Rezoning in limbo

Excerpt from *Noosa News* - 28 July 2009 | By Peter Gardiner

Infrastructure and planning minister Stirling Hinchliffe said he saw nothing wrong with an approach by a government department on behalf of a Noosa Hill unit developer to have the Sunshine Coast Regional Council alter its planning scheme.

This was despite former Noosa council strategic planning manager Paul Summers raising serious concerns about this intervention after the DIP received a request from landowner Phillip Harding.

Mr Summers said if the council agreed to the rezoning request for the unit development at the 1.8ha Noosa Hill property at Attunga Heights, it would enshrine a preliminary approval into the existing planning scheme.

And he said that would set a "dangerous precedent" that could open ratepayers up to a compensation claim if the council, in its upcoming planning review, decided to restrict development on Noosa Hill.

Noosa community watchdog Tony Wellington said the action by the DIP was "highly unorthodox". He is demanding the whole Attunga Heights unit development "debacle" be more closely examined by authorities.

"Phillip Harding's Attunga Heights development was given preliminary approval by the 2004-08 Noosa council, against the recommendations of its own staff and the 38 public submissions opposing it," Mr Wellington said.

"In December 2005, the (then) minister for planning Desley Boyle called in the application. No doubt as a consequence of Noosa council's existing decision, she approved a slightly amended development plan."

Under the former Noosa development control plan a maximum of six units could be built on the steeply sloping sand dune that was reportedly prone to land slip.

However, the January 2004 application by Mr Harding sought to develop 30 units and another accommodation complex of 12 units.

The council planning staff believed the land was too steep and the application had inadequate parking, but Noosa councillors approved the application.

Eventually, minister Boyle agreed to approve the construction of 26 multiple units rather than 30.

In May this year the regional council received a letter from a DIP executive officer which said in part: "The department of infrastructure and planning received a letter dated February 10, 2009 from Mr Phillip Harding, regarding concerns over the zoning of 27 Attunga Heights, Noosa Heads.

“Mr Harding requested that the land be rezoned from its current detached housing zone and open space conservation zone to the attached housing zone, in order to reflect the ministerial decision.

“Following the department’s investigations and liaisons with the council, it has been determined that the ministerial approval could be reflected in the council’s planning scheme with minimal risk to the council.

“We seek your advice as to when the council is able to initiate a planning scheme amendment, to reflect the requested zoning change for the Attunga Heights site, as outlined above. I would appreciate this advice by May 22.”

Last month council staff agreed to this request and put before council the recommendation, which councillor Vivien Griffin successfully moved to reject. Instead the council decided, “That council notes the advice from department of infrastructure and planning regarding possible rezoning of 27 Attunga Heights, Noosa Heads, and resolves to advise the department that such rezoning will be considered during the council’s preparation of a new planning scheme for the Sunshine Coast region, which is intended to be substantially completed within the current term of the council”.

Ms Griffin told the Noosa News last week that she had not experienced such a direct approach from a government department on behalf of a developer before. “It was very considerate of the department, with so many developments occurring throughout the state, to respond in that way. That’s all I can say,” Ms Griffin said.

The council planners were unsure if the letter from the DIP constituted a directive to alter the plan. Their report to the council said the Integrated Planning Act included powers for the minister to direct local government to take action about a local planning scheme. “Section 2.3.2 of the Act allows the minister to direct a local government to undertake an action if the minister is satisfied that it is necessary to protect or give effect to a state interest,” the report reads. “The direction may require that the local government amend its planning scheme. “The department’s letter is not specific regarding whether a ministerial direction has been given. Also it does not specify any state interest or outline the concerns of Mr Harding, the property owner.”