



FRIENDS OF BUDDINA LTD.

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Community Group, Friends of Buddina, continues its challenge in the Planning and Environment Court over the Buddina Beachfront development approval

The contentious Buddina Beachfront development was again mentioned in the Planning and Environment Court this morning (16 October 2020) in a scheduled Review of the case. The outcome of today's Court Review was an additional Order that each party must file and serve:

- (a) an outline of argument; and
- (b) a list of legislation and authorities on which it relies

by 4pm on 23 November, prior to commencement of the scheduled **Court hearing on 26 and 27 November 2020.**

BACKGROUND

Friends of Buddina have long argued that the proposed "Buddina Beachfront" development breached the Planning Scheme, including that its lighting would negatively impact the nearby endangered loggerhead turtles' nesting habitat. In addition, the building height, excess site-coverage, mass and density with less than prescribed setbacks would significantly impact local residents' views, vistas, amenity and privacy.

An Originating Application was lodged 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 *1st Respondent* and Pacific Diamond 88 Pty Ltd, the Sydney-based developer, as the *2nd Respondent*.

On 8 April 2020, the developer (*2nd Respondent*) submitted a "minor change" proposal to Council (*1st 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 by *Co-Respondents*, even though their action would directly impact the case. There is no legal obligation to advise – 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 (*1st Respondent*) approved the "minor change" proposal for the developer (*2nd Respondent*).

Interesting tactics that appear to demonstrate that both Council and the developer were so concerned about their legal position that they needed to alter some of the approval conditions in an attempt to improve their own defence of the Development Approval.

Nevertheless, in reviewing those changes to the 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 introducing further ambiguities. In addition, failure to address other key assessable benchmarks and amenity provisions of the Planning Scheme remain outstanding and the Approval continues to be challenged on the basis it was unlawful.