



THE COLONG FOUNDATION FOR WILDERNESS LTD.

Thursday 19 October, 2017

**The Emirates One & Only Wolgan Valley Resort -
MP 05_0079 Mod 2 (Concept Plan) and
MP06_0310 Mod 2 (Project Approval)**

Dear Sir/Madam

National Park land swaps must be implemented as a condition of consent

Part of Wollemi National Park is leased to the Emirates Hotels (Australia) for the purposes of constructing and operating an accommodation facility for 'park visitors' in the Wolgan Valley. There is an in principle agreement for a land exchange with the Emirates and the NSW Government (i.e. the National Parks and Wildlife Service of NSW). The exchange was to involve 39.5ha of Wollemi National Park in return for 114.5ha of naturally vegetated freehold land. It was also agreed in principle that the Emirates and the NSW Government form a conditional agreement under s.146(3) of the National Parks and Wildlife Act 1974 concerning the future management and care of Crown land within the Wolgan Valley, which adjoins both Wollemi National Park and Gardens of Stone National Park. The Agreement under this section would give effect to the transfer and gazettal of these Crown lands as national park additions (NPWS references DOC07/21340 and DOC07/21951).

The Colong Foundation requests that the NSW Department of Planning and Environment (DPE) seek advice from the NPWS and the Emirates regarding progress made towards the aforementioned land exchanges and Agreement. The Colong Foundation shook hands with the Emirates and the NPWS on an aforementioned Agreement on the understanding that we would not pursue various apparent legal inconsistencies regarding the national park plans of management. We acknowledge and believe that these exchanges and arrangements were in good faith but no progress has been achieved in a decade.

The precedent of a resort established in the Greater Blue Mountains World Heritage Area remains inadequately addressed. A decade is sufficient time to implement the Agreement and this irregularity should be addressed by excision of the resort offset in the manner agreed. There are apparently extenuating circumstances for these delays but these should have been resolved by now. There have been no on-going efforts to resolve these matters.

The Colong Foundation requests that DPE seek inclusion of a timetable regarding progress on these matters in the consent conditions or establish a land transfer timetable by some other means.

Mapping and description of resort as being partly within national park - not provided

The resort site is incorrectly described in the modification documents. The resort buildings are partly located on leasehold in Wollemi National Park and the environmental assessment report supporting these modifications is misleading on this point.

The modifications are not accompanied by readable maps or plans indicating the facilities located on the national park nor indicate their nature and extent. The Department of Planning and Environment has been lax regarding exhibition standards, allowing an exhibition document for a concept plan modification that does not clearly indicate the nature of the developments proposed in relation to a World Heritage listed national park. This failure is unacceptable.

Additional Helicopter Flights opposed

The Colong Foundation considers this proposal amounts to a heliport and objects to the proposed increase in flight numbers. The definition of heliport versus helipad in the Environmental Planning and Assessment Model Provision 1980¹ turns on public use. As the facility is proposed to be open to occasional public use, it is a heliport.

Alternatively if the facility is to be considered as a heliport, then its use must be restricted to prevent private use and remaining flights limited to near existing levels. Further, the noise generated by these flights must be limited. Helicopters used must be certified to emit less than 40dB(A), to protect natural quiet in the adjoining World Heritage Area (and also not impact significantly on the patrons in the resort).

Descent and ascent using Carne Creek canyon is contrary to the spirit of the Blue Mountains Fly Neighbourly Agreement (FNA), and is opposed. This proposed operation will cause intrusive noise and helicopter activities at the scenic lookouts above the gorge and at Dry Canyon in Wollemi National Park where people camp.

The SEARs for a heliport should have been applied to this modification and an environmental impact statement of a standard for a heliport should have been required from the proponent.

The environmental assessment fails to provide the typical rate of climb on departure and descent to the heliport for each type of helicopter to be used. It is not possible to compare actual helicopter behaviour with the proposed departure and approach flight paths.

¹ **Helipad** means an area or place not open to public use which is authorised by the Department of Transport and which is set apart for the taking off and landing of helicopters.

Heliport means an area or place open to public use which is licensed by the Department of Transport for use by helicopters and includes terminal buildings and facilities for the parking, servicing and repair of helicopters.

Fly Neighbourly Agreement

The DPE's EIA review processes should require publication of the existing Fly Neighbourly Agreement (FNA) with the proposal. The FNA should be subjected to comment and review as part of this process. This is another deficiency of the proposal as exhibited.

The FNA should specify avoidance of overflights of the National Parks to minimise noise and allow no recreational flights, as per the existing statement of commitments for this resort. This statement includes no flights in the half hour after sunrise and half hour before sunset, as per the EPBC Approval (2006/2567, clause 4 of Schedule 1). The Environmental Assessment for these modifications should have provided copies of its development consent, statement of commitments for the resort and EPBC Approval in the appendices.

The draft Operational Management Plan, that omits the FNA, should have spelt out environmental issues regarding its proposed helicopter flights and operations. For example, helicopter operations must take steps to avoid annoying park users, impacting wilderness areas and birds, for example birds of prey soaring on the thermals above the cliffs about the resort (which its patrons might enjoy watching). This potential bird hazard must be considered in the design of flight operations.

While the flight plans indicate flight paths, the actual flights now in use are down Carne Creek canyon below cliff top level. While such an approach and departure route is spectacular and exciting for the passengers, it is inappropriate due to bird strike risks during landing approach and potentially annoying park visitors at Dry Canyon on the true right side of canyon, behind and above the resort.

Furthermore locating approach and departure routes in Carne Creek canyon is a mid-air collision hazard. The potential collision hazard of locating both ascent and descent paths along Carne Creek canyon must be brought to the attention of the Federal Civil Aviation authorities. The Emirates should be asked to rethink this aspect on the grounds of aviation safety, along the lines that what could go wrong, will go wrong. There is no room for helicopters to manoeuvre in a canyon and this proposal is inappropriate, especially when climatic conditions are considered, such as fog in winter. The Foundation believes on safety grounds approach and departure must be on flight paths that come from different directions.

Dry Canyon in Wollemi National Park is used for camping. It should be flagged in the EIA and FNA as an environmentally sensitive site.

Notwithstanding required flight paths of approach and departure, "pilots should be required by the FNA to maintain a minimum altitude of 1000FT [feet is the standard measure for aircraft flying height] above the surface of the park. **The surface being defined as the highest point of terrain, and any object on it, within a radius of 600M of a point vertically below the aircraft,** unless operation at this altitude would jeopardise the safe conduct of the flight."

"Except when operating on such scenic routes, **pilots conducting general or transit operations over the park are requested to operate at 1500 feet above the surface of the park, as defined above.**

This altitude recognises the special terrain/weather conditions and the overlying airspace arrangements of this area." These arrangements should apply to this proposal and should have been part of the EIA. These words are used in the Blue Mountains FNA.

Helipad use will increase

The proposed relocation of the helipad will enable it to be used as a heliport, for the reasons previously stated.

The Colong Foundation believes that the majority of patrons visiting the six star resort will now travel to the Wolgan Valley from Kingsford Smith Airport by helicopter and motor car visitation as specified in the original concept plan will continue to decline as a proportion of total visitation. It is a three hour road journey from Sydney and the Foundation no longer accepts the proponent's assurances regarding the use of land based modes of transport.

The original concept plan has 4 helicopter flights a week (page 37, section 7.7.1 of concept plan) but the Emirates did not keep to these arrangements. Demand for this service was underestimated and the current proposal for the proposed resort's future patrons is likely to also be an understatement.

Wealthy, and especially overseas, patrons will be more than happy to pay for a helicopter flight to avoid the lengthy road trip, particularly after long international flights to Kingsford Smith Airport. Further, the Emirates will probably offer helicopter flight package deals if this heliport proposal is approved.

When the original proposals, as modified to be relocated into Wollemi National Park, were approved, the Colong Foundation believed that the proponent would seek a further amendment to allow for frequent helicopter flights once the resort was built.

As DPE and the Foundation have seen, the statement of undertakings in the original concept plan to limit helicopter movements has proven worthless. The state government has no jurisdiction over airspace above the World Heritage Area and must limit and regulate the scale of the helipad instead. The DPE should, however, require a review of the FNA for this proposed heliport.

The proponent is apparently exploiting the opportunities created by modification of concept plants in the planning legislation to reduce adequate review of this heliport proposal, although I note that there have been three revisions of the environmental assessment for these modifications that indicate efforts were made.

Given past actions, the Colong Foundation suspects that the Emirates may again increase the impact of the development by incremental stages while obtaining PAC support for the proposal.

The above remarks are not to suggest that the Emirates are doing anything misleading or deceptive, Colong is simply making remarks on the regulatory environment in which we find ourselves. We have on the contrary found that the Emirates are a good corporate citizens, but of course looking out for the main game, maximising their profits. The Emirates support of the Gardens of Stone reserve proposal is acknowledged, but that support does not discount the points we make here.

The Colong Foundation believes in a robust relationship with the Emirates that can accept fair review and objection to this proposal, even though we were not specifically consulted despite our long involvement with this project.

The community has a right to know how these flights will impact on the adjoining, environmentally sensitive World Heritage property. Concerns about the environmental impacts of helicopter flights have been reflected by Emirates Hotels (Australia) who opposed helicopter joy flights in the Capertee Valley. So there is some common understanding of these issues, although detailed impact assessment, for example on campers at Dry Canyon was not considered.

Tony Williams, then Vice President of Emirates Resorts and Projects, wrote in 2006 to object to the proposed heliport for joy flights in the Capertee Valley (see attached). I refer DPE to Appeal No. 10390 of 2007 Mark Lilley v Lithgow City Council, that specifies specific minimum flying heights. This court decision required a minimum flight height of 1500 feet (and 2000 feet over Wilderness Areas and National Parks) and specifies rates of climb on take off and descent. It limited hovering and circling manoeuvres and required noise monitoring and reporting, measures to minimise blade slap noise, and bird avoidance protocols. It specified emergency/safety procedures in relation to ground activities (for example, control of the public within the vicinity of helicopters, fuel spillage cleanup, etc). These provisions need to be applied to the proposed modifications.

We believe, however, that the court decision made an error, in that its specification of flights at 2,000 feet above the national park translates to flying at cliff top height along escarpment edges, and did not adequately qualify this condition as per the Blue Mountains FNA. Helicopter operations must be regulated to ensure flight level is applied from the cliff tops or that the helicopter operator keeps 600 metres away from cliff edges before descending towards the valley. These qualifications have important ramifications for the operation of the proposed heliport. This sort of regulation is required and indeed must prevent descent through Carne Creek canyon to the resort heliport.

Keeping of European Bees is opposed – the Emirates should keep native bees

The Colong Foundation does not support housing feral bees next to the World Heritage area. The Emirates should instead establish habitat for native bees and promote the role of native bees in the ecology of the area.

In 2002, the Scientific Committee, established under the former Threatened Species Conservation Act, made a Final Determination to list competition from feral honeybees *Apis mellifera* L. as a Key Threatening Process. Honeybees, both feral and managed, are frequent visitors to native flora, and often remove 80% or more of the floral resources produced (Paton 1996, 2000). This can result in competitive displacement of native fauna that use the floral resources, including honeyeaters (Paton 1993) and native bees (Sugden and Pyke 1991, Paton 1996, Sugden et al. 1996, Schwarz and Hurst 1997, cf. Spessa 1999).

Removal of pollen by honeybees has been shown to affect seed set in several plant species. Seed set is reduced in *Melastoma affine* (Gross and Mackay 1998), and *Grevillea macleayana* (Vaughton 1996, Whelan et al. 2000, Richardson et al. 2000). Feral honeybees may also reduce seed set in species of *Personia* due to inefficient transfer of pollen (Bernhardt and Weston 1996). Honeybees can have neutral or beneficial effects on some Banksia species, although these effects may become manifest only after honeybees have depleted populations of native pollinators (Paton 1997, 2000).

See <http://www.environment.nsw.gov.au/determinations/FeralHoneybeesKTPListing.htm> (09052016).

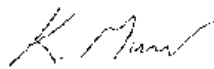
In effect this proposal will see feral bees forage and spread into the nearby World Heritage Area. The Colong Foundation opposes the proposed new apiary sites for "honeybee" (meaning *Apis mellifera*, or any other non-native honey-producing insect). Beehives should not be located within six kilometres of a national park.

Blue Mountains Bush Care runs workshops on making homes for native bees. Native bee homes are made from drilled hardwood and hollow plant stems, to suit Resin, Leafcutter, Reed and Masked native bees. Development of native bee colonies at the Emirates Wolgan resort would benefit the World Heritage Area and assist patrons to understand the local ecology.

Australia is home to 1,600 native bee species. About 350 species have been recorded in a 100km radius of Parramatta, which includes the Sydney basin, Blue Mountains, Lithgow and Illawarra. At Wolgan there is only one social, native bee; the stingless bee *Tetragonula carbonaria*. They have a queen, thousands of female workers and store pollen and honey to survive over winter. Perhaps the Emirates could consider establishing hives for this native bee and produce native honey as a unique special product? This would be exciting and in keeping with the original vision for the resort.

Thank you for the opportunity to comment on these to modifications regarding the Wolgan Resort.

Yours sincerely,



Keith Muir
Director
The Colong Foundation for Wilderness Ltd

Mr. Andrew Muir,
Director of Planning
Lithgow Town Council

Helicopter operations – Capertee Valley.

Dear Mr Muir,

You are aware through contact with Clifton Coney Group, (Mr. Tony Burg), that Emirates has recently started the application process for a highly significant development in Wolgan Valley. This development was announced personally by HH Sheikh Ahmed bin Al Maktoum; Chairman of Emirates, in conjunction with various Ministers and Govt. Departments, in June 2005.

If you have followed our development processes and promises, you will be aware this is the single most beneficial development announced in the Blue Mountains for over a decade. It is significant, (and achieved such formal status with the State bodies), not only because of its potential as a major employer, but also because of the business opportunities for the town, while also making an enormous contribution to Blue Mountains, NSW and Australian tourism marketing across the globe.

Our development is not by any means a resort as you may know them, but rather a large scale conservation project as well, aimed at restoring the environmental integrity of what is currently agricultural land, while also actively protecting and reinstating wildlife and species biodiversity within this reserve.

I have met, in our community introduction processes, many local organizations and landowners, including many who are concerned at the erosion of conservation and wilderness values within the Blue Mountains, due to proposals such as the one in question here. I too share these concerns to great degree, and we have for example been at great pains to self-limit any potential disruptions to these values – including making enormous concessions with regards the movement of our own guests by helicopter between Sydney and Wolgan. We have in addition to this also made available to NP&WS any infrastructure to accommodate helicopter activity in this region, as there is a clear Health and Safety, as well as bushfire management need for such infrastructure in this area. As we proceed through our consultations the particulars of their requirements will be met and included into our planning.

However, above all our development does require the wilderness experience is maintained as this is the major attraction of our visitors, and one we wish to introduce our guests to. (It is for this reason, knowing the seclusion of this location and the strict environmental parameters enforced in this area, that we selected Wolgan Valley over many other locations). It is for this reason that I write to formally place on record our alarm at the possibility that a helicopter service has made application to run 'joy flights' over the areas of Wolgan, Capertee, and surrounding World Heritage and National

Park. This potential activity would place our resort development in jeopardy, as it shall create unacceptable disturbances in this region.

I am not as yet fully conversant with the full detail of this business plan and proposal, however I have it from many concerned this proposal is detrimental to these values; and I have asked our representative to make further enquiries into this proposal.

I make the following points with regards this business, and its proposed helicopter activity:

- Point-to-point helicopter transfers have a clear and direct transportation purpose, as well as fulfilling a need for health and safety. By contrast “joy flights” do not, and they serve only the financial gains of the operators.
- The operator’s investment is minor, probably using leased machinery, with little or no benefit to others in the regions he proposes to fly over or operate in.
- While the operator shall show financial gains they do not in any way contribute at all to the National Parks, the World Heritage Area, conservation, research and wildlife management; while relying on all of these and the natural assets and beauty of these locations for their profits.
- Such businesses use the natural beauty of these locations and National Parks to attract their customer, effectively parasitizing National parks for their business, while providing consistent, continuous and unacceptable disturbance to the wilderness, and the many hundreds of people who enjoy them. Having been involved across the world with conservation areas I have seen many such proposals, and add that in my experience I cannot think of one case where such a proposal has been acceptable; as they do not even offer any actual transportation benefits to the areas concerned.
- I am a realist, and I am aware that in Australia and other remote places around the world helicopters do serve a vital service in transportation of tourist, goods and communities. However, in this case I do not see that these needs are being met by these services.

On the basis of the above points, without having directly seen the business proposal as yet, I wish to strongly add my voice to the objections being made to this proposal. I wish also to add that we may need to review our plans if indeed this service does receive permission.

I wish only to add that you and council would need to weigh up your options, and the benefits of a genuinely beneficial operation and substantial capital investment being made by Emirates in this area, and those being made in this highly disruptive, yet small and limited service - which brings with it none of the community, conservation, and awareness benefits of our proposals.

I shall in the near future visit Australia again, when I would be more than willing to meet with you, and indeed any other protagonist, to discuss this further. Should this proposal in fact prove to be as disruptive, (as is currently the view of many), I shall have no option but to review our position.

Yours sincerely

Tony Williams

VP – Resorts and Projects