

27 July 2016

Mr Chris Ritchie
Director Industry Assessments
NSW Department of Planning & Environment
GPO Box 39
SYDNEY, NSW 2000

By email: Chris.Ritchie@planning.nsw.gov.au

Dear Chris,

Re: Cobaki Estate – Project Approval 08_0200 Mod 2

I refer to your email of yesterday and respond as follows to each of its paragraphs and the points they contain.

Paragraph One states:

In response to your letter regarding the fencing at Cobaki, I understand that the Fencing Plan (Fencing Plan Precinct 9, 11 and SSP) forms part of the Project Approval for the site. This condition formed part of the modification 2 request to ensure that the boundaries of rehabilitation and covenant protected areas are appropriately surveyed, marked with high visibility fencing (which is, in some areas, permanent) and protected.

My letter of 14 June 2016 conveyed, at some length, our comprehensive understanding of the background, terms and intent of the condition to which you refer, being Condition 39A Fencing of Environmentally Sensitive Areas – Precinct 9 and 11 Earthworks. We concluded by stating that the clear intent of the condition was to protect **environmentally sensitive areas, adjacent** to cut earthworks within **Precincts 9 and 11** and fill earthworks within the **Central Open Space**.

The second sentence in your above paragraph does not capture the fact that the protection intended by this condition was intended to apply only to “particular” rehabilitation and covenant protected areas relevant to these cut and fill earthworks.

Paragraph Two is in two sentences:

With regards to the indicative plan provided on 20 July 2016, I am presently of the view that fencing of the environmental zones adjacent to Precincts 9 and 11 should remain given that works are presently occurring in these areas.

The plan provided on 20 July emphasised the fencing proposed to be omitted from the fencing condition. The rest of the fencing associated with Precincts 9 and 11 remains.

The second sentence reads:

With regards to the fencing along Cobaki Parkway, the need for the permanent fencing to delineate the working areas vs. 'other' areas seems critical.

Until the introduction of Condition 39A in Mod 2, the limits of earthworks at Cobaki have always been established and conveyed by survey pegs, as is the norm. Very substantial earthworks have been carried out across the entire site since 2003, accurately within such survey.

Fencing has not been necessary, and *is* not necessary, to delineate working areas from "other areas".

The Development Approvals for the construction of Cobaki Parkway, the bulk earthworks for which have been substantially completed (again, accurately to survey limits), do not require fencing prior to commencement.

Nevertheless, fencing along the boundary between the Cobaki Parkway road reserve and the saltmarsh area north of the SSPP was constructed, as I recall, about a year ago on our own initiative, that is, not in having to comply with any consent condition. Notably, the Saltmarsh Management Plan presently being peer reviewed by Dr Rod Connolly requires fencing to be erected *upon the commencement of the enhancement works*.

Irrespective of the above, the need or otherwise for fencing along Cobaki Parkway has nothing to do with the present application, where the fencing condition should apply only to areas adjacent to cut earthworks within Precincts 9 and 11 and fill earthworks in the Central Open Space and the SSPP.

Paragraph Three states:

I would like to take this opportunity to draw your attention to Condition 68 of the Project Approval, which requires detailed regeneration and revegetation plans for each of the 'Rehabilitation and Management Precincts' which are to be submitted and approved by the Secretary prior to works commencing in these areas.

Condition 68 is in fact as follows:

Detailed regeneration and revegetation plans shall be prepared for each of the Rehabilitation and Management Precincts *impacted on by works approved under this project...*

"This project", of course, refers to the Project Approval for the filling of the Central Open Space. On reflection, none of the Rehabilitation and Management Precincts detailed in the Warren plan referred to were planned to be impacted under that approval.

However the plans do indeed have to be approved *prior to works commencing* in any of those rehabilitation precincts, whilst Statement of Commitment 3, which called up the Warren plan, requires the rehabilitation works themselves to commence "*prior to registration of a plan of subdivision for residential development of adjacent land...*".

Accordingly, SMEC prepared a Site Regeneration and Revegetation Plan for the Central Open Space and Precincts 1, 2 and 6. With reference to the Warren plan, the rehabilitation areas with which this plan dealt were areas 1, 2, 3, 4, 10, 13A, 13C and the east-west fauna corridor.

Whilst area 10 is not adjacent to the earthworks contemplated under the related approval, separated as it is from Precinct 6 works by the 40m Cobaki Parkway Road Reserve, it was called up as a matter of convenience in association with the Precinct 6 works, since it has no connection with any other.

The SMEC plan requires fencing to each of the rehabilitation areas to be erected *prior to commencement of any vegetation rehabilitation works*.

Paragraph 4

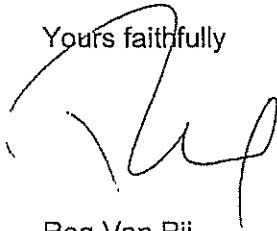
If significant modification to the fencing plan is required, the Department requests justification and detail of how works would be managed without the delineation of 'no go areas' by a fence.

Justification has been provided in my letter of 14 June 2016, amplified by the plan provided on 20 July and further by this reply to your email of 26 July.

How works will be managed adjacent to 'no go areas' not associated with the works under Mod 2 will be determined by the relevant conditions of consent. However we will be happy to confer with your Department should it feel that fencing should be provided in relation to those works, where such a requirement is not conditioned by Council or the JRPP.

I ask that this matter now be brought to a sensible conclusion.

Yours faithfully



Reg Van Rij
Regional Manager – Residential