

Your : 09_0166
Reference
Our reference : FIL06/1333-04; DOC11/10346
Contact : Biodiversity: Mark Fisher, 66402504
Aboriginal Cultural Heritage: Nick Pulver, 6659 8225



PCU021044

Mr Daniel Cavallo
A/Director, Metropolitan and Regional North
NSW Department of Planning
GPO Box 39
SYDNEY, NSW 2001

Attn: Tom Fitzgerald



2-5 MAR 2011

Dear Mr Cavallo

**RE: PROPOSED DEVELOPMENT AT TERRANORA AREA E, ALTITUDE ASPIRE,
PROJECT APPLICATION MP09_0166**

I refer to the Project Application, Environmental Assessment, and accompanying information provided for the proposed 321 lot residential subdivision at Fraser Drive, Terranora, received by the Department of Environment, Climate Change and Water (DECCW) on 31 January 2011.

DECCW has reviewed the information provided and supports the proposal subject to the Department of Planning adopting the recommended conditions of approval. Please find these recommendations listed in Attachment 1. Attachment 2 contains DECCW's assessment of the proposal, including justification for the recommendations.

Should there be any other matters, or should the Department of Planning be in possession of any further information of interest to the DECCW associated with the proposed development, please contact the following:

- Mark Fisher (66402504) in relation to Biodiversity Conservation
- Nick Pulver (66598225) in relation to Aboriginal Cultural Heritage.

Yours sincerely

JON KEATS
Head, Biodiversity Management Unit North Coast
Environment Protection and Regulation Group



ATTACHMENT 1: Recommended Approval Conditions

The following themes have been reviewed from the Draft Statements of Commitment, Ecological Assessment, Flooding Assessment and the Vegetation Plan provided. Recommended approval conditions have been added based on DECCW's assessment of the proposal (Attachment 2).

1. Flora and Fauna

Amelioration recommendations in the Ecological Assessment (Appendix 15) have been reviewed to assess the extent to which they address DECCW's four main areas of concern relating to the proposal being;

- Impact on values of the adjacent SEPP 14 Wetland
- Threatened Species Conservation
- Impact on Freshwater Wetland and Lowland Rainforest Endangered Ecological Community (EEC)
- Impact on the Regional Corridor for native fauna

In order to appropriately address these matters, DECCW recommends the following approval conditions:

SEPP 14 Wetland

1. Prior to the commencement of any works, the applicant must demonstrate that the quality and quantity of stormwater to be dispersed into the SEPP 14 Wetland and associated EECs and 7a land from the development will improve or maintain the natural hydrological regime.
2. The allotment design is to be modified to include a minimum 50 metre vegetated buffer area free of any infrastructure to protect the mapped SEPP 14 Wetlands.
3. A responsible party for the monitoring and reporting of the implementation of the Vegetation Management Plan and progress for 5 years, including ongoing weed control works, is to be identified and reported to the Department of Planning prior to commencement of any works on the site.
4. A responsible party in perpetuity for the management, monitoring and reporting of stormwater retention basins, artificial wetlands and associated design works is to be identified and reported to the Department of Planning prior to commencement of any works on the site.

Threatened Species

1. The keeping of cats (with the exception of assistance animals, as defined under the *Commonwealth Disability Discrimination Act 1992*) within the site is prohibited and all residential lots are to be encumbered to this effect with a Section 88B instrument under the *Conveyancing Act 1919*.

Endangered Ecological Communities

1. The allotment design is to be modified to avoid impacting on the identified EECs within the site by the removal or relocation of the 20 allotments adjacent to the central drainage line.
2. The allotment design is to be modified to allow for access points other than the currently proposed Broadwater Parkway route, to avoid impacts on the Freshwater EEC and the SEPP 14 Wetland.

3. The allotment design is to be modified to include a 50 metre vegetated buffer area free of any infrastructure to protect the mapped Freshwater Wetland and Rainforest EECs.

Regional Corridor for native fauna

1. The route and design of the Broadwater Parkway is to be modified to avoid impacting on the identified EECs within the proposal and beyond.

2. Heritage and Archaeology

1. The applicant must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.
2. In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the object(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. The proponent will consult with the Aboriginal community representatives the archaeologist and DECCW to develop and implement management strategies for all objects/sites.
3. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact DECCW's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until DECCW provide written notification to the proponent.
4. All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and DECCW. All sites impacted must have a DECCW Aboriginal Site Impact Recording (ASIR) form completed and submitted to DECCW AHIMS unit within three (3) months of completion of these works.
5. An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community.

3. Stormwater

1. A detailed stormwater management plan (SWMP) for the construction and operational phases of the project must be prepared by a suitably qualified person as per specifications detailed by LANDCOM Soil and Construction guidelines for managing urban stormwater (2004).
2. Water Sensitive Urban Design (WSUD) measures must be positioned away from identified natural conservation and biodiversity values such as EECs, SEPP lands, threatened species and outside of core riparian areas and vegetated

buffers as per DECCW's "Managing Urban Stormwater: Urban Design – Consultation Draft, October 2007".

3. The SWMP must provide detailed modelling and amelioration strategies to ensure the project will not increase the quantity or pollutant load of stormwater discharged from the site.
4. The SWMP must be submitted to the Department of Planning for approval.
5. Subject to the SWMP being approved, it must be implemented prior to the commencement of any other activities on the site.
6. A responsible party in perpetuity to maintain and monitor stormwater and sediment mitigation works is to be identified and reported to the Department of Planning prior to the commencement of any works onsite.

ATTACHMENT 2 – DECCW'S ASSESSMENT OF THE PROPOSAL AND JUSTIFICATION FOR RECOMMENDED CONDITIONS OF APPROVAL

1. Flora and Fauna

DECCW has reviewed the documentation provided and recommends additional conditions of approval listed in attachment 1 to ameliorate the perceived impacts on the values listed below.

SEPP 14 Wetlands

- It is standard mitigation practice for developments that potentially impact on identified biodiversity values of an area to include a vegetated buffer. DECCW has previously recommended a vegetated buffer of 50 metres in such circumstances. For this particular proposal, the primary role of the vegetated buffer would be to adequately protect the SEPP14 Wetland, Freshwater Wetland and Floodplain Rainforest EEC from modification and stormwater runoff. It is noted that a 100 metre buffer is proposed, however, it is clear that this buffer incorporates WSUD strategies, the Broadwater Parkway road easement and a transmission line easement. For this reason DECCW maintains its recommendation for a 50 metre vegetated buffer free of all infrastructure. The proponent should be required to demonstrate that the proposed width of the buffer is adequate for this purpose.
- Predation by domestic animals within the SEPP 14 Wetland is likely to occur without mitigation strategies. The inclusion of an appropriate vegetated buffer as an ecological mitigation boundary is the best means available to limit access and protect endemic flora and fauna urban impacts.
- Stormwater runoff and associated urban pollutants have the potential to impact on the quality and quantity of water within the SEPP 14 Wetland.

Threatened Species

- DECCW records and research indicate a number of threatened species inhabit the surrounding area, specifically Comb-crested Jacana, Mitchell Rainforest Snail, Swamp fox glove, Acacia Bakeri, Osprey, Koala, Black-necked Stork, Grey Headed Flying Fox and potentially the Grass Owl. These species could be indirectly affected by the proposal.
- These impacts largely pertain to remnant vegetation clearing, wandering domestic pets and stormwater discharges to the adjoining SEPP 14 Wetland. Retaining remnant vegetation and placing a covenant on the estate in regards to cats is the best practice to protect endemic native species and associated habitat.

Endangered Ecological Communities

- It is standard mitigation practice for developments that potentially impact on identified biodiversity values of an area to include a vegetated buffer. DECCW has previously recommended a vegetated buffer of 50 metres in such circumstances. For this particular proposal the primary role of the vegetated buffer would be to adequately protect the Freshwater Wetland and Lowland Rainforest EEC from modification and stormwater runoff. For this reason DECCW maintains its recommendation for a 50 metre vegetated buffer free of

all infrastructure. The proponent should be required to demonstrate that the proposed width of the buffer is adequate for this purpose.

- DECCW's preference is to maximise the protection of identified EECs regardless of condition. It is noted that the proposal intends to remove 59.51% of the Lowland Rainforest and 44.91% of the Freshwater Wetland occurring on the site. DECCW does not support this approach given the biodiversity value of these ecosystems and that these areas can be avoided with allotment redesign. In the event that the removal of any EEC is permitted, DECC recommends that an appropriate offset (for example of 1:10 ratio) be required either within the site or in close proximity to the site.
- DECCW does not support the inclusion of WSUD measures within the mapped area of the Freshwater EEC given its status and value. It is also inconsistent with DECCW stormwater guidelines. An allotment modification around the central drainage line would alleviate the impact on the Freshwater and Lowland Rainforest EECs, allow for better drainage, provide more recreational access and avoid rubbish dumping over fences.

Regional Corridor for native fauna

- It is understood that the proposed Broadwater Parkway is to be created solely for the purpose of providing access to the development. However, DECCW believes the impacts for nature conservation within the development site and more widely in the region with the extension of this road are potentially significant. DECCW recommends that other options for access should be explored to avoid the impact on the identified Regional Corridor.

2. Heritage and Archaeology

DECCW acknowledges that the Aboriginal cultural heritage assessment has been undertaken in accordance with the appropriate DECCW cultural heritage assessment guidelines and consultation requirements.

The importance of protecting Aboriginal cultural heritage is reflected in the provisions of the *National Parks and Wildlife Act 1974* (NPW Act). It should be noted that the requirements of the NPW Act have recently been amended. It is strongly recommended that the proponent reviews, and is familiar with, the new requirements during the development and any subsequent assessment/development works processes.

3. Stormwater

The proposed stormwater management strategies have the potential to affect water dependent communities specifically by mitigating surface runoff (storage in basins during dry seasons, concentrating flows during wet events) and/or by polluting them through sedimentation and urban pollutants.

DECCW deems the appropriate design and ongoing management of stormwater systems imperative for the long term health of water dependant ecological communities.