



Office of Environment & Heritage

Our Ref: DOC16/607952
Your Ref: MP07_0026 MOD5

Ms Amy Robertson
Planner – Modification Assessments
Department of Planning & Environment
PO Box 39
Sydney NSW 2001

Dear Ms Robertson

Re: Modification of Concept Approval Major Project 07_0026 (MP07_0026)

Thank you for your e-mail dated 25 November 2016 about the Modification of Concept Approval (MOD 5) for Major Project Approval MP07_0026 seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH has reviewed the documents supplied in regards to our statutory responsibilities for biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service estate, flooding and estuary management. Our review has identified that a number of issues are apparent for biodiversity and flooding impacts as set out below.

The intent of the original MP07_0026 and subsequent modifications (MOD 2-4) primarily focused on retention and protection of biodiversity values such as the endangered ecological communities (EECs) and threatened species listed under the *Threatened Species Conservation Act 1995* (TSC Act) and *Biodiversity Conservation and Environmental Protection Act 1999* (EPBC Act) on site within Conservation Zones or via buffers and restrictions over proposed lots.

The proposed amendments in MOD 5 contain maps that suggest removal of a buffer zone and vegetation protection covenant over a remnant of Littoral Rainforest EEC and identified habitat for Arrow Head Vine *Tinospora tinosporoides* listed under the TSC Act on site. This removal was not described in the documents supporting MOD 5.

Discussions with the Department of Planning and Environment (DPE) and with the proponent's planning consultant, Mr Damian Chapelle (Newton Denny Chapelle), confirmed that there is an error in the maps provided with MOD 5. The maps show that the buffer or protective covenant to this area of high biodiversity value has been removed, but the text in the modification report does not describe this aspect of the proposal.

Mr Chapelle advised that there is no proposal to remove the buffer or protective covenant and that development consent from the Ballina Shire Council has been obtained for this stage, which includes conditions requiring protection and management of this area. He undertook to correct the maps for MOD 5 and provide the corrected version to the Department of Planning and Environment.

The proposal (MOD 5) appears to adjust the boundary to the northern most "Fig Park", in that, it reduces the area set aside to protect the large Morten Bay Fig *Ficus macrophylla* and other mature native trees onsite. Mr Chapelle also advised that the council consent for this stage has reconfigured the public access to run between lot boundaries and the fig park, thereby creating better separation between land uses. The OEH agrees that the council-approved layout achieves better conservation outcomes for the fig park in this part of the site.

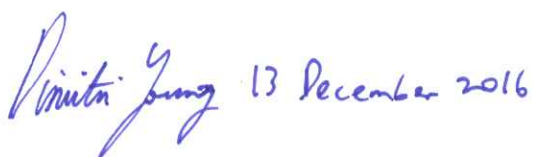
The OEH advises that no information is provided on the potential flooding impacts relative to the proposed MOD 5 design layout. This information should be provided to the council at the development application stage.

The OEH recommends that:

1. The maps attached to MOD 5 should be amended to show that the Littoral Rainforest remnant and the habitat for the Arrow Head Vine are contained within the nominated boundary buffer and area of applied vegetation protection covenant consistent with previous approvals and depicted in Map C11 – Conservation Zone. The amended maps should be provided to the Department of Planning and Environment.
2. The proponent should demonstrate to the council at the development application stage that:
 - a. the proposed MOD 5 is consistent with any flood hazard or risk management plans.
 - b. the proposed MOD 5 will not adversely affect flood behaviour and result in a detrimental increase in the potential flood affectation of other areas.
 - c. structural and design measures are in place for proposed MOD 5 to manage risk as a consequence of flooding.

If you have any further questions about this issue, Ms Rachel Binskin, Regional Operations Officer, Regional Operations, OEH, can be contacted on 6659 8247 or at rachel.binskin@environment.nsw.gov.au.

Yours sincerely



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