

General Manager
Eurobodalla Shire Council
PO Box 99
Moruya, NSW 2537

21 August 2007

Dear Mr Levy,

Re: Development Application 6-46/07 by Walker Corporation Pty Ltd
Vegetation Clearance and Earthworks for Proposed Bulky Goods
Retail Centre

A Submission on behalf of "Friends of Our Beaches".

INTRODUCTION.

On Saturday 11 August 2007 a new organisation named 'Friends of Our Beaches' was created at a public meeting held at Wimbie Beach. The meeting formally established a strategy group of six persons to represent the new organisation, which now has 127 members who are owners of property in the Eurobodalla Shire. The public meeting formally carried the following resolutions:

1. 'That this meeting opposes totally the DA 6-46/07 by Walker Corporation Pty Ltd and calls upon the ESC to reject the application and rezone the site to residential or rural blocks or community recreational facilities.'
2. ' That this meeting appoints six volunteers to form a strategy group to act on behalf of the 'Friends of Our Beaches' between its meetings; to make a joint submission on behalf of the 'Friends of Our Beaches' by Thursday 23 August 2007; and to present activity and financial reports for consideration.'

The following were formally appointed to the strategy group:

Chairman - Mr Neville Hughes Secretary - Mr John Walker
Treasurer - Mr Petar Scott
Committee Members - Mr David O'Leary Mr John Rawson
Mrs Patricia Morley Mr Paul Bradstreet [Co-opted]

This submission is in compliance with these resolutions. It is formatted to comply with 'Making a Submission' rules.

We oppose this DA from the Walker Corporation Pty Ltd for the following reasons:

1.0. OVERVIEW

The proposed Development Application [DA] has a number of unusual features and its assessment needs to be seen to deal carefully and fairly with the many conflicts of interests.

As well as being the owner or leaseholder, ESC activities also have a major environmental impact on the surrounding area. Accordingly it needs to take a full and careful account of the associated environmental risks.

This is a mandatory requirement under the NSW State Environmental Planning Policy No. 71: Coastal Development. [SEPP 71]

From a planning perspective this DA should not have got to first base. It is in contravention of the spirit and intention of SEPP 71 and most of its Clause 8 'Matters for Consideration'. These apply to land within the coastal zone, i.e. land within 1 km of the NSW coast or coastal lake, lagoon, bay or river. Pursuant to the requirements of this Act, ESC should not have the authority to adjudicate on this application.

In particular the Friends question the planning processes for the siting of major commercial facilities so close to the sea, and the existing residential and well established developments.

In addition, the Friends believe the Walker Corporation's proposal runs counter to ESC's local environmental plan [LEP]. It does not meet the stated objectives of the 4a industrial zone [Section 29], or the requirements of what developments may be carried out in the 4a industrial zone [Section 30].

Large scale bulky goods retailing is inconsistent with the LEP.

The Friends are aware that ESC has adopted an indicative land use plan for its property adjacent to the development site and on the southern side of the Spine Road. This plan, which is outlined in broad detail in the Greater

Batemans Bay Structure Plan, provides for an area for light industry west of the site and for medium density residential development further up the Spine Road. The future of the existing treated sewage “polishing pond” is unclear.

The Friends note that to achieve this pattern of development a rezoning away from the current industrial zoning has been recommended in the Structure Plan. Indeed, the Plan recommends the rezoning of the subject site. The Friends will take up the question of whether the proposed rezonings are appropriate when the new Local Environment Plan goes on public exhibition. Suffice it to say that the question arises that if some of the existing industrial land can be rezoned as residential why can't it all be given that classification?

2.0. PLANNING ISSUES.

The veracity of the assumptions, and the planning on which this DA is based is suspect for the following reasons:

2.1 The DA should comprehensively incorporate vegetation clearance and earthworks as currently proposed, but also building design and a structural plan. In particular, in this case, it should have a detailed drainage plan as it is difficult to assess the impact of water flow from the site without this. It should also be possible to view a concept plan of the proposed Surf Beach industrial zone to see the wider context of what is being proposed. To proceed with the DA in stages in such a sensitive location is wrong. ESC should ensure the full details of the the proposed project are made public before the matter is taken any further.

2.2. Totally inappropriate siting:

- * Less than 500 metres from the sea at Wimbie Beach;
- *Immediately opposite and in direct view of existing medium-density residential complexes;
- *Alongside the ESC sewage treatment works [STW] and ESC tip, it is astride a natural water course which flows into Wimbie Creek and discharges over Wimbie Beach into the sea and a habitat protection zone of Batemans Marine Park.

*Note- There is a long history of inadequate planning and control of the causes of the pollution which infects Wimbie Creek, and the Wimbie, Surf and Denhams Beaches especially. Until this is rectified by ESC, no development which may exacerbate the problem should proceed[refer to 3.2 The Final Straw].

* The site is less than eight kilometres from Batemans Bay where Stocklands shopping centre was opened only three years ago. Local media has carried stories of major difficulties for the retailers in the precinct. This is evident in the number of empty spaces available. There are three bulky goods outlets in Batemans Bay, Harvey Normans, Bunnings and Betta Electrical, which already service this need.

2.3 Population Assumptions/Economic Impact:

* ESC and Walker Corporation Pty Ltd seem to be presenting inaccurate figures to gain the confidence of the community in the proposed project. ESC has conducted its studies over recent years in great secrecy.[Refer to Attachment 'Background']. The release of its Newsletter 'Summer 2006/2007' in December 2006 was the first real glimmer of what was being planned . It is understood that ESC has required its councillors, who were elected to represent the ratepayers / residents, to sign Confidentiality Agreements to prevent them disclosing information to the community to whom they are responsible. This appears at odds with our democratic system of government. ESC and the community need to consider the consequences of this mega proposal on the existing commercial and industrial precincts in the Shire, in particular Batemans Bay and Moruya. It highlights the need and urgency to prevent this DA from proceeding.

* Population estimates are base figures. ESC and Walker Corporation claim Batemans Bay has an immediate catchment of more than 71,000 people, and the Shire's population will grow at 1.5 times the national

average.

The facts are Eurobodalla Shire has a population of 35,000 people and based on the growth rates used by the Department of Planning's South Coast Regional Strategy, will grow to about 48,000 over twenty-five years. Even with a rapid 2 per cent per annum increase the Shire's population would grow to about 57,000 people over twenty-five years.

* The population assumptions used to support this DA are excessively ambitious. They imply a desire to proceed with a development without due regard for the consequences of what may result from creating excessive overcapacity in retail space too soon. This may adversely impact on Batemans Bay by creating unanticipated negative social and economic consequences in the town.

* The desire to create increased employment opportunities is unquestioned, but the process for achieving this should not be to the disadvantage of people already employed and their employers. More incremental development is required.

* This question of the veracity of the assumptions on which this DA is based demands that it be refused.

3.0 ENVIRONMENTAL IMPACT

*The Friends consider that the proposed development will have two major impacts on the natural environment. First, water and pollutants run off from the site will flow into the already polluted Wimbie Creek, which flows across Wimbie Beach into the Bay. Second, removal of all the site's flora will seriously damage one of the few remaining east-west corridors which allow fauna direct access to the sea. This section examines these impacts.

3.1 Surf Beach Site and Wimbie Creek

*The site for the proposed bulky goods retail centre covers a vast 48,000 square metre area, with a construction area of 19,000 square

metres and parking space for 500 passenger vehicles. The clearing and total destruction of such a large area of native forest for the proposed project, and the removal of the canopy, runs counter to ESC's stated tree preservation plan. It is in contrast to what has happened over recent years in nearby residential developments where large groups of trees have been retained and the overall nature of the environment has been largely unaffected. The impact of this on nearby residences including on their immediate outlook, on flora and fauna especially endangered species, on drainage and pollution from the site and the adjacent tip and STW, and on related health issues will all be very significant and need to be fully addressed by ESC. This would of course be greatly exacerbated if ESC's plans for a much wider industrial zone, with 60 hectares of available land, were implemented. Such plans are not in keeping with the Nature Coast.

* It is a forested site less than 500 metres from the sea at Wimbie Beach.

*The proposed bulky goods site is immediately adjacent to the east of the ESC Sewage Treatment Works [STW], on the western side of which, is the ESC waste tip. The land on which they are located has natural drainage into a water course which filters into Wimbie Creek [and others], which discharges into the sea at Wimbie Beach, and a habitat protection zone of Batemans Marine Park.

*Over many years there have been regular and frequent sewage spills into the creek, which when carried into the ocean have led to the closures of Wimbie, Surf, and Denhams Beaches. Some of these spillages have also interfered with the harvesting of oysters in the Clyde River. And, in every case, local residents have had to endure unacceptable odour levels and health risks associated with raw sewage in water ways.

*During its history, this process has not been remedied by ESC. In 1999 the STW was assessed at 95 per cent capacity, and in 2007 it is clearly unable to meet its demand. ESC General Manager has stated

that up to 50 per cent of the current load will be transferred to the Tomakin STW [how and when this is to be done and at what cost has not been explained].

*The creek lagoon immediately behind Wimbie Beach, which forms part of the Batemans Marine Park habitat protection zone, is now polluted most of the time.

*The sources of the water course and creek's environmental stress are natural and man made.

*The natural forces impacting on its condition are:

*As the creek crosses a flat beach its mouth is intermittently open and closed - it has a very limited potential to assimilate pollutants when it closes;

*In the summer, following heavy storms at sea, currents caused by the prevailing north easterly winds dump extensive loads of sea weed onto the beach and into the creek. Inevitably these dumps lead to deoxygenation of the creek water as a result of excessive nutrient loading.

* from time to time the creek has to drain very large volumes of storm water following heavy sub-tropical showers, the flow rates in its lower reaches are now very high, in a number of spots it is eroding its banks and dangerously undermining very tall gum trees, and its banks are being invaded by noxious weeds, particularly asparagus fern, and several sheoaks immediately behind Wimbie and Surf Beaches have died, probably due to pollution leaching infecting their root systems.

*The current man made influences on the creek's condition result from ESC's activities. These are:

*Deficiencies in past planning with the development of Newth Place on the creek's lower wetlands - and with a storm water system, where it exists, that is ad hoc and inadequate;and,

*In a very short distance the creek has to assimilate pollutants running off the Surf Beach tip, spills from the Surf Beach STW,

overflows from the low level pumps servicing the old leaky gravity sewage system and run-off from Beach Road, one of the busiest roads in the Shire; and,

*In addition, the creek is threatened by potential leaks from the system of semi-treated sewage which is piped and/or held adjacent to the creek, particularly the so called finishing pond , the golf club line pump on Beach Road, and the STW major outlet line.

3.2. THE FINAL STRAW

* Now the creek is confronted with the effects that will flow from the land clearing pressures from the development of the Spine Bypass Road, the questionable creation of the Shire's major transport intersection, and the ESC and Walker Corporation's proposal to clear fell and cut and fill the 4.8 hectare site , and the increased flow of water run off and waste effluent from the site.

*The creek will not be able to cope - the adverse ramifications will be irreversible.

*This DA must not be given further consideration until ESC remedies the current pollution devastation, and puts in place the infrastructure to prevent it recurring.

4.0 SURF BEACH SITE AND FLORA AND FAUNA

*The Friends note that the developer has undertaken a comprehensive study of the existing flora and fauna on the site and its environmental values. We would draw particular attention to the importance of the site as part of one of the few remaining east-west corridors which allow fauna to move from the extensively forested areas in the west to the sea.

*The August 2006 report by Andrews Neil Pty Ltd on the flora and fauna of the Grandfathers Gully area (directly opposite the site) confirmed the presence of eleven threatened species. They were:

*Yellow-bellied Glider

- *Grey-headed Flying-fox
- *Yellow-bellied Sheath-tail Bat
- *Eastern Falsistrelle
- *Large Bentwing Bat
- *Large-footed Myotis
- *Greater Broad-nosed Bat
- *Sooty Oystercatcher
- *Powerful Owl
- *Glossy Black Cockatoo

In the appendix to the report, Fauna consultant Michael Welsh notes, based on his winter and summer surveys in 2005, that the Grandfathers Gully site is one of the remaining areas [outside formal conservation reserves] of relatively undisturbed native vegetation providing a direct connection to the ocean for more inland habitats.

*The consultant, who took part in three field surveys of the area, states in the appendix that “birds, bats and mobile arboreal mammals such as gliders are not isolated on the site, and can be considered part of the populations that occur west of George Bass Drive. Due to the position of the site between suburban areas it could potentially be used as a wildlife corridor for animals moving from the beach to the areas of the bush in the southwest, but only for animals that can cross George Bass Drive.

*ESC study of flora and fauna in 1999 recommended that the forest habitat to the north and west part of the study be kept free from development because it contains the best quality habitat for fauna including the threatened species, the Yellow-bellied Glider.

In addition the study reported that two other threatened species, the Powerful Owl and the Glossy Black-Cockatoo have been recorded nearby.

*The Friends consider that the importance of this issue alone demands that a full assessment against the requirements of SEPP 71 is undertaken at this stage.

5.0. SURF BEACH SITE AND AESTHETIC ISSUES

5.1 A Complete Misfit

*This is the Nature Coast of NSW which is covered by State Environmental Planning Policy No 71 - Coastal Protection [SEPP 71].

*The incongruity of this proposal with the location and the area is jarringly self-evident. It is totally contrary to the spirit and requirements of SEPP 71 Clause 8 paragraphs (d), (f), (i), (j), and (m). [Refer Attachment 'State Environmental Planning Policy No 71 - Coastal Protection' Clause 8 Matters for consideration].

*It is totally out of character with the development that has occurred in the area over the past thirty years. It is too close to existing residences.

*Being within 500 metres of the sea at Wimbie Beach would place it within the definition of coastal zone as defined in SEPP 71 i.e. one kilometre landward around any bay, estuary, coastal lake or lagoon, which emphasises what a misfit it would be for the Nature Coast.

*Its area of almost 50,000 square metres, which is 66 times bigger than the average suburban block and half as big again as the Stocklands shopping centre in Batemans Bay, is utterly disproportionate, emphasising its unsuitability. A development of such a size would have deleterious impacts on coastal processes and coastal hazards. Refer Attachment "State Environmental Planning Policy No 71 - Coastal Protection".

6.0 SURF BEACH SITE, TRAFFIC INTERSECTIONS AND IMPACT OF INCREASED TRUCK TRAFFIC

*Until the release of ESC's Newsletter Summer 2006/2007 it was well understood the lack of a bypass road created heavy traffic flows on George Bass Drive which reached excessive levels during holiday periods. The purpose of the bypass road was to alleviate that stress.

*ESC predicted in its newsletter that this intersection would be the **major transport intersection of the entire Shire**. Yet, following a question put to ESC's Works Committee on Tuesday 14 August

2007 as to whether the Roads and Traffic Authority has been or would be consulted on the design of this roundabout, the answer given was an emphatic 'NO'.

* ESC's Local Environmental Plan [LEP]states: 'The council must not consent to the construction of a road or other means of vehicular access which forms a junction or intersection with a main road except with the concurrence of the Roads and Traffic Authority. Before granting such concurrence the Roads and Traffic Authority must take into consideration the effect of the proposed junction or intersection on road safety and traffic flow'.

*The Friends question as to why the ESC is not complying with these rules?

*The DA argues that as Beach Road is one of the busiest roads in the Shire, any increase in traffic associated with the operation of the bulky goods centre will have minimal impact.

*The Friends challenge this contention. The project result will be greatly increased traffic including from passenger vehicles and heavy delivery trucks and associated noise. It will also lead to considerable congestion at the proposed new roundabout at the intersection. It will greatly inconvenience and affect the safety of nearby residents.

*It is planned that the entrance to the proposed site will be off the new roundabout, rather than off an alternative point further along the bypass, thereby potentially increasing the level of congestion and impeding the traffic flow.

*The Friends demand that ESC examine the potential impact of this more carefully.

*In particular the Friends are concerned with the planned exit onto George Bass Drive south of the new roundabout. This exit, intended for trucks leaving the the site, is directly into a hilly and high speed section of George Bass Drive. Exiting trucks will have to join a stream of vehicles half way up a hill and directly opposite high density residences in Newth Place. An increase in braking noise can be

expected and the risk of collision is clearly increased.

*These are major reasons why this DA should not proceed.

7.0. ENERGY SUPPLY

*Country Energy reports current fluctuations in voltages between 215v and 255v throughout the day due to inadequate grid supply and sub-station buffering. This is substantiated by insurance claims made by Surf Beach businesses due to power fluctuations exceeding \$70,000 in the last twelve months. Country Energy state that the sub-stations are not able to buffer the current needs in the area due to the rate of growth and demand on supply.

*Adequate supply of power is a fundamental pre-requisite for a development such as the proposal from Walker Corporation.

8.0. PUBLIC RELEASE OF THE LEASE DOCUMENT

*During its planning processes ESC would appear to have sought to create the Shire's major and busiest intersection where George Bass Drive, Beach Road and the new Spine Bypass Road meet, for the prerequisite purpose of facilitating this Walker corporation proposal.

*The prime reason for this was ESC's desire to negotiate a 99 year lease for the Surf Beach site to create a revenue stream which would assist funding of the new bypass road.

In its determination to achieve this outcome, the potential impact on the nearby environment, the suitability of the development, any detrimental impact on the coastal zone, any likely impact of the development on coastal processes and coastal hazards, and on water quality of coastal waterbodies, appears to have been largely ignored.

*The Friends request ESC to release publicly the lease negotiated with the Walker Corporation as soon as possible. After all, the land is publicly owned and the community has a vital interest in knowing whether ESC, as steward, is putting it to its highest value use. Also there is a direct community interest in the obligations on the developer

to complete the development and the arrangements for transfer in circumstances where the developer seeks release from the the lease.

*The Friends consider that the developer should be obliged to undertake in a reasonable time only those developments approved by ESC. We oppose a two stage development process which allows land to be cleared for on leasing for development different from the original purpose.

*In conclusion, the Friends believe this application should be rejected and that any further development proposal be discussed between the developer, the ESC, the Department of Planning and the Friends before proceeding to assessment. We are disappointed that the promised public presentations of the proposal have not been undertaken by the developer. We seek ESC assistance in ensuring that these are arranged as soon as possible.

Yours sincerely

On behalf of Friends of Our Beaches