



**Office of
Environment
& Heritage**

Your reference: DA.172-7-2005
Our reference: DOC14/131188-1
Contact: Suzie Lamb: 62297117

Thomas Piovesan
Planning Officer
Department of Planning and the Environment
GPO BOX 39
Sydney NSW 2001

Dear Mr Piovesan

Re: Section 75W application for modifications to Bay Ridge Estate - DA 172-7-2005

Thank you for your email dated 15 July 2014 referring CIC Australia's response to submissions for the Bay Ridge Estate Project modification, DA 172-7-2005, to the Office of Environment and Heritage (OEH) for comment.

OEH has reviewed the information provided in CIC Australia's recent submission, in conjunction with the supplementary information relating to the development and additional advice from the Rural Fire Service. OEH comments relating to both Biodiversity and Aboriginal Cultural Heritage matters are as follows:

Biodiversity

Based on the information provided in the most recent submission from CIC Australia, it has been reiterated that no extra clearing over and above that which has been previously authorised will be undertaken. However, with the recommended asset protection zones and council setbacks from roads and neighbours, there may be some blocks where either of the following options will take place:

- buildings will have to be built to a higher bushfire attack level under AS3959-2009, or
- additional clearing will take place to create larger asset protection zones.

The original ecological assessment identified that the native vegetation on site was valuable in terms of protecting the riparian areas, creating vegetation corridors across the site, providing hollow bearing tree resources for local fauna and securing *Allocasuarina littoralis* stands for Glossy Black Cockatoo foraging.

The consent approval (File No. 9039662) uses Section 88B restrictions to limit the clearing of the native vegetation on site and protect hollow-bearing trees and *Allocasuarina littoralis* stands outside of Vegetation Reserves and visual vegetation buffers. As these conditions still stand, it is therefore the role of the Department of Planning and Environment at this stage, or Eurobodalla Council's role at the stage of Development Application process to ensure the original Conditions of Development Consent are complied with. It is recommended that the dwelling construction standard be applied to allow the minimum clearance under the RFS *Planning for Bushfire Protection Guidelines 2006* for the APZ areas.

Aboriginal Cultural Heritage

OEH has reviewed CIC Australia's response to OEH's submission on the Bay Ridge Estate Project received on 15 July 2014. It is acknowledged that a summary of the consultation process up to December 2009 has been provided (attachment 2). OEH notes CIC's commitment to contact OEH if any new

Aboriginal objects are found during construction as required by Condition 4.11 of the original Development Application No.172-7-2005 as follows.

Additionally, OEH advises that the Proponent is still required to fulfil the Director-General's Requirements:

4.12 Batemans Bay Local Aboriginal Land Council

A representative of the Batemans Bay Local Aboriginal Land Council shall be on-site during any excavation and/or roadworks to monitor if any items of Aboriginal cultural heritage are unearthed.

4.13 Disturbance of Known Aboriginal Sites

Disturbance of Aboriginal sites identified in the 'Archaeological Survey' prepared by Archaeological Heritage Surveys dated October 2002 and June 2004 should be avoided where possible. Aboriginal sites not impacted by the subdivision are to be left undisturbed, including KPH 5.

The Proponent is also required to fulfil all conditions stipulated within Consent #2099. OEH are concerned that Condition 5, which enables the salvage of objects by the Batemans Bay Local Aboriginal Land Council (BBLALC), has not been met. Any correspondence relating to the salvage of sites by the BBLALC must be provided to OEH.

As dated in our correspondence dated 17 April 2014, OEH (formerly the Department of Environment and Conservation) advises that as Consent #2099 expired a new approval in the form of an Aboriginal Heritage Impact Permit (AHIP) will be required to be issued by OEH before construction activities can occur in any stages of the development area. This includes site KPH1/PAD 1 which is located within stage 2B. OEH recommends that the Proponent applies for a development area based AHIP which should include all future stages of development.

A report on the salvage of any artefacts must be supplied to OEH by the Proponent as stipulated in clause 7 of the Special Conditions applying to the Consent to Destroy #2099: "all actions, and their results, conducted under the terms of the Consent and Permit must be documented in a report that is satisfactory to DEC". This report is in addition to special condition 3 which states that the BBLALC provides a report on all Aboriginal objects recovered.

Irrespective of whether sites were destroyed as a result of the salvage process or construction, Aboriginal Site Impact Recording forms for all sites and Potential Archaeological Deposits (PADs) that were impacted during construction works must also be submitted by the Proponent to OEH and the AHIMS registrar.

Should you require any additional assistance or wish to discuss these matters further, please contact Suzie Lamb on (02) 6229 7117 for Biodiversity matters or Jackie Taylor on (02) 6229 7089 for Aboriginal Cultural Heritage matters.

Yours sincerely

 6/8/2014

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