applications to be submitted under a superseded planning scheme once a new planning scheme commences. Development Watch is presently examining the procedures used by Maroochy Shire Council to approve such development applications submitted during this period of grace. Some Council decisions we have examined do not appear, on the surface, to be consistent with the provisions of the IPA. Would you please examine our concerns and obtain clarification of the matters raised below.

One example of our concern is related to the treatment of a series of approvals, given whilst the superseded planning scheme was still in effect, over land that comprises the Hyatt Regency Resort, Coolum. To the best of our knowledge, these approvals were:

- a) 14 May 1987 - a Council approval of an initial rezoning application was gazetted,
- b) 29 October 1987 - a Council approval of a second rezoning application was gazetted, and
- c) 14 August 1998 - a Council approval on 4 February 1997 of a third rezoning application (the subject of a P & E Court Consent Order dated 5 May 1998) was gazetted.

We believe that no more approvals were granted before the commencement date (1 June 2000) of the new planning scheme, Maroochy Plan 2000. On the last day of the period of grace (31 May 2002) a "Notice of Intent to Proceed with Development Under the Superseded Planning Scheme" was lodged with Council by Coeur de Lion P/L and given the file number MCU02/0161.

Council considered this application at a Planning and Development Committee meeting on 6 August 2003. At this meeting, the Committee agreed "to issue an Acknowledgement Notice informing the applicant that the applicant may proceed with the proposed development as if the development were to be carried out under the Superseded Planning Scheme in accordance with Section 3.2.5(1)(a) of the Integrated Planning Act 1997". On 5 September 2003, Council issued this Acknowledgement Notice.

We have a number of questions about the lead up to, and the issue of, this Acknowledgement Notice.

1. What was the currency period of the approval gazetted on 14 Aug 1998?

2. Was the "Notice of Intent" submitted by Coeur de Lion P/L on 31 May 2002 considered to be a properly made "development application (superseded planning scheme)" as defined in the IPA?
3. If it was a "properly made application (superseded planning scheme)", was an acknowledgement notice issued within 30 days of receipt of this "Notice of Intent", as required by the IPA s3.2.3(1)(b)?
4. If it was a "properly made application (superseded planning scheme)", what amendments to the decision gazetted in 1998 were proposed to require a new application to be submitted?
5. If it was a "properly made application (superseded planning scheme)", were concurrence or advice agencies required to be involved in the decision-making process?
6. If it was a "properly made application (superseded planning scheme)", was a Decision Notice complying with the requirements of the IPA s3.5.15 issued?
7. There is no mention of processing a "Notice of Intent to Proceed with Development Under the Superseded Planning Scheme" in the IPA. Nor is there a mention in IDAS Guideline 1, "Implementing the Integrated Development Assessment System – IDAS". What laws or regulations are applicable to processing such a notice?

Please closely examine our assumptions and concerns. Would you please make every effort to ensure they are answered in a timely manner.

Sincerely,
Brian

Brian Raison
President
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