



SUBMISSION: Application under Part 4 of the State
Development Public Works Organization Act
1971

Shute Harbour Marina Developments Pty Ltd, the Proponents of the Shute Harbour Marina Resort project request the Co-ordinator General consider an application to amend the Co-ordinator Generals Evaluation report (CGER) for the development.

Specifically, the amendments relate to:

- Condition 1 of Schedule 1 within Appendix 2 which states *'Development approval under the Sustainable Planning Act 2009 for operational works that are tidal works or prescribed tidal works associated with dredging for the access channel, shall be a preliminary approval.'*
- Schedule 2 of Appendix 2 includes a heading which states *'Conditions for preliminary development approval under the Sustainable Planning Act 2009 for Operational Works that are tidal works or prescribed tidal works associated with the marina, other than dredging from the marina and access channel.'*
- Schedule 1 of Appendix 3 includes a heading which states *'Conditions for preliminary development approval under the Sustainable Planning Act for Material Change of Use involving Environmentally Relevant Activity (ERA) 16 – Extractive and screening activities (dredging).'*

Shute Harbour Marina Developments Pty Ltd has previously identified this issue in documentation formally requesting the Coordinator-General to state a later time for the CGER of the project to lapse under the *State Development and Public Works Organisation Act 1971*. (Lodged 16 November 2018).

BACKGROUND:

The Shute Harbour marina project has had a long gestation however, the development is fast gathering momentum with the proponent recently lodging applications with the Whitsunday Regional Council (Assessment Manager) in accordance with lease conditions and the CGER in preparation for the commencement of Stage 1 construction.

Having received these applications the Whitsunday Regional Council expressed concerns specific to:

- Condition 1 of Schedule 1 within Appendix 2 states that *'Development approval under the Sustainable Planning Act 2009 for operational works that are tidal works or prescribed tidal works associated with dredging for the access channel, shall be a preliminary approval.'*
- Schedule 2 of Appendix 2 does not have the same condition as Schedule 1, but notes in the heading of this section *'Conditions for preliminary development approval under the Sustainable Planning Act 2009 for Operational Works that are tidal works or prescribed tidal works associated with the marina, other than dredging from the marina and access channel.'*
- Schedule 1 of Appendix 3 does not have the same condition, but notes in the heading of this section *'Conditions for preliminary development approval under the Sustainable Planning Act for Material Change of Use involving Environmentally Relevant Activity (ERA) 16 – Extractive and screening activities (dredging).'*

Because of these statements and the condition, Council has been of the view that they are unable to issue Confirmation Advice for the application or a Development Permit for the works. Note, that a Development Permit allows works to be carried out, a Preliminary Approval does not authorise works to be carried out.

It is understood that the initial Environmental Impact Statement and Supplementary Environmental Impact Statement had intended only to seek a Preliminary Approval for Operational Works as the necessary complex and detailed engineering advice had not been finalised. Accordingly, as there was not sufficient detailed engineering information, the Coordinator General limited any approval to a Preliminary Approval. However, the report was deficient in not having considered making provision for subsequent Development Approvals once the detailed and complex engineering had been reviewed, finalised and provided.



CURRENT SITUATION:

After seeking advice from the Co-Ordinator General, Council was advised that there was no impediment to Whitsunday Regional Council accepting the applications lodged by Gilvear Planning Pty Ltd on behalf of Shute Harbour Marina Development Pty Ltd on 30 November 2018 in the context of the relevant CGER for the following:

- Development permit – Operational Works including tidal works – construction of breakwater, dewatering and reclaiming land above and below High Water mark, including the removal of marine plants and vegetation
- Development permit - Operational Works including civil works for the servicing of the future development area including road access
- Development permit - Material Change of Use for an Environmentally Relevant Activity ERA 16.2(b) and 16.3(b) – Extraction and screening activities of between 100,000 and 1,000,000 tonnes per annum.

Further, it was acknowledged that under the *Planning Act 2016*, the assessment manager has various options when deciding an application for development approval. While the applicant may seek a development permit, currently the CGER requires any development application for operational works approved for (what was at the time of the CGER's release) dredging of the marina basin and the access channel to be a preliminary approval. Furthermore, where a preliminary approval was to be issued for operational works tidal works (other than the dredging of the marina and access channel) and Material Change of Use ERA dredging, a number of conditions have been stated.

This did not restrict Council's ability to accept the applications, however it did impact the options available to council in terms of decision making.

PROPONENTS REQUEST:

Shute Harbour Marina Developments Pty Ltd in accordance with the Part 4 of the *State Development and Public Works Organisation Act 1971* request the Co-Ordinator General to amend the evaluation report by:

1. Removing condition 1 of Schedule 1 within Appendix 2 of the Evaluation Report.
2. Amending the wording of the heading which precedes Schedule 2 of Appendix 2 to replace references of 'preliminary development approval' to 'Development Application for Development Permit' insofar as it relates to Operational Works that are tidal works or prescribed tidal.
3. Amending the wording of the heading which precedes the conditions within Schedule 1 of Appendix 3 to replace references of 'preliminary development approval' to 'Development Application for Development Permit' insofar as it relates to a Material Change of Use involving Environmentally Relevant Activity (ERA) 16 – Extractive and screening activities (dredging).

The Proponent is of the opinion that the effect of the proposed changes on the project is that Council will not be limited to issuing only a Preliminary Approval. The Assessment Manager will be able to issue a Development Permit, which is necessary to allow works to commence on the site. This will avoid an unnecessary duplicate process by which the application would need to be resubmitted for assessment (and referrals undertaken a second time) for the same works to obtain a further Development Permit, where only a Preliminary Approval is issued. As a result, the change will provide certainty to the State, Council and Proponent that works can commence. This will help ensure that milestones under the Lease agreement can be achieved.

The Proponent has recently lodged an application to Council seeking a:

- Development Permit for Operational Works including prescribed tidal works (construction of breakwater, dewatering and reclaiming land above and below High Water Mark, which includes the removal of marine plants and vegetation);
- Development Permit for Operational Works including civil works for the servicing of the future development area including road access.
- Development Permit for Material Change of Use for Environmentally Relevant Activity (ERA 16.2(b) and 16.3 (b) for extraction and screening between 100,000 tonnes and 1,000,000 tonnes per annum.

These amendments to the CGER will provide clarity and ensure that the Assessment Manager can issue the appropriate approvals so that the project can proceed and allow necessary works to commence.



The Operational Works application currently before Council now contains the necessary information, including detailed information with respect to the proposal and impacts, for Council and State agencies to determine the application.

The development remains consistent with the information provided as part of the Environmental Impact Statement and Supplementary Environmental Impact Statement. Whilst a number of necessary modifications have been undertaken in response to detailed engineering advice, the impacts and effects of the development remain largely the same, if not improved in some ways to reflect current or updated standards where applicable.

This is a relatively minor change in terms of clarification of process and decision making. The Proponent has paid the required fee to facilitate consideration of the request.