



9 February 2021

Planning Services
Industry Assessments
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

bruce.zhang@planning.nsw.gov.au

Dear Bruce

STATE SIGNIFICANT DEVELOPMENT APPLICATION (SSD8660), KARIONG SAND & SOIL SUPPLIES FACILITY, LOT: 4 DP: 227279 NO. 90 GINDURRA ROAD SOMERSBY

Thank you for the opportunity to provide comment on the Supplementary Response to Submissions for the above proposal. The following comments are made, and should be read in conjunction with Councils previous comments dated 24 September 2020.

Engineering

From an engineering perspective, it is noted that the main revisions to the proposal include:

- Additional traffic assessment and slight re-design of the site entrance, including a response to a peer review report received from the community;
- Additional design features added to the stormwater capture and treatment system;
- Update of the Water Cycle Impact Assessment and Soil and Water Management Plan report, including a response to a peer review report received from the community;

Additional traffic assessment and re-design of the site entrance

The additional Technical Design Note prepared by Seca Solution Pty Ltd dated 10 December 2020 is noted. The revised proposal to recess the access driveway gate 26m within the front boundary to Gindurra Road to allow a 26m B-double vehicle to wait on the site without impacting traffic along Gindurra Rd is supported.



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As per previous comments, the proposed concrete median in the footway is not supported as it creates a hazard for pedestrians in the footway. This is a public footway and pedestrians could still utilise this area whether there is a footpath or not.

If the Department proposes to recommend consent, the amendment to the entry provisions will require changes (noted below in bold) to the previously recommended conditions as per the numbering in Council's letter dated 24 September 2020 as follows:

Replacement of condition 1.3.b of stage 1 with the following:

- b. The entry gate shall be located within the property a minimum of **26m** away from the front boundary to permit **Austrroads 26m B-Double Vehicles to enter without obstructing Gindurra Road footway area.**

Replacement of condition 1.3.b of stage 2 with the following:

- b. The entry gate shall be located within the property a minimum of **26m** away from the front boundary to permit **Austrroads 26m B-Double Vehicles to enter without obstructing Gindurra Road footway area.**

Part condition 1.1 of Stage 2 will need to be modified as follows:

- a. A signage and line marking plan associated with the adjustments to the line marking in Gindurra Road **shall be designed in accordance with Austrroads Guide to Road Design Part 4 and Part 4A, and** accommodate a 60m long east bound right turn bay for access into the site. The line marking plan shall be generally in accordance with the plan prepared by SECA Solution (Project No HD196, Drawing No HD04 Rev 1 dated 24.07.19), and achieve the minimum sight distance of 69m in accordance with Figure 3.3 of AS 2890.2002. The signage and line marking plan must be approved by Council's Traffic Committee.

Changes to stormwater treatment

The additional Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability workshop (Ref Project No 197 dated December 2020) is noted.

The two main changes to the stormwater treatment design are noted as being:

The floating treatment wetland has been removed from the proposal

It is noted that the floating treatment wetlands have been removed. The report indicates that these measures were not included in the modelling and would have only improved water quality beyond those predicted. This was removed as a result of concerns raised by DPIE.

Amendments to the proposed 5,000m³ storage pond

Changes have been made to the OSD basin so it will be operated with a 5-day trigger to discharge, meaning it will discharge treated water to the environment under controlled conditions once water quality criteria have been achieved to reduce the frequency of predicted uncontrolled discharges. No objections are made to this proposal.

These amendments to stormwater management would also require changes (in bold) to the previously recommended conditions as per the numbering in Council's letter dated 24 September 2020 as follows:

Replacement of part f of condition 1.3 of stage 1 with the following:

- f. Piping of all stormwater from impervious areas generally in accordance with the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue H dated 23 June 2020) **and the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue C dated 7/12/20).**

Replacement of parts c, d, e, & f of condition 1.3 of stage 2 with the following:

- c. Stormwater detention must be designed in accordance with the Gosford DCP 2013 Chapter 6.7 *Water Cycle Management* and Council's *Civil Works Specification*, and generally in accordance with the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue H dated 23 June 2020) **and the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue C dated 7/12/20).** The stormwater detention system must limit post development flows from the proposed development to less than or equal to



predevelopment flows for all storms up to and including the 1% AEP storm event. A runoff routing method must be used. An onsite stormwater detention report including an operation and maintenance plan must accompany the design.

- d. Nutrient/pollution control measures must be designed in accordance with Gosford DCP 2013 Chapter 6.7 *Water Cycle Management*, and generally in accordance with the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue H dated 23 June 2020) **and the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue C dated 7/12/20)**. A nutrient / pollution control report including an operation and maintenance plan must accompany the design.
- e. Onsite stormwater retention measures must be designed in accordance with Council's DCP Chapter 6.7 *Water Cycle Management* and generally in accordance with the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue H dated 23 June 2020) **and the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue C dated 7/12/20)**. A report detailing the method of stormwater harvesting, sizing of retention tanks for reuse on the site and an operation and maintenance plan must accompany the design.
- f. Piping of all stormwater from impervious areas generally in accordance with the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue H dated 23 June 2020) **and the Water Cycle Impact Assessment and Soil and Water Management Plan prepared by Sustainability Workshop (Ref Project No 197 Issue C dated 7/12/20)**.

Environmental Health

Council's Senior Environmental Protection Officer has reviewed the information and provided no further comments to those made in Council's letter dated 24 September 2020.

Ecology

The Addendum to the Biodiversity Assessment Report, prepared by Narla (21st December 2020) was reviewed by Council's Senior Ecologist.

The Somersby Industrial Park Plan of Management (POM) requirements for management of the retained area of vegetation on the property that were raised by Council in the previous letter dated 24 September 2020 have not been satisfactorily addressed.

Somersby Industrial Park Plan of Management (POM)

The Somersby Industrial Park Plan of Management is listed within the Gosford Local Environmental Plan 2014 (Clause 7.4), which states:

7.4 (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority considers that the development is consistent with:

- (a) any applicable plan of management adopted by the consent authority,*
and
- (b) the objectives of this clause.*

Since 2005 the requirements of the Somersby POM have been supported multiple times in Court, including in the NSW Court of Appeal.

The subject property at 90 Gindurra Road includes 4.1 ha of native vegetation within the southern area of the property which is proposed to be retained. This part of the property contains areas covered by threatened species Management Zones 1b and 1d under the POM. Zone 1b being "*Prostanthera junonis* core habitat" and 1(d) "*Hibbertia procumbens* core habitat". This area of the property also contains habitat for other threatened species, including for the Eastern Pygmy Possum detected on site.

The POM includes the following Management Considerations for "1(b) *Prostanthera junonis* core habitat".

Management considerations include:

- o Allotments that contain Sub-Zone 1(b) Prostanthera junonis Habitat are to have a management plan prepared and implemented prior to development proceeding. This management plan is to comply with the requirements of the POM and the Recovery Plan (as appropriate).*
- o Development of allotments that contain Sub-Zone 1(b) Prostanthera junonis Habitat are to ensure that hydrological conditions associated with the core habitat area do not change as a result of development occurring. This may require a Water*

and Soil Management Plan to be developed and implemented in addition or complementary to, this Plan of Management.

- *Where development within an allotment containing Sub-Zone 1(b) Prostanthera junonis Habitat is to be located to the north of the Sub-Zone 1(b) area , sufficient building setbacks are required to prevent overshadowing and maintain sunlight access for plant health and growth.*

The POM includes the following Management Considerations for "1(d) *Hibbertia procumbens* core habitat":

Management considerations include:

- *Allotments that contain Sub-Zone 1(d) Hibbertia procumbens Habitat are to have a management plan prepared and implemented prior to development proceeding. This management plan is to comply with the requirements of the POM (as appropriate).*
- *Development of allotments that contain Sub-Zone 1(d) Hibbertia procumbens Habitat are to ensure that hydrological conditions do not change as a result of development occurring. This may require a Water and Soil Management Plan to be developed and implemented in addition or complementary to this POM.*
- *Where development within an allotment containing Sub-Zone 1(d) Hibbertia procumbens Habitat is to be located to the north of this Sub-Zone 1(d) boundary, sufficient setbacks are required to prevent overshadowing and maintain sunlight access for plant health and growth.*
- *Provision of adequate building and development setbacks from the Sub-Zone 1(d) boundary to permit management actions to be implemented such as targeted fire management.*
- *Areas identified as Sub-Zone 1(d) cannot be used to satisfy the requirements for an Asset Protection Zones (APZ) on any site to be developed. Such APZ areas will be located outside the Sub-Zone 1(d) area.*

No detail is given in the revised Biodiversity Assessment or addendum response prepared by Narla (21st December 2020) of the proposed mechanism for ongoing management of biodiversity values within the area of the property covered by the POM. The Addendum simply states that securing of a Biodiversity Stewardship Agreement over the area is not going to be pursued by the landowner.

The above specific management actions as required by the POM remain outstanding.

Biodiversity measures that would need to be conditioned in any approval:

- Implementation of the on-site avoidance and mitigation measures outlined in Section 5.5 of the Biodiversity Assessment Report would need to be conditioned.



Council would recommend these measures be incorporated into Construction and Operational Environmental Management Plans for the facility.

- The stated requirements of the BCD (letter dated 24 September 2020) in relation to monitoring and management of the *Melaleuca biconvexa*.
- The retirement of the required number and type of biodiversity credits, both species and ecosystem, prior to the commencement of any works (including any clearing of vegetation) would need to be conditioned. It is Council's preference that biodiversity credits be secured within the Central Coast LGA.
- As discussed above, the current proposal does not provide for ongoing protection and management of retained high biodiversity value land in the southern part of the property. In accordance with the requirements of the Somersby Industrial Park Plan of Management Council would expect that as a minimum:
 - Prior to commencement of any works, a comprehensive Bushland and Threatened Species Management Plan (minimum 10 year timeframe) that addresses the requirements of the Somersby Industrial Park Plan of Management (POM) is required to be approved by the consent authority. The plan needs to include the requirements of Management Zones 1b and 1d under the POM and other threatened species including the Eastern Pygmy Possum.
 - Prior to commencement of any works, a Water and Soil Management Plan is developed that is complementary to the Bushland and Threatened Species Management Plan is required to be approved by the consent authority.
 - Prior to issue of any Occupation Certificate, the retained area of bushland on the property would be subject to instruments under the *Conveyancing Act* including:
 - 1) An 88B restriction that provides for biodiversity protection; and
 - 2) An 88E positive covenant to ensure implementation of the comprehensive Bushland Management Plan with a minimum 10 year timeframe that addresses the requirements of the Somersby Industrial Park Plan of Management (POM). Council's standard 88E condition is:

This area will be placed under a 'Public Positive Covenant' 88E of the Conveyancing Act 1919. This instrument must require the land



to be managed under an approved Bushland Management Plan for the conservation of all identified threatened species. The public positive covenant must be created to require the implementation of the Bushland Management Plan.

The public positive covenant must permit Council or its nominee to enter and inspect the site and carry out any works required under the Bushland Management Plan, at the owner's cost, if the owner fails to implement and maintain the site in accordance with the Bushland Management Plan as amended and approved by Council.

The public positive covenant must be prepared by Council's Solicitor at the cost of the registered proprietor.

The authority empowered to release, vary or modify the instrument is Central Coast Council.

- Ongoing conditions will need to be included to require implementation of the approved Bushland Management Plans and ecological monitoring programs, and to provide the ecological monitoring reports to the consent authority and Council. Council's standard condition is:

Implement the Bushland Management Plan and submit progress reports to Council's Ecologist immediately after initial works have commenced and then at intervals of 1 year, 2 years, 5 years and 10 years following works.

General

The issues raised above are brought to the attention of the Department for consideration in the detailed assessment of the proposal. In doing so it is acknowledged that these issues, and any other issues raised by state government agencies or via public submissions, will be duly assessed by the Department in their overall consideration of the application under a merit assessment.

Your attention is also drawn to the resolution of Council on 10 December 2019, a copy of which has previously been provided to the Minister for Planning and Public Spaces, Executive Director Compliance, Industry and Key Sites and Regional Assessments-Department of Planning, Industry and Environment.

If you have any further enquiries, please contact Erin Murphy on 0427 002 301 or at Erin.Murphy@centralcoast.nsw.gov.au.

Mr. Bruce Zhang
Industry Assessments
Kariong Sand & Soil Supplies



Yours faithfully,

A handwritten signature in black ink, appearing to read "Andrew Roach".

Andrew Roach
Unit Manager
DEVELOPMENT ASSESSMENT