



DOC16/609769-2
MP06 0250 MOD 9

Ms Amy Robertson
Planner, Modification Assessments
Department of Planning and Environment
amy.robertson@planning.nsw.gov.au

Dear Ms Robertson

Review of Fern Bay Residential Subdivision - Modification 9

I refer to your e-mail dated 28 November 2016 inviting the Office of Environment and Heritage (OEH) to provide comment and recommended conditions of consent on the proposed modification of the project approval (MP 06 0250 Mod 9) for the residential subdivision development at Seaside Boulevard Fern Bay. OEH understands that the proposed modification involves:

- changes to the subdivision layout (stages 14,18,19,20)
- an increase in the number of residential lots from 590 to 639
- change to the road through stage 14 (and intersection with Nelson Bay Road) to emergency access only
- relocation of pump station.

OEH has undertaken a preliminary review of the various documents provided by Cardno, however, before we can fully respond to this request the following matters require clarification:

1. Plans indicate that there are many batters associated with cut and fill which will impact on the conservation zones managed under a Vegetation Management Plan. There is no assessment of these impacts on biodiversity provided in the modification. OEH requests clarification of the status of the Vegetation Management Plan and the relationship between the plan and the proposed modification.

OEH's policy requires that impacts on biodiversity should be avoided and/or mitigated. Any residual impacts must be offset. OEH therefore requests that any unavoidable impacts on biodiversity due to this modification are quantified, justified and, if required, offset according to OEH's major projects offset policy. For example it is noted that changes to the access road to Nelson Bay Road will require a certain amount of cut and fill even though the road is no longer being used for a thoroughfare, and this appears to affect the conservation land each side of the emergency access road. The batters impact on the area put aside for conservation under the Vegetation Management Plan. Any indirect impacts, for example on the hydrology of the site, should also be addressed (i.e. avoided, mitigated and offset).

2. The National Parks and Wildlife Service have requested a meeting with the proponent and the Department of Planning and Environment to discuss potential additional direct and indirect impacts on the Worimi Conservation Lands. As batter and retaining walls are on the boundary to the Worimi Conservation Lands, these works may affect the hydrology and biodiversity of the reserve as well as park infrastructure. Please see **Attachment 1** for a summary of matters requiring discussion.

If you require any further information regarding this matter please contact Karen Thumm, Conservation Planning Officer, on 4927 3153.

Yours sincerely



14 DEC 2016

RICHARD BATH

Senior Team Leader Planning, Hunter Central Coast Region

Regional Operations

ATTACHMENT 1 – OEH REVIEW - PROPOSED MODIFICATION OF THE PROJECT APPROVAL FOR THE RESIDENTIAL SUBDIVISION DEVELOPMENT AT SEASIDE BOULEVARD, FERN BAY (MP06 0250 MOD9)

The National Parks and Wildlife Service (NPWS) have requested a meeting with the proponent and the Department of Planning and Environment to discuss potential additional direct and indirect impacts on the Worimi Conservation Lands (WCL). The following is a summary of matters requiring further discussion:

- It is difficult to accurately determine the effect of the proposed modification on the available information.
- NPWS are taking a precautionary approach to this matter given: the Voluntary Planning Agreement (VPA) to which the proponent and OEH are signatories; previous issues effecting identified VPA commitments resulting from development works (completed by the previous proponent), and a desire to ensure no new issues result from the completion of the remaining stages of development adjoining the WCL.
- NPWS concerns relate to ensuring the proposed modifications do not impact on the WCL, or any of the VPA commitments (either delivered or as yet undelivered).
- The proposed modifications cannot impact on any past or present VPA obligation.

Comments on Stages 18 and 19 which adjoin the WCL, is based on review of the following documents:

- 2016-11-10 34878 PROJECT PLAN REV L_2016-11-01.pdf pages 1-11
- 2016-11-10 34878 PROJECT PLAN REV L_2016-11-01.pdf_ pages 11-23pdf
- 34878 PROJECT PLAN REV-K_2016-08-24.pdf PT 2
- Fern Bay advice mark 2 16_058 130716.pdf_ intersection analysis
- Pages from 34878 PROJECT PLAN REV-K_2016-08-24.pdf PT 1

Areas of Concern

- The WCL boundary adjoining stage 18 will be adjusted, as per a VPA commitment. Whilst this is yet to occur, the proposed boundary is noted on one diagram (sheet 8 of 21, 2016-11-10 34878 PROJECT PLAN REV. L).
- Noting the bulk earthworks (cut-fill) diagrams, the requirement for a retaining wall to be constructed along the southern edge of stage 18 is noted. Given the closeness of the new boundary to the location of the retaining wall, NPWS are concerned to ensure the retaining wall is constructed to a standard that considers the adjoining park infrastructure – the 4WD track), and that the retaining wall is located outside of the WCL to an extent that enables any necessary maintenance and associated future works to be conducted without requiring works on the WCL, which would require approval/consent. It would be helpful to see the proposed WCL boundary shown on other diagrams in the documentation, including the bulk earthworks diagrams.
- The original stage 18 included the access to the WCL through the internal road system. Rawson Communities approached NPWS for an alternative access as Stage 18 was not progressing. Now Stage 18 is proposed for development NPWS request the original access agreed in the VPA, or alternatively the access proposed by Rawson Communities to be upgraded to the specifications of the 4WD access track in the VPA (as constructed and signed off). The proposed access off the powerline easement has not been widened, gravelled to specification or fenced with bollard and cabling.
- Stormwater management from stages 18 and 19 – NPWS note the inclusion of a drainage swale (2016-11-10 34878 PROJECT PLAN REV L_2016-11-01.pdf_ Concept Site Drainage Plan page 14 of 21) and also identified as a conveyance swale/conceptual swale (2016-11-10 34878 PROJECT PLAN REV L_2016-11-01.pdf_ pages 11-23pdf page 12 of 21) (see Figure 1) extending west to link to the low-lying wetland area referred to as a detention basin. NPWS note that the proposed drainage/conveyance swale cuts across the existing 4WD track that provides access

- Ensuring ongoing access from Seaside Boulevard to the WCL is a VPA commitment, which has yet to be finalised. NPWS are concerned to ensure the VPA commitment is met, and that any proposed development works do not impact on delivery of this commitment, and do not create any risk to the track over time. NPWS note that the stormwater system elsewhere in the development has failed in high rainfall events, resulting in stormwater discharge into the WCL, and eroding the 4WD track to an extent that reconstruction of an approximately thirty (30) metre section was required (see Figure 1 and Figure 2). NPWS cannot accept a situation where similar risk exists over another section of track. The current information contained within the modification documentation does not enable NPWS to determine the effect of the development on the VPA commitments for 4WD access to the WCL.
- The landscape plan shows 'pathways' or walking tracks around the development. NPWS note the changed route of the pathway from previous stages. The pathway heads west to stage 18, but is shown as finishing on the park boundary, rather than linking back to within the development and stage 18 or 19 proper. This is not acceptable.

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Figure 2 **Basin 3 and adjacent detention basin overflow 2016**



