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SUBMISSION

TO

NSW Department of Planning

re

**Development Proposal for
Lot 156 Creek St, Hastings Point**

Compiled by John Edwards
Honorary Secretary

Submission to Development Proposal for Lot 156 Creek St, Hastings Point

Introduction.

The Clarence Environment Centre has maintained a shop-front in Grafton for over 22 years, and has a proud history of environmental advocacy. We have been particularly concerned about the proposal to develop low-lying coastal land at Hastings Point, having previously made a submission to your Department opposing the development (1st July, 2010). That earlier proposal was rejected, so it comes as a surprise that it is back on the agenda.

The reason for the Clarence Environment Centre's earlier concern was because, there is because we have a similarly highly inappropriate residential proposal with a "use-by" date, courtesy of sea-level rise, planned for West Yamba near the mouth of the Clarence River.

History.

In reading a briefing paper on the history of the above development, the Clarence Environment Centre is appalled at the abuses of due process that have apparently occurred over an extended period in relation to the site where the Hastings Point development is proposed.

Firstly, we understand the Cudgera and Christie's Creek estuaries were illegally dredged in the 1990s, and the 'fill' used to extend the property in question by some 7 hectares, a process that not only 'stole' 7 hectares of public land, but redirected the flow of water into the estuary. This was reportedly followed by degradation of the P7A Environmental Protection Zone, causing destruction of riparian habitat that continues to be regularly mowed to the present time, thus ensuring no natural regeneration occurs.

We are informed that the landowner was found guilty of numerous offenses in the Land and Environment Court and ordered to make restitution, a penalty Tweed Council failed to enforce.

Also it is our understanding that filling of the estuary has exacerbated flood problems on both the proposed development property, which has always been inundated by 1 in 20 year flood events, and the Hastings Point village itself, a fact clearly identified in Council's own flood study for the area. The additional fill proposed to overcome predicted sea level rise over the next 90 years, will further exacerbate the flash flooding problems.

There has also reportedly been conflict between Council staff, who are strongly opposed to the proposed development, and some pro-development Councillors. Opponents of the proposed development, Hastings Point Progress Association, employed a hydrologist to assess the proposal, who declared the proposed flood mitigation strategy was totally inappropriate, claiming it simply would not work, and expressing the view that the estuary should be returned to its original state.

Finally, this entire sorry saga has allegedly seen the approval for construction of two house pads on an adjoining Creek St block owned by the proponent, which has seen both sites filled right to their boundaries thanks to a Certifier and Council's building dept, all without the knowledge of Council's planning section. The fact that the Certifier reportedly works for the same consultancy responsible for the Part 3A application for Lot 156 simply adds to residents' concerns.

We strongly believe Planning should closely scrutinise the history of this development proposal and investigate reports that the Certifier has previously been found guilty of professional misconduct which, if found to be true, should trigger an immediate inquiry into all aspects of the proposal. In the interim we believe the Department of Planning should place a moratorium on the proposed development pending the outcome of that investigation.

Environmental Concerns.

1. The blocking and redirecting of peak flows into the estuarine system, has permanently devalued the mangrove and saltmarsh ecosystems that previously existed. Both communities are listed as threatened under State Government coastal management and planning law, and provide habitat for a number of threatened species including Beach Stone-curlew and Black-necked Stork. Furthermore, such habitats are crucial in mitigating flood impacts to surrounding areas through natural floodplain functions.
2. The very real impacts of climate change, identified by the IPCC and by Australia's CSIRO, and acknowledged by the NSW and Federal Governments, have not been seriously addressed in this development application. Climate change will have major impacts on coastal communities world wide, including an increase in extreme weather events, flooding, storm surge, and gradual sea level rise.

However, some developers, and some Councils, have latched onto a clause in the now NSW Office of Environment and Heritage, (OEH) "Sea Level Rise Policy Statement, 2009", which states in relation to coastal development that: "*Planning and investment decisions should therefore consider the range of sea level rise projections over the life of the asset*".

Some developers are even suggesting the average life of a home is less than 100 years, therefore to fill the proposed development site to 90cm (DECCW's predicted sea level rise by 2090) above current maximum flood level will meet State Government requirements.

What is being totally ignored, is that the factors causing climate change and polar ice melt are locked in for possibly a thousand years and cannot be halted or reversed in the short term, so it is widely acknowledged (and also noted in DECCW's Policy Statement) that sea levels will continue to rise well beyond 2100. Under those circumstances, we have to ask what consideration did DECCW give to future flood liability of residents who might be persuaded to purchase homes in coastal communities like Hastings Point and how, in 2090, residents will take the news that their suburb (asset) has reached the end of its projected life, and will have to move?

Fortunately, some sanity prevails. On June 29, 2010, the Sydney Morning Herald reported (<http://www.smh.com.au/environment/mapping-tool-for-councils-charts-sealevel-rises-to-2100-20100628-zf9w.html>) under the heading, "Mapping tool for councils charts sea-level rises to 2100", details of a Federal Government mapping initiative designed to provide a tool "*for councils to identify which areas may be flooded by rising sea levels. ... provide the ability to investigate which areas will be inundated under different sea-level scenarios,*" and ... "*help reduce risk for local governments.*" Therefore we strongly recommend the Department of Planning take full advantage of that tool, and fully consider the long-term implications of climate change when determining this proposal.

3. Other specific concerns related to the current Development Application.

- Recent floods in 2005 clearly showed that Lot 156 is totally inundated by a 1 in 20 year flood, and that past filling of the estuary and removal of vegetation has increased the threat of flooding to the remainder of the village.
- At the time of flooding, the flow tries to follow it's original path which filling has blocked.
- The applicant proposes to offset ecological impacts by rehabilitating a small portion of the previously "stolen" land. We believe this entire area should be rehabilitated, or preferably returned to its original estuarine condition.
- Local residents are concerned the proposed construction of a 'firebreak' in the form of a road adjacent to the estuary, will form a levy behind existing houses, trapping flood water which will not be able to escape from Creek St into the estuary.

- As incoming tidal flows are now blocked, water already flows back up through storm-water outlets, blocking the escape of storm-water during heavy rain events. Further filling will only serve to exacerbate the problem.
- The construction of the 'firebreak' road will necessitate filling to a level greater than the current height which will not only block estuary access that has been enjoyed by locals since the 1950's, while it will also block views to some properties which have seen property values decline as a result.
- The proposal acknowledges that access from Tweed Coast Rd to Creek St is too narrow for construction trucks and requests that the pedestrian refuge island be removed. We are informed that even if this occurs the turn is still too narrow which will entail trucks driving across the footpath.
- The request to remove the refuge island totally ignores the large number of elderly retiree residents from adjoining North Star caravan park, the only affordable accommodation in the area, and the needs of a number of disabled and blind residents who will not be able to cross the road to access the beach
- * The developer proposes to construct a road, up to 14m wide adjacent to the estuary to an existing access road to the sewerage pumping station, describing it as a grassed area when in fact we understand was a riparian zone to local salt-marsh before it was illegally filled by a previous owner. The “grassed area” has, for some time, been mowed on on a weekly basis despite instructions to cease. This road also traverses a 7A protected area and impacts protected species, and the developer is claiming exemption to a required 50m riparian protection zone in order to construct this road.
- * We believe there has been an inadequate assessment of groundwater which, we understand, lies only millimetres below the present surface of the ground.
- * The developer has a record of using inappropriate fill in this area which directly impacts on flood waters and has provided an inaccurate flood assessment which takes no account of specific local conditions.

In conclusion:

Given the Planning Department's stated aims (Regional Strategies) that: *“These issues need to be carefully managed when considering future development particularly in light of the potential coastline changes associated with climate change”*, and other issues outlined above, we strongly believe that the precautionary principle must apply, and the development application for Lot 156, be denied.

We also believe that Tweed Council should be required to ensure measures are taken to return the Cudgera and Christie's Creek estuaries to their natural state with full rehabilitation of the mangrove and salt marsh ecosystems that previously existed.

Yours sincerely
 John Edwards
 Honorary Secretary.