

From: Elizabeth Downing
To: Michelle Niles
Cc: Anthony Witherdin
Subject: RE: 3A07/1004-02 Response to Submission - MP 05_0024 MOD 4
Date: Friday, 25 May 2018 12:57:32 PM
Attachments: image001.jpg
image002.png

Dear Michelle,

Thankyou for the opportunity to provide further comments, for your assistance.

In particular, Council's Threatened Species has provided the following comments:-

"Council has review the 'Response to Submissions MP 05_0024 MOD 4' prepared by Allen price & Scarratts Pty Ltd dated 13 April 2018 which includes comments from Lesryk Environmental appended to the end (TRIM doc no. D18/151376).

In addition, the following has also been reviewed as a part of this referral response:

- Council's previous TSO response to this matter in February 2018 (Doc no. D18/44482).
- Environmental Assessment Report prepared by Cowman Stoddart in September 2007 https://majorprojects.accelo.com/public/1278fd69b622370b3de7d5aa8938b0ac/05_0024_environmental_assessment.pdf.
- Conservation Reserve Management Plan, Highview Drive, Dolphin Point prepared by Travers bushfire & ecology in August 2015 <https://majorprojects.accelo.com/public/b47c6aedf0b9bd9632454bc9659b3da2/A14160%20Conservation%20Reserve%20Management%20Plan%206.7.15.pdf>

The following statements were included within the Environmental Assessment Report Section 6.8 (Cowman Stoddart, 2007):

- **Leafless Tongue orchid** - Bushfire and Environmental Services (BES) detected 12 individual Leafless Tongue orchid *Cryptostylis hunteriana* plants, well as an area of approximately 4.41 ha which provides suitable habitat for this species. On page 100 of this report it is stated that although the plants were considered for retention "it was generally acknowledged in consultation with DEC that the area to be retained being surrounded and in close proximity to **the built-up residential development would be problematic in regards to the long term viability of the plants in this location**" (Section 6.8.2).
- **Leafless Tongue orchid** - "The orchids would require a buffer to be maintained around them to minimise impact of development, which would then become a bushfire hazard in itself requiring the provision of additional managed lands in the form of an APZ" (Section 6.8.2, top of pg 101).
- **White-footed Dunnart** - "Consideration has been given to the retention of habitat where the species were recorded, however according to BES, this would entail the **provision of a buffer to the retained habitat** and it was generally acknowledged in consultation with DEC that the area to be retained being surrounded and in close proximity to **the built-up residential development would be problematic in regards to the long term viability of the individuals in this location**" (Section 6.8.3.4, pg's 103 & 104).

Council's comments

Council have noted the reasons provided from AP&S and Lesryk Environmental to remove the commitments relating to the White-footed Dunnart and Leafless-tongue orchid.

It is noted by Council that although Lesryk Environmental are in support of removing commitments relating to the preparation and implementation of appropriate Management Plans for the Leafless Tongue Orchid and White-footed Dunnart in the Barnunj State Conservation Area, the following statements were included in their report relating to the ongoing monitoring and management of these species:

- "It is considered that the ongoing monitoring and management of the Leafless Tongue Orchid population within the Conservation Reserve is required. In accordance with the conditions of consent, Lesryk have been engaged by Allen Price and Scarratts Pty Ltd to continue this management and monitoring through to July 2019 (end of stage 5) when 80% of the lots are expected to have been sold".
- "Management of the Conservation Reserve will also preserve habitat for the White-footed Dunnart".

It is noted that the Conservation Reserve Management Plan includes the following management actions specific to:

- Leafless Tongue Orchid
 - Intensity and frequency of bushfire management.
 - Establishment of protective fencing surrounding existing *Cryptostylis hunteriana*.
 - In addition, it is noted that a buffer of approximately 20 metres was given to recorded locations of Leafless Tongue Orchid and only 10 individuals are mapped (Schedule 1 map, pg 35).
- White-footed Dunnart
 - Intensity and frequency of bushfire management.

"In this site fallen timber is most likely to be a potential shelter or nest site for the White Footed Dunnart. Within the development area any fallen timber is to be inspected prior to removal to all the capture and relocation of resident fauna as advised by an experienced fauna ecologist. Fallen timber can also be potential relocated into the reserve to provide a shelter or breeding site. However further information of the foraging, breeding and sheltering ecology is recommended before undertaking any significant habitat enrichment works. In summary, the management plan is not specific to Leafless Tongue Orchid or White-footed Dunnart and there is still intent to relocate individuals of White-footed Dunnart from the development area.

As stated previously in Council's comments to these alterations in February 2018 (doc no. D18/44482), although the conservation area has been increased, no buffer was included between the development area and the locations of recorded individuals/populations of either the Leafless Tongue orchid or White-footed Dunnart. As such, although there is a lesser impact to these species, impacts still include; edge effects, the removal of known habitat and the potential loss of individuals.

The modified subdivision design was not subject to any ecological assessments under Section 5A of the *Environmental Planning and Assessment Act 1979* for the removal or modification of conditions of consent. Had an assessment been completed consideration to the impacts listed above would have been required and replacement conditions of consent recommended to addressed the mitigation of all direct and indirect impacts.

If the DA approval commitments relating to the White-footed Dunnart and Leafless Tongue Orchid were to be removed, then additional conditions would replace them in line with an updated assessment providing mitigation measures. These mitigation measures would require a buffer (as stated above from the original assessment by BES in 2007) around these populations and the inclusion of a Management/Monitoring Plan for the Leafless Tongue Orchid and a separate Management/Monitoring Plan for the White-footed Dunnart population within the Conservation Reserve to mitigate those indirect impacts associated with edge effects.

The modified subdivision design does not include the appropriate buffers to the known populations of White-footed Dunnart and Leafless Tongue Orchid to remove all potential edge effects. This was previously highlighted in Section 6.8 of the Environmental Assessment Report (Cowman Stoddart, 2007). The continuation of the monitoring programs for these species is beneficial as a mitigation measure as was previously determined (BES 2007) and thus contained within in the DA approval commitments.

Recommendations

Council can agree that the conditions relating to the translocation of the Leafless Tongue Orchid may be removed; however, given the above-mentioned reasons and advice from Lesryk Environmental relating to the ongoing monitoring and/or management of Leafless Tongue orchid and White-footed Dunnart, council retain the position of opposing the removal of commitments relating to these effects. This is summarised in the below table."

Original DA approval commitment	Proposed modification by AP&S	Council response
The proponent will fund \$15,000 for the preparation and implementation of an appropriate Management Plan for the Leafless Tongue Orchid in the Barnunj State Conservation Area to enhance the known population and increase its long term security. Implementation of the plan will include but not be limited to: a) additional targeted field surveys for the species within 800 m of the	Delete commitment	Not supportive without a replacement commitment.

<p>known population</p> <p>b) light ripping of existing tracks identified for closure in the vicinity of the know population</p> <p>c) revegetation of lightly ripped tracks</p> <p>d) construction of additional barriers and promotion of revegetation at points where tracks to be ripped adjoin tracts to be retained for access</p> <p>e) provision of fencing around sub populations under immediate threat from ongoing use of the conversation area</p> <p>f) monitoring of the known orchid population, revegetation works and barriers for a period of up to three years</p> <p>g) research on the species within the locality by university graduates on projects identified by the plan and agreed between Malbec Properties and the Department of Environmental and Conservation.</p>		
<p>The proponent will fund the attempted translocation of the Leafless Tongue orchid individuals from Lot 171 into suitable habitat in Barnunj State Conservation Area following the preparation and approval of an orchid translocation plan.</p>	Delete commitment.	Supportive.
<p>The proponent will fund \$15,000 for the development and implementation of an appropriate management plan for the White-footed Dunnart in Barnunj State Conservation Area. The implementation of such a plan will include but not be limited to:</p> <p>a) targeted field surveys for the species in preferred habitat</p> <p>b) mapping of anticipated home ranges for the species</p> <p>c) fire management of known and/or preferred habitat</p> <p>d) predator control within known and/or preferred habitat via capture and baiting</p> <p>e) research on the species by university graduates on projects identified by the plan and agreed between Malbec Properties and the Department of Environment and Conservation</p> <p>f) translocation of White-footed Dunnart individuals from Lot 171 to vacant home ranges within Barnunj State Conservation Area</p> <p>g) monitoring of any identified White- footed Dunnart population for a period of three years.</p>	Delete commitment.	Not supportive without a replacement commitment.
<p>The developer will impose a restriction on the title of each allotment requiring that any dogs and cats are kept only within the curtilage of a dwelling house, unless secured on a leash.</p>	<p>The developer will impose a restriction on the title of each allotment requiring that:</p> <p>(i) no cats be kept on any allotment at any time</p> <p>(ii) all dogs must be kept within the confines of a residential allotment, or kept on a leash at all other times.</p>	Supportive.

If you require clarification of any of the information in this message, please do not hesitate to contact me.

Kind regards

Elizabeth Downing
Development Coordinator - Subdivisions
Shoalhaven City Council

www.shoalhaven.nsw.gov.au
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From: Michelle Niles <Michelle.Niles@planning.nsw.gov.au>
Sent: Tuesday, 8 May 2018 10:54 AM
To: Elizabeth Downing <Elizabeth.Downing@shoalhaven.nsw.gov.au>
Subject: Response to Submission - MP 05_0024 MOD 4

Hi Elizabeth,

Please see attached response to submissions report from the Proponent for the issues raised in Council's submission.

The Department would like to provide Council with an opportunity to review the Proponent's response. Any further comments on the applicant should be received by no later than **22 May 2018**.

If you have any questions, please feel free to contact me.

Kind regards,

Michelle Niles
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Regional Assessments
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