

enquiries refer
Richard Jerome
in reply please quote
DA 2017/244 (18/52823)



8 August 2018

Intrapac Property Pty Ltd
C/- Ms Jenny Rudolph
Elton Consulting
PO Box 1488
BONDI JUNCTION NSW 2022

Dear Ms Rudolph

**Re: DA 2017/244 – Skennars Head Development
Council's response to Section 94 and Section 64 contributions submission**

Thank you for your submission on developer contributions by Julia Kaul Planning & Policy (dated October 2017, Council doc # 17/92630) on behalf of Intrapac. This submission formed part of your development application and has also been discussed in subsequent meetings.

Council provides the following summary on its position in relation to the variations to s7.11 and s64 contributions sought in your submission.

Your submission is seeking the following variation to the Open Space and Community Facilities Contributions Plan 2016:

Variation requested

The following variations are requested to the development contributions levied under Ballina Shire Open Space and Community Facilities Contributions Plan 2016 are as follows:

- Exemption from contribution for local parks @\$247.04/lot
- Exemption from contribution for district parks @ 1,093.38/lot
- Exemption from contribution for regional open space @ \$1,789.36/lot

This will result in the reduction of the contribution from \$7,812.75/lot to \$4,682.97/lot based on the un-indexed contribution rates stated in the s94 Plan.

Local Parks

Under the Open Space and Community Facilities Contributions plan all residents are to be within 400m of a local park facility. Therefore two local parks are to be dedicated to Council to service the proposed development.

The development is proposing a local park and another park described as a "neighbourhood park" as illustrated below.

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Excerpt from the landscape masterplan dated April 2017

The “neighbourhood park” is embellished beyond that required of a local park but not to the level required of a district park under the Open Spaces Plan and Community Facilities Contributions plan.

During the creation of the Skennars Head Expansion Area DCP the control of the subject land transferred to Intrapac, the current applicant. Prior to this point two standard local parks were included in the draft DCP by Council, one at the northern end of the site and the other to service the southern portion of the site.

Intrapac via Elton Consulting provided comments on the draft DCP on the 14 September 2015 and included the following:

- ii. The Coastal Park, comprising a minimum usable park area of 4000m2 is to be provided near the village hub as a neighbourhood park by the developer and be provided consistent with the Skennars Head Village Area Structure Plan (Figure 1 and Figure 3, Appendix A), or as otherwise approved by Council.
- iii. The Coastal Park is to be dedicated to Council and is to contain the following facilities as a minimum requirement:
 - Three picnic shelters with picnic table settings
 - Two electric barbeques under a covered shelter structure, including water tap
 - One drinking fountain and tap
 - A children’s playground with impact matting/softfall and multi-play equipment area equivalent to at least 100m2. in size
 - Low maintenance landscaping applied to the balance of the coastal parkland.
 - Furniture and equipment are to be of a type approved by Council.

It was the applicant’s proposal to embellish the neighbourhood park beyond that of a local park as it was a good use of the 7(d) Environmental Protection (scenic/escarpment) zoned coastal buffer land, not zoned residential. In further correspondence on the draft DCP council agreed with the proposal to move the southern local park more centrally to provide a “green corridor” through the development site linking the neighbourhood park to the central local park and wetland shared path.

Council did not agree to or use the term “district park” to refer to the neighbourhood park. District parks are established under the Open Space and Community Facilities Contributions Plan 2016 and do not include the Skennars Head Expansion Area (see excerpt from Council’s Open Space and Community Facilities Contributions Plan 2016 below):

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There is sufficient, well-distributed land for district parks across the Shire. These areas will also be sufficient to cater for the projected population in 2036 using the standards adopted by Council.

However there will be a need for Council to further embellish district parks to meet the demands of the additional resident population. The following works have been identified for funding under this plan because they are well located to serve surrounding district populations:

- Pop Denison Park, Ballina – implementation of master plan improvements and cycle path
- New Wollongbar district park - skate park
- Wardell foreshore open space improvements - boardwalk facilities and public art

The district parks embellishment contribution will apply to all new residential development across the Shire except Cumbalum, which is subject to other contributions arrangements. This is because district parks users tend to be drawn from a wide area.

Given the applicant is providing two local parks as per the requirements of the Open Space Community Facilities Contributions Plan "Council may at its discretion offset the value of the land against contributions for the same facility group".

Council's technical staff have recommended that the variation request for an exemption from a contribution towards local parks be granted.

District Park

As discussed above, Council's view is that the neighbourhood park is effectively a local park additionally embellished at the developer's request. The proposed neighbourhood park is recognised as a good use of the 7(d) zoned land, which was reflected by its inclusion in the DCP. However, the neighbourhood park is not a district park established under the Open Space and Community Facilities Contributions Plan and the DCP does not require the dedication of a district park as stated in the Intrapac submission.

The district park servicing the Skennars Head catchment is Pop Denison Park in East Ballina. It is Council's view that the s7.11 contributions generated by the Skennars Head expansion area should go towards the embellishment of Pop Denison Park as apportioned under the Open Space and Community Facilities Contribution Plan.

If the developer no longer wishes to embellish the neighbourhood park as per the current proposal, the area is to be dedicated as a local park and embellished to the appropriate level in accordance with the Open Space and Community Facilities Contributions Plan.

Council does not support the variation to exempt the development from the payment of district park contributions and thereby redirecting contributions generated by the development away from the works planned under the established Open Space and Community Facilities Contributions Plan.

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Regional Open Space

It is noted that the final configuration of the land zoned 7(d) remains the subject of consideration in relation to several outstanding matters associated with DA 2017/244.

With respect to the matter of whether this land is to be in public or private ownership, there are several items that require detailed consideration. In particular, Council will require that all areas within the 7(d) zoned land that contain required public infrastructure, such as shared paths, local park areas and/or stormwater infrastructure, are dedicated to Council.

Council does not support the variation to exempt the development from the payment of regional open spaces contributions thereby redirecting contributions generated by the development away from works planned under the Open Space and Community Facilities Contributions Plan.

Alternate Neighbourhood Park and Coastal Land Embellishment Funding

A meeting with the applicant regarding developer contributions was held on the 29 August 2017 and a spreadsheet outlining a proposed approach for contribution relief was submitted by the applicant for discussion. This document was considered by assessment staff and a response was provided on 8 September 2017 (ref 17/74976).

As per Council's advice at the time, the embellishment of the neighbourhood park and 7(d) zoned coastal land should not be funded by the Open Space and Communities Facilities Contributions Plan.

The Coast Road Intersection Treatment

An offset against contributions payable under the Ballina Shire Roads Contributions plan is sought for the development to access The Coast Road. The Skennars Head Expansion Area DCP states the following in reference to the developments intersection with The Coast Road.

- ix. Application for the first stage of the development (or part thereof) is to be accompanied by a traffic assessment and plan to upgrade the Headlands Drive/The Coast Road intersection to meet the needs



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of the development and existing road users by way of an appropriately configured roundabout. The upgrade plan is to provide for the following:

- Consolidated access to the expansion area and Sharpes Beach;
- Deviation of Headlands Drive as part of the consolidated access; and
- Closure of any redundant parts of Headlands Drive.

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The Intrapac submission states the following:

Traffic management requirements

The DCP requires the proponent to upgrade the Headlands Drive/The Coast Road intersection to meet the needs of "the development and existing road users [including the residential development to the north] by way of an appropriately configured roundabout" and that among other things this upgraded and relocated intersection is to provide for "consolidated access to the expansion area and Sharpes Beach".

Through the wording of the DCP Council acknowledges the intersection will serve both existing and future traffic and will service areas that are external and unrelated to the subject development. Where intersection works serve a mix of existing and future demand and/or demand arising from areas/developments that are external and unrelated to the subject development, these works should be included in a s94 Plan to ensure the costs are shared equitably between those who benefit.

And

It is not clear how Council intends to require the proponent to undertake these works, when they are not covered by a s94 plan. It is assumed that they will seek to impose a condition of consent under s80A(1)(f) of the Act. The validity of this approach is questionable, as Council have acknowledged in the DCP that these works are required to serve demand that is not solely attributable to this development.

Notwithstanding this, the proponent is willing to negotiate with Council to ensure the provision of the intersection treatment works. However it is not reasonable to expect these works to be fully funded by the proponent in addition to requiring the payment of a full contribution for works that have limited nexus to their site. Accordingly, it is considered reasonable that the cost of providing this intersection treatment be offset against the s94 contribution for roads.

The Headlands Drive intersection with The Coast Road was assessed during the development of the Ballina Shire Roads Contribution Plan, Version 4.1, adopted 26 July 2018.

The intersection was not considered critical in the functioning of the road network and was therefore not included in the Ballina Shire Roads Contributions plan. There are road projects included in the Ballina Shire Roads Contributions plan which will considerably reduce future peak congestion on the existing Headlands Drive intersection such as the North Creek Road and Bridge works scheduled for the period 2019-2028.

Additionally, black spot funding has enabled Council to construct a roundabout to the north at the intersection of Skennars Head Road and The Coast Road. The new roundabout has aided peak congestion on the Headlands Drive/The Coast Road intersection in the interim. Council has a range of options available to manage potential congestion on Headlands Drive without the need for constructing a roundabout.

The developer requires access to the proposed development site and a roundabout has been determined as the most effective option. From a traffic management viewpoint the most suitable location for the roundabout is that proposed by the DCP and the development application. Any other option would result in three separate intersections in close proximity that further compromises traffic flows along The Coast Road.

The developer has never disputed the proposed intersection location as it also provides access to Sharpes Beach, which will be a significant attraction of the development.

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In summary, the roundabout location is based on sound traffic engineering practice and not about solving a perceived congestion issue in a neighbouring development. Therefore, Council does not support the variation to offset the intersection works against Ballina Shire Roads Contributions Plan thereby redirecting contributions generated by the development away from works planned under the established Ballina Shire Roads Contributions Plan.

Further, Intrapac's submission relating to Council's recent update of the Ballina Shire Roads Contributions Plan was considered by the Council at its Ordinary Meeting held on 26 July 2018. The Council adopted the updated plan and in doing so did not support the position put by Intrapac regarding The Coast Road/ Headlands Drive roundabout.

Water and Sewerage Services

The Intrapac submission states the following:

WATER AND SEWERAGE SERVICES UPGRADE

A detailed analysis of how Council's DSPs apply to the development and the implications for the servicing plan has been provided by Northern Rivers Land Solutions. Their report is attached (see Attachment 2)

Council previously requested that allowance be made within the systems to address existing issues relating to underservicing of adjacent development. These additional works accounted for approximately 20% of the capacity required to be provided to service the development. It is not reasonable to expect the proponent to bear the costs associated with providing water and sewerage works that do not relate to their development and Council will need to meet the costs associated with the additional works required that do not relate directly to the development. Council have since advised that they no longer require this allowance to be made.

If this additional allowance is no longer required, the system design will be adjusted accordingly and the proponent will not seek an offset from Council. However, if Council, changes its stance and

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requires additional capacity in the system then it is reasonable to expect that the proponent will be appropriately compensated.

And

3. The proponent be compensated for any additional water and sewerage works that are provided at Council's request to serve development that is not part of this proposal.

Contrary to the Intrapac submission, Council has never requested allowances be made within the developments sewer or water systems to address existing issues relating to underservicing of adjacent developments. Furthermore, at the applicant's request, Council has agreed to provide the development with base level sewer flows from a neighbouring pump station to aid the initial stages of the development.

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Council is not requesting any additional water and sewerage works to service an unrelated development therefore no compensation or offset is applicable.

Alternate Approaches

It remains open to Intrapac to propose a Voluntary Planning Agreement as a mechanism to further consider the matters raised in the Julia Kaul Planning & Policy submission. As you will be aware this was the subject of discussion with Council staff in a meeting with Brett Smith on 31 July 2018.

Staff also indicated at the 31 July meeting that Council is open to reviewing traffic modelling that Intrapac may have obtained in relation to The Coast Road roundabout matter.

I trust that the above clarifies Council's response to the Julia Kaul Planning & Policy submission. If you have any further enquiries in regard to this matter please contact either myself or Richard Jerome on 1300 864 4444.

Yours faithfully

Matthew Wood
Group Manager
Development and Environmental Health

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