



DOC17/228987-1
MP 06 0250 MOD 9

Ms Amy Robertson
Planner, Modification Assessments
Department of Planning and Environment
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Dear Ms Robertson

Review of Fern Bay Residential Subdivision - Modification 9 - Response to Submissions

I refer to your e-mail dated 13 April 2017 inviting the Office of Environment and Heritage (OEH) to review the proponent's comments on OEH's Response to Submissions advice for the project modification of the residential subdivision at Seaside Boulevard Fern Bay (MP 06 0250 MOD 9). OEH's review of the letter from Cardno dated 12 April 2017 was informed by the attachments and resources provided on the Department's Major Project Assessments website.

The issues raised by OEH in correspondence dated 14 December 2016 (Ref: DOC16/609769-2) do not appear to have been addressed. OEH previously indicated that the modifications would impact on the biodiversity of areas included as conservation zones in the Vegetation Management Plan and zoned E2 for conservation. It is noted that the impacts will be caused not only by encroachment of roads into the E2 zones, but also from the considerable amount of cut and fill which would be required within the E2 zones to enable the development to proceed. This is clearly indicated in Figure 29850 L Bulk Earthworks (Cut-Fill) Plan REV-L.

OEH's preference is that there are no impacts to biodiversity in the E2 zone. However, OEH's previous advice was that if this was considered unavoidable, the impacts would need to be quantified, justified and offset according to the major projects offset policy. OEH's request for this assessment, as well as a consideration of the impacts on the hydrology of the conservation zones and connectivity of the vegetation, has not been adequately addressed. The proponent's comments on OEH's Response to Submissions advice acknowledges only minor incursions to the E2 zone and states that OEH "...raised no concerns with regard to ecological impacts of the Modification Application...".

OEH notes that in the Aerial View Rev-L, and from aerial photography, that previous cut and fill works on earlier stages have impacted on areas zoned for conservation in the Vegetation Management Plan. OEH requests that all impacts of development are restricted to the area within the residential zone.

NPWS Issues

The National Parks and Wildlife Service (NPWS) provides the following response to the proponent's comments on the OEH submission. NPWS met with the proponent on 4 May 2017 to discuss these matters in detail.

Boundary adjustment inclusion on all plans for stages 18 and 19

The proposed adjusted boundary with the Worimi Conservation Lands (WCL) needs to be shown on all plans for stages 18 and 19, and should be included as a condition of approval. This is needed to enable NPWS to conduct a proper assessment for issues that may exist due to the close proximity of stage 18 to the WCL, and in particular the 4WD track located along the boundary. This is relevant to the next matter listed below.

Proximity of proposed retaining wall to adjusted boundary of WCL

The response provided in Cardno's correspondence is noted, and NPWS are supportive of the principle that the retaining wall and any land required for its maintenance be contained within the development site. However, the difference in elevation between the WCL with the 4WD track, and stage 18 at its closest point to the WCL raises concerns that NPWS require further information and clarity on.

NPWS is not able to determine the location of the retaining wall, and any land required for maintaining the retaining wall, in relation to the existing WCL 4WD access track and its bollard line. The WCL boundary adjustment in this location, as required under the Voluntary Planning Agreement (VPA), needs to include adequate land to enable NPWS to complete maintenance works on the bollard line and 4WD track without impinging on the development site. It is not clear to NPWS whether this outcome can be achieved in conjunction with the commitment to locate the retaining wall (and any associated land required for its maintenance) within the development site. This situation needs to be clarified prior to any determination of the Modification Application.

Given the proximity of the retaining wall to the WCL boundary, and in particular the 4WD access track, NPWS request the opportunity to review the standard of the retaining wall, given the large difference in elevation between stage 18 and the WCL at this location. NPWS also note that there is considerable potential risk to the 4WD access track at the time earthworks are carried out to prepare stage 18, and prior to the construction of the retaining wall. NPWS require certainty that this risk will be properly mitigated and that there will be no impact to WCL infrastructure, including the bollard line and 4WD access track, during earthworks and construction activities prior to or as part of any determination of the Modification Application.

Stormwater conveyance impacts and ongoing access from Seaside Boulevard to the WCL

The proponent has now agreed to stormwater being conveyed in a culvert below the 4WD track to avoid stormwater damage, and for this to be conditioned to be satisfied prior to issue of a subdivision certificate for stage 18. NPWS note that such a condition should apply to issuing of subdivision certificates for stages 18 and 19, given the culvert will convey stormwater from both stages, not just stage 18. Also, it should be a requirement that the culverts have capacity exceeding that required for the stormwater system as currently designed. This is due to the 4WD access track having been impacted by stormwater flows from the development site at other locations, apparently due to the development stormwater system capacity being breached. NPWS seeks clarification to ensure this situation is not repeated at this location.

In relation to the comments above, it should be noted that a similar lack of clarity and certainty to meet both VPA commitments as specified while also proceeding with the development, as approved during previous stages, has affected the delivery of VPA commitments. Development works for previous stages adjoining the WCL impacted the 4WD track route, and the location of stormwater system features (retention ponds) adjoining the WCL boundary will have to be accommodated as part of the boundary adjustment. Both of these situations are the result of assumptions and assurances resulting from inadequate detail at the time of approval, and have resulted in considerable additional administrative costs associated with the VPA to NPWS. NPWS acknowledge this occurred under the previous owner of the development, but the circumstances are similar, and the associated risk of impact to VPA commitments are arguably greater.

Access to the 4WD track

NPWS notes the proponent's response, and the provisions of the existing licence.

The licence was negotiated at the time because the progress of stages 18 and 19 was uncertain, and the proponent was required to ensure access to the 4WD from Seaside Boulevard. This situation was a departure from the commitments as outlined in the VPA and associated Deed of Agreement. Given the renewed certainty and intention to progress stages 18 and 19, it is reasonable to consider the access in the context of the VPA commitment and intent to better manage access to the WCL at this location. The development of stages 18 and 19 will remove the natural vegetation/forest that has acted as a natural barrier to traffic. If the proponent is unwilling to provide access to the 4WD track from stage 18, then the minimum requirement should be to ensure a hard barrier (such as bollard and cabling) between the access to the 4WD track and stages 18 and 19. NPWS notes previous discussions with the proponent, and commitments to share information. Agreement has yet to be reached.

Walking track from previous stages

NPWS note the amended plan as per previous feedback.

If you require any further information regarding this matter please contact either Karen Thumm, Conservation Planning Officer, on 4927 3153 or for information relating to NPWS matters, Adam Faulkner, Strategic Programs Officer, on 4984 8204.

Yours sincerely



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