

Our reference: 02/04719-6  
Contact: Lou Ewins, 9995 6802

Mr Michael Robinson  
Development Manager  
Australands – Commercial and Industrial Division  
Level 3, 1c Homebush Bay Drive  
RHODES NSW 2138

Dear Mr Robinson

**Re: Proposed Developments within the Eastern Creek Precinct (Stage 3) of SEPP59**

I refer to your e-mail of 4 August 2009 and our recent discussion regarding the ownership of the Conservation Area within the Eastern Creek Precinct (Stage 3) of SEPP59.

I confirm the Department of Environment, Climate Change and Water (DECCW) has no interest in managing or acquiring the Conservation Area.

This advice reaffirms advice provided at a meeting on 28 October 2005 with Mr Ross Blancato, and representatives of Blacktown Council, the then Department of Infrastructure, Planning and Natural Resources (DIPNR) and others. A copy of the attached minutes of this meeting indicate a general discussion on land ownership took place and the option of managing the Conservation Area by the now Western Sydney Parklands Trust was to be looked at by the representative from DIPNR.

Advice provided by the Department of Environment and Conservation to Blacktown City Council on 2 November 2005 on the revised draft Stage 3 Eastern Creek Precinct Plan also notes the final ownership of Conservation Area was yet to be determined and suggests controls in the precinct plan be amended to resolve ownership prior to the determination of future DA's. A copy of this letter is also attached.

It was, and remains DECCW's understanding, that the management of the Conservation Area rests with Australand as the land owner and Blacktown Council as consent authority.

I note the Precinct Plan for the Eastern Creek Precinct delineates the Conservation Area as an area with high biodiversity values which should be protected, preserved and enhanced by measures and strategies which:

- ensure species, communities or habitats of conservation significance are not compromised in the long term; and

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Department of **Environment and Climate Change** NSW

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water.

- provides for development that does not result in significant adverse indirect impacts to adjacent areas of native vegetation.

If you have any queries regarding this matter please contact me by phone on 9995 6802 or email [lou.ewins@environment.nsw.gov.au](mailto:lou.ewins@environment.nsw.gov.au).

Yours sincerely

 19/8/09

**LOU EWINS**  
**Manager Planning and Aboriginal Heritage**  
**Metropolitan Branch**  
**Environment Protection and Regulation**

## Minutes of Meeting

Location: DIPNR Offices Parramatta 28<sup>th</sup> October 2005 - 2pm.

### Attendees

Rob Scott	Blacktown City Council
Chris Shannon	Blacktown City Council
Elizabeth Kincade	Dept of Infrastructure & Planning
Andrew Watson	Dept of Infrastructure & Planning
Cho Cho Myint	Dept of Infrastructure & Planning
Ray Fowke	Dept of Environment & Conservation
Lou Ewins	Dept of Environment & Conservation
Ross Blancato	Australand Holdings
Michael Penn	Hartford Lane Pty Ltd
Stephanie Recchia	APP

Meeting opened 2.05

RF advised that DEC wanted to make an agreement today and go through any details required.

RB informed the meeting that the JV accepts Option 1 as proposed by DEC but outlined JV requirements in addition to the proposal.

1. The JV offers 5.6ha of land (southern portion) into the conservation equation in return for 1.6ha of development land (north west portion).
2. APZ to be incorporated in road and building set backs, any additional land required for APZ to be deducted from conservation land.

LE advised that they would not allow APZ to encroach into conservation land.

3. The JV wants to consolidate the section of land adjacent to the ROW and Stage 2. At the moment a small section of Stage 2 area has been allocated as conservation area by Council in anticipation of it being adjacent to another area that DEC was seeking to retain, but with the acceptance of Option 1, it is now isolated and no longer holds a conservation significance.

RF commented that option 2 would conserve this section and that they would put this on the table for council's consideration. Australand does not favour option 2

CS agreed that they would take this into account.

MP asked CS why option 2 would still be considered by council, when it does not meet councils requirements of both interested parties (JV and Dec) agreeing to a conservation layout, yet option 1 does.

EK confirmed that this was also her understanding of council's requirements for supporting a precinct plan.

4. A sinking fund proposal was tabled where \$500,000 would be put in trust. This will last between 7 and 8 years, based on a generous annual maintenance allowance of \$1500 per ha/pa (as distinct from less than \$1,000 per ha/pa agreed at Erskine Park and \$1200 per ha/pa advised by Greening Australia). (It has been determined after the meeting that it is likely to last between 11 and 12 years at the rate of \$1,000 pa)  
There were no objections to the format of the proposal.
5. No referral to DEC during the DA process if an agreement is reached.

RF advised that he couldn't see DEC having a future role in DA's but he couldn't 'switch off' legislation but that DEC could give a letter of comfort indicating that a satisfactory conservation outcome would be achieved by any of the options.

CS advised that the process of an eight-part test would have to be done as part of the statutory process.

RS commented that the council might still come under pressure from environmental groups when a DA is lodged. This cannot be avoided.

AW proposed that if the proposal is shown in the precinct plan it might give the JV some comfort. There was a general agreement from all department representatives. However RB pointed out that it would not be sufficient certainty for Australand's Board.

SR suggested that given that a satisfactory conservation outcome has been achieved the preparation of an eight-part test would consider that fact. RF indicated that DEC would more than likely respond to a referral from Council by confirming satisfaction with the conservation outcome. As such it is unlikely that an SIS would be triggered and Council could determine the DA before them.

MP, RB and SR left the room to allow discussion between the agencies.

On return, it was agreed by all agencies that;

1. The sinking fund is acceptable.
2. The consolidation of land at Stage 2 and ROW is council's decision. RS and CS both agreed that Council would take the issues into consideration.
3. The trade off of 5.6ha for 1.6ha is acceptable. The modified option 1 tabled by the JV will be sent to Council as a 3<sup>rd</sup> option that is acceptable to DEC and will reflect 60 ha of conservation and 57.5ha of development area.

4. APZ are not to be included within the conservation area but will also not extend beyond the land at the boundary with, and within, the development area that is used for road and building setbacks. If no perimeter road is provided – the APZ will apply.
5. The DA process will have to be followed and an eight part test undertaken. It is anticipated that DEC will express satisfaction with the conservation outcome and that Council will not require an SIS.

A general discussion on ownership of the land followed. AW advised that they would look at the possibility of taking the land, given that they were prepared to accept it under the Parkland Trust as part of the SEPP 31 Parklands – although connectivity may be an issue. SR suggested connectivity through pathways and cycle ways would provide that connectivity. Council were agreeable and suggested that such a provision already exists in the Draft Precinct Plan.

A letter from Australand will be sent to council, DIPNR and DEC

Michael Penn  
Hartford Lane  
28<sup>th</sup> October 2005



Department of  
Environment and Conservation (NSW)

Your reference : 145-112-27/23  
Our reference : 02/04719  
Contact : Ray Fowke

copy

Ian Reynolds  
The General Manager  
Blacktown City Council  
PO Box 63  
BLACKTOWN NSW 2148

Attention: Chris Shannon

Dear Mr Reynolds

**SEPP 59 – revised draft Eastern Creek Precinct Plan (Stage 3)**

I refer to your letters dated 14 October and 21 October 2005 regarding the above matter, and the meeting held on 28 October which was attended by representatives from Council, DEC, Department of Planning and Australand.

At that meeting broad agreement was reached regarding the biodiversity conservation outcomes that would be achieved through the precinct plan process, specifically with respect to the Hartford Lane Lands. In summary, these were:

- the DEC is prepared to support any of the three conservation footprint options discussed at the meeting (maps attached). The DEC acknowledges that the final choice will be made by the Council as part of the finalisation of the precinct plan, which will also take into account the range of other planning issues relevant to the site;
- all asset protection zones are to be located outside of the final conservation area;
- Council will consider options for the small area of land adjacent to Stage 2; and
- the developers will provide initial funding of approximately \$250,000 for restoration and revegetation works, together with a sinking fund of \$500,000 to be used for on-going maintenance. The sinking fund is expected to fund maintenance of the conservation area for between 7-12 years depending on the level of annual draw-down.

The DEC accepts these outcomes as the basis for Council progressing completion of the precinct plan.

The DEC also provides the following general comments on the revised precinct plan.

**Biodiversity**

Given the above agreed outcomes, the DEC expects that Council will now amend the proposed controls in section 8.3.5 of the precinct plan. In this regard, the DEC does not wish to be identified as a referral, approval or consultative body with respect to future development applications at the site.

Consistent with the provisions of the *EP&A Act* it will be a matter for Council to consider the biodiversity impacts of DAs, including potential impacts on threatened species. The DEC would only have a statutory role in this regard if Council were to form the view that a development was likely to have a significant effect on threatened species. In that situation, a species impact statement would

have to be prepared according to requirements issued by the DEC and the DEC may have a final concurrence role.

The DEC considers that Council will be in a solid position to evaluate the impacts of any DA on threatened species given the extensive information that already exists on the site's conservation values. In addition, the conservation outcomes agreed above can also be factored into Council's decision-making.

As final ownership of the conservation area is yet to be determined, the DEC would suggest that Council consider amending the controls in the precinct plan to support resolution of this matter prior to the determination of future DAs. Similarly, the DEC would expect that mechanisms to ensure collection and expenditure of the restoration and maintenance funds would be included either in the precinct plan or a related document (eg. planning agreement).

### **Aboriginal heritage**

The DEC also requests that Council amend the controls for Aboriginal heritage listed in section 9.2.5. Specifically:

- the DEC does not wish to be identified as a consultative body for future DAs in areas identified as having high archaeological significance. This provision should be amended to state that any proposal that impacts on objects of Aboriginal heritage significance will require approval from the DEC, either through the integrated development assessment (IDA) process or a separate approval under the *National Parks and Wildlife Act*, and
- the controls should place greater emphasis on the Aboriginal community consultation process, emphasising that this should occur during the design phase for a DA and as a key element of preparing the management strategy for the conservation area.

### **Other matters**

The DEC notes that the revised precinct plan also provides detailed controls on a wide range of issues, including stormwater management, transport, environmental management (eg. air quality, energy efficiency, waste). The DEC is generally supportive of these provisions.

On a final point, the DEC notes that the additional maps provided in Council's letter of 21 October included one showing the local road pattern. That map shows an area in the north-west of the precinct, highlighted in a green box and labelled "To be determined by the RTA". The DEC understands this is the proposed location for new on and off-ramps from the M4.

As Council would be aware there is a large patch of high quality Cumberland Plain Woodland (CPW) located within the SEPP 59 site at this point. This patch is already crossed by a road that connects to an existing bridge over the M4. The DEC would recommend that the precinct plan make reference to the need for any new access to the M4 to take all practicable measures to avoid, minimise and mitigate impacts on this area of CPW.

If you have any queries regarding this matter please contact Ray Fowke, Conservation Planning Officer on 9585 6921.

Yours sincerely

  
Ross Carter  
Director, Metropolitan Branch  
Environment Protection and Regulation Division

2/11/07