

Your reference : 05_0198
Our reference : FIL06/2036-05 DOC09/40838
Contact : Peter A. Ekert, 66402514 peter.ekert@environment.nsw.gov.au



Alan Bright
A/Director – Coastal Assessments
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Jane Flanagan

STUART
WITHINSTRON
29/10/09
AB

27 OCT 2009 Tom Fitzgerald
29/10/09
SW

Dear Ms Flanagan,

**RE: ENVIRONMENTAL ASSESSMENT EXHIBITION– Major Project Application 05_0198
Proposed Residential Subdivision of Lot 1 DP134787, Lot 1 DP 167380, Lot 2 DP 961928,
and Part Lot 4 DP 1054848 at Walmsley Road and Stott Street, Bilambil Heights**

I refer to your request for the Department of Environment, Climate Change and Water (DECCW) to provide comments on the Environmental Assessment (EA) in regard to the above proposal received by DECCW on 21 August 2009.

DECCW has reviewed the information provided and has determined that it is able to support the proposal subject to the Department of Planning seeking some changes to the subdivision layout and amendments to the draft Statement of Commitments, identified in Attachment 1. Attachment 2 contains DECCW's assessment of the proposal, including justification for the amendments.

It is expected that DECCW will be given an opportunity to review the draft Director-General's Environmental Assessment Report for this proposal. If the amendments to the draft Statement of Commitments are not included to the satisfaction of DECCW, we will be recommending that they are included as Conditions of Approval, if approval is recommended by the Department of Planning. It should be noted that these amendments are important for DECCW's ongoing support of the proposal.

Should you require any further information please contact Peter A. Ekert 66402514.

Yours sincerely

JON KEATS
Head, Industry and Waste Unit North Coast
Environment Protection and Regulation Group

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Attachment 1

Recommended Amendment to the Draft Statement of Commitments

Biodiversity

1. A Vegetation Management Plan (VMP) will be prepared for 7(d) zones within the study area and submitted to the Consent Authority (Department of Planning) for endorsement prior to the issuing of a subdivision certificate. The VMP will detail measures to diminish the threat of invasive species, facilitate the removal of Camphor Laurel and other weed species; support and detail techniques for the restoration of the native rainforest communities and protect threatened flora species and remnant vegetation on the site.

Recommended Additional Statement of Commitments

2. Prior to the commencement of development works, all rare and/or threatened flora species that occur within 25m either side of the 2(c)/7(d) zoning interface will be located and appropriately identified and/or signposted such that they remain unaffected by any activities (including provision of Asset Protection Zones (APZs) for bushfire purposes).
3. That street landscaping of the proposed development precinct will make extensive use of suitable species of endemic rainforest vegetation, including the use of native groundcover/shrublayer.
4. That vegetation modification for the purposes of establishing APZs will be restricted to the removal of Camphor Laurel trees only.
5. The subdivision layout will be amended to avoid impacts on Endangered Ecological Communities (EEC) and include a buffer between lot boundaries and the EEC.

Recommended Conditions of Approval

Aboriginal Cultural Heritage

- An Aboriginal cultural heritage survey, involving a qualified archaeologist and representatives from the local Aboriginal community is to be conducted within the project area to assess the extent, nature and significance of the project area's Aboriginal cultural heritage values, and to obtain a more definitive view from the community about the cultural heritage significance of the site. This assessment is to be undertaken in accordance with the requirements set out in the (former) Department of Environment and Conservation's (DEC's) draft "Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (2005)" and the DoP's and DEC's 'Part 3A EP&A Act Guidelines for Aboriginal Cultural Heritage Assessment and Community Consultation 2007'.
- In the event that Aboriginal objects or cultural matters of significance are identified as a result of the above survey, the proponent is to develop appropriate mitigation measures with the local Aboriginal community and the subdivision layout amended if necessary with the approval of the Department of Planning.
- In the event that human remains are located during the project, a protocol to halt all works in the immediate area should be followed to prevent any further impacts to the find or finds. The local police and DECCW are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site is not an investigation site for criminal

activities, DECCW is to be contacted and notified of the situation. Works are not to resume in the designated area until approval in writing from the Police and DECCW.

- If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the find(s). The site is to be registered in DECCW's Aboriginal Heritage Information Management System (AHIMS) and the management outcome for the site included in the information provided to the AHIMS. AHIMS contact details: Phone: (02) 9585 6470, address: Level 6, 43 Bridge Street, Hurstville, NSW, 2220, e-mail: ahims@environment.nsw.gov.au. It is also recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.

Attachment 2

DECCW's Assessment

Biodiversity

1. DECCW has recommended some minor modifications to this SoC. The issues to be addressed by the proposed Vegetation Management Plan (VMP) have been appropriately identified by the applicant. Therefore, no consultation with DECCW is considered necessary during preparation of the VMP.
2. DECCW has included this SoC to ensure that rare and/or threatened species that occur on the site are protected from any development works disturbances. This is to ensure that the viability of the remaining vegetation is not put at threat from developmental works.
3. DECCW has included this SoC in order to promote the establishment of native vegetation and ultimately enhance the connectivity of native vegetation (for fauna) across the precinct. It is envisaged that the street scaping with locally endemic species will ultimately reduce the occurrence of weed species across the precinct thus further enhancing the long-term sustainability of the works conducted as part of the VMP.

Subdivision layout and Endangered Ecological Communities (EECs)

DECCW is concerned that the existing subdivision design and layout will impact on EEC's. In particular the Lots 38, 39, 41 and 42 as presently designed will encroach on an EEC. DECCW recommends that the layout of these four lots be re-designed so that the already fragmented EEC will not be further impacted on. The re-design should also incorporate a buffer from the edge of lot to the EEC, so that any impact from urbanisation is minimised.

Aboriginal Cultural Heritage

Aboriginal community consultation:

DECCW note the CHA and the CHP reports provide summaries of the Aboriginal community consultation process for this project application. However, we note the proponent has not provided evidence of support for the project application and particularly for the proposed ACH recommendations and conclusions, from the local Aboriginal community. The complete absence of any cultural response from the community means DECCW is unable to comment on the cultural significance of the area. The cultural significance of a site can only be determined by the Aboriginal community. DECCW encourages the proponent to continue to engage with the local Aboriginal stakeholders in developing appropriate cultural heritage outcomes for the proposed development. We recommend evidence of this consultation is provided in support of the project application. We have also proposed conditions of approval to target this issue.

Absence of field survey:

It is noted that the AHIMS database and the Bundjalung Mapping Project did not identify any Aboriginal sites within the project area and that the consultant's archaeological models conclude that the area is likely to be of low archaeological potential. However, DECCW highlights that numerous sites have been identified adjacent to this site which we consider justifies further field survey effort, involving the community, to confirm the results of the modelling. It is recommended the survey is undertaken in accordance with DECCW's 'Aboriginal Cultural Heritage Standards and Guidelines Kit (1997)'. The results of this assessment and any proposed management strategies should be forwarded to the local Aboriginal for comment prior to being provided to DoP for consideration.

Unknown Aboriginal sites:

If Aboriginal objects are identified during the construction activities, it is recommended that the significance of such finds should be ascertained by a suitably qualified archaeologist in

consultation with the registered Aboriginal community stakeholders before any management decision is finalised. Where impacts to Aboriginal objects cannot be avoided, DECCW recommends the proponent develop proposals that reduce the extent and severity of impacts using reasonable and feasible measures. We have also proposed conditions of approval to target these issues.

From DECCW 27/07/10

Hi Enguang,

Thank you for forwarding the information attached as well as further information in subsequent emails. Based on the information supplied, DECCW provides the following comments:

1. It is noted that the Biolink report has mapped the vegetation communities on site (Figure 4) and indicate within the report that the Camphor simple notophyll forest is analogous with the Endangered Ecological Community (EEC) *Lowland rainforest in the NSW North Coast and Sydney Basin Bioregion*.
2. Annexure 5 - Constraints to the EA also contains some EEC mapping prepared by Landsurv PTY LTD. From the information available, DECCW considers that the information supplied by Biolink is more accurate and is the EEC mapping that DECCW has used in this review.
3. As you would be aware, Asset Protection Zones (APZs) are an important part of the planning and development process. However an APZ of 25 metres seems excessive and our understanding is that usually a 10 metre APZ (dependant on slope) is applied when rainforest is the dominant vegetation type. This matter should be further investigated and justified.
4. As indicated in DECCW's correspondence dated 27 October 2009, DECCW considers that no part of the EEC should be cleared/removed from the property and all EEC areas should be buffered. DECCW routinely advocates a 50 metre vegetated buffer for all EECs. A reduced buffer distance may be acceptable if it can be adequately justified, however the current proposal of no buffer at all (apart from a 25m grassed APZ) is not an acceptable or justified buffer to the EEC.
5. It should also be noted that DECCW considers that the vegetated areas of the property that are to be retained (EEC and rehabilitation areas) are best located within a secure tenure such as Council owned land not on small and multiple private allotments. Attempting to protect vegetation in the long term through a covenant on private land on numerous lots is not ideal and unlikely to be accepted by Council.
6. All retained vegetation areas should be appropriately rehabilitated in accordance with an approved Vegetation Management Plan.
7. The requirement for a buffer to the EEC is deemed appropriate as the land use intensity is changing from rural to urban use. The buffer is intended to reduce edge effects and other negative impacts and ensure the long term protection of the ecological values of the site.
8. The edge of the buffer zone to the EEC should also be identified by bollards or the like to provide a physical barrier to reduce edge effects brought about by incompatible land use and human intrusion.

We do not believe there is a need for DECCW to participate in a site meeting/inspection at this stage, particularly in the absence of further justification from the proponent in relation to the lack of buffers.

Should you have any further inquiries, please phone Krister Waern (66402503) in the first instance.

Regards

Jon Keats

Head Biodiversity Management Unit North Coast

