



Office of Environment & Heritage

DOC19/5977-5

Casey Joshua
Senior Planner
Regional Assessments
Department of Planning and Environment
casey.joshua@planning.nsw.gov.au

Dear Mr Joshua

Sunshine Bay Estate MP 05_0029 MOD 1 – Modification to Project Approval

As requested, we have reviewed the Modification to Project Approval and advise the following.

Biodiversity

The applicant has not provided a Biodiversity Development Assessment Report (BDAR) as required by the *Biodiversity Conservation Act 2016 (BC Act)* for modifications to major projects. A flora and fauna assessment report has been submitted, however it does not meet the requirements of a BDAR.

The proponent has also not adequately considered the requirement in the BC Act to avoid impacts to biodiversity and vegetation whenever possible and, when not possible, provide an adequate justification. Consideration should have been given to retaining the vegetation by using such mechanisms as Community Title to set aside vegetation in the drainage lines.

In addition, we note that there is a hollow-bearing tree (*Corymbia maculata*) that will be removed. Loss of a single hollow-bearing may be significant in this case as two threatened bat species, the eastern bentwing bat, and the eastern freetail bat were located on site using call detectors. The eastern freetail bat depends on tree hollows for roosting so loss of the tree could impact on the local population. We recommend that the applicant be required to either demonstrate that the tree is not being used by this species or preferably, the hollow bearing tree is retained. The surrounding trees should also be retained. This will increase the survivorship of the tree as individual trees are very susceptible to being blown over and damage from earthworks.

The biodiversity report states that there are pieces of timber and mulch dumped in the drainage lines which has impacted on the integrity of the ground cover. This appears to be in contravention of Condition B13 (2) of the original consent which requires that vegetation is not pushed or dumped into the areas of retained vegetation.

Aboriginal Cultural Heritage

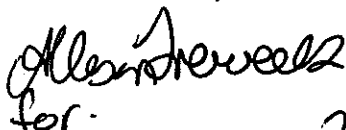
There is no reference to any additional Aboriginal heritage assessment or Aboriginal consultation being undertaken for this modification. We note it was a condition of approval (B16 and D16) that an Aboriginal Heritage Construction Management Plan

(AHCMP) be prepared, submitted to Council for approval and implemented during construction for each stage of the subdivision.

As OEH has not been involved in the preparation of the AHCMP we recommend the AHCMP be reviewed to ensure the proposed modification is consistent with any management measures required. The AHCMP should also be updated with any modification to the conditions of MP05_0029.

Please do not hesitate to contact me if you would like to discuss the OEH comments.

Yours sincerely


for.

MICHAEL SAXON

Director - South East

Conservation and Regional Delivery

OFFICE OF ENVIRONMENT AND HERITAGE

25/2/19.