

# Friends of Buddina Ltd. Community Challenging Inappropriate Development

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## BUDDINA BEACHFRONT DEVELOPMENT

### UPDATE Legal Challenge – Review in Planning & Environment Court 21 Aug 2020

Following the Approval by Council on 23 July of the “minor change” proposal to development turtle lighting conditions, the scheduled review date in the Planning & Environment Court was Friday 21 August 2020.

At the review, His Honour Judge Long SC signed an Order (of 13 sequenced instructions) including that the matter be listed for hearing on **26 & 27 November 2020**. The key dates and instructions commence on 28 August with Council required to issue a Statement of Reasons for its decision to approve the “minor change” application. This is followed by further actions required by all parties on specified dates each week in September and October, culminating in the hearing scheduled in late November.

### BACKGROUND

Friends of Buddina have long argued that the development breached the Planning Scheme; its lighting would negatively impact the nearby endangered loggerhead turtles' nesting habitat; and the building height, excess site-coverage and density would impact neighbours' views, vistas, amenity and privacy.

An Originating Application in November 2019; the P&E Court initial dates were set and legal processes commenced early in 2020 with Friends of Buddina Ltd as the *Applicant*, Sunshine Coast Council as the *1<sup>st</sup> Respondent* and Pacific Diamond 88 Pty Ltd, the developer, as the *2<sup>nd</sup> Respondent*.

On 8 April 2020, the developer (*2<sup>nd</sup> Respondent*) submitted a “minor change” proposal to Council (*1<sup>st</sup> Respondent*) for proposed changes relating to the Turtle Lighting approval conditions, one of the subjects of the P&E Court documents lodged by Friends of Buddina Ltd. This arrangement was made between the two *Co-Respondents* in the case; their own legal teams were advised, yet, neither Friends of Buddina nor their legal team were advised of these actions - not even a courtesy email or call, even though this action would directly impact the case. Of course, there is no legal obligation to advise such an action – such an advice is optional.

Friends of Buddina and their legal team became aware of the *two Co-Respondents* actions in May and all parties agreed that the Directions Orders of the Court be vacated until the minor change application has been decided. On 23 July 2020, Council (*1<sup>st</sup> Respondent*) approved the “minor change” proposal for the developer (*2<sup>nd</sup> Respondent*).

Interesting tactics that appear to demonstrate that both Council and the developer were so concerned about their legal position that they needed to change the development approval conditions in an attempt to improve their own defence of an Approval being challenged on the basis it was unlawful. What other motivation would there be to disrupt the legal proceedings?

Nevertheless, in reviewing these recent changes to the turtle lighting Approval conditions, there are some improvements (such as tinting of all glazing facing north, south and east), however, other changes appear to have diluted and weakened some of the original conditions and fail to remove some of the ambiguities. Furthermore, failure to address other amenity considerations referenced in the original Originating Application remain.

**It's been a long battle, now getting closer to a decision, so please chip-in.**