



Office of
Environment
& Heritage

Our Ref: DOC18/230897

Your Ref: Email dated 11 April 2018

Mr Anthony Witherdin
Director, Modification Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Ms Emma Butcher, Planning Officer

Dear Mr Witherdin

Re: Altitude Aspire Residential Subdivision (MP 09_0166 MOD 3), Terranora Tweed LGA

Thank you for your email dated 11 April 2018 about the Altitude Aspire Residential Subdivision (MP 09_0166 MOD 3) at Terranora in the Tweed Local Government Area seeking comments from the Office of Environment and Heritage (OEH) on the proposed modification. I appreciate the opportunity to provide input.

We have reviewed the documents supplied and advise that, although we have no issues to raise about NPWS estate, natural hazards or historic heritage, several issues are apparent with the assessments for biodiversity and Aboriginal cultural heritage. These are discussed in detail in **Attachment 1** to this letter.

The main issues identified with the proposal arise from the proposed bulk earthworks on the adjoining Lot 1 DP 175234 No. 93 Parkes Lane, Terranora as there has been no Aboriginal cultural heritage assessment and associated consultation with the Aboriginal community for this site, and the environmental assessment appears to be inadequate.

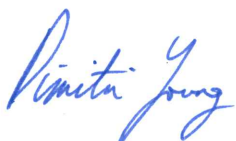
In summary, the OEH recommends that the Department of Planning and Environment (DPE) should:

1. Consider the validity of assessing the proposed works as a Part 3A modification, given the proposal involves works on an adjoining land parcel that was not subject to the original approval.
2. If DPE decides that the works can be assessed as part of a Part 3A modification, then it should require the proponent to:
 - a. Update the ecological assessment to accord with the Framework for Biodiversity Assessment for impacts to biodiversity arising from the modification, including the Lowland Rainforest endangered ecological community and the threatened flora species rough-shelled bushnut (*Macadamia tetraphylla*), which have been recorded in the area subject to the proposal.

- b. Review its Aboriginal cultural heritage assessment in line with the proposed works to ensure it includes all areas of potential impact and has been undertaken in accordance with the appropriate OEH Aboriginal cultural heritage assessment guidelines and consultation requirements, as mapping associated with the draft *Tweed Shire Council Aboriginal Cultural Heritage Management Plan 2017* identifies part of the area subject to the proposal as predicted to contain Aboriginal cultural heritage.

If you have any further questions about this issue, Ms Rachel Lonie, Senior Conservation Planning Officer, Regional Operations, OEH, can be contacted on 6650 7130 or at staff.member@environment.nsw.gov.au.

Yours sincerely

 30 April 2018

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Regional Operations

Contact officer: RACHEL LONIE
6650 7130

Enclosure: Attachment 1. Detailed OEH Comments – Altitude Aspire Residential Subdivision (MP 09_0166 MOD 3)

Attachment 1: Detailed OEH Comments – Altitude Aspire Residential Subdivision (MP 09_0166 MOD 3)

1. Description of the proposal

The subject site is Lot 144 DP 1233026, Fraser Drive Terranora. The modification to the Part 3A Major Project involves the following:

- Revised Acoustic Report to reflect current lot numbering
- Amended Structural Systems Plan
- Increase in the extent of bulk earthworks in Lot 1 DP 175234 No. 93 Parkes Lane
- Amended design of the central drainage corridor
- Construction of a roundabout at the intersection of Parkes Lane (Road 10), Townsend Crescent (Road 12) and the future Road 15 to the west into Lot 1 DP 175234
- Amendments to the subdivision lot layout to incorporate the proposed roundabout and to accommodate the approved roundabout at the intersection of Parkes Lane (Road 10) and Market Pde (Road 2)
- Revision of the proposed staging.

The bulk earthworks are proposed to extend onto the adjoining property Lot 1 DP 175234 No. 93 Parkes Lane. There is no development application or existing approval for subdivision or bulk earthworks for Lot 1 DP 175234 on the Tweed Shire Council's DA tracker. It is not clear how approval for this component of the works can be given as this area was not part of the original Part 3A consent.

Recommendation

The OEH recommends:

1. The Department of Planning and Environment considers the validity of assessing the proposed works as a Part 3A modification, given the proposal involves works on an adjoining land parcel that was not subject to the original approval.

2. Biodiversity

The Modification Report by DAC Planning Pty Ltd (February 2018) states that the bulk earthworks on Lot 1 DP 175234 will require the removal of a single rough-shelled bushnut (*Macadamia tetraphylla*) specimen and proposes it be either translocated or offset onsite. *Macadamia tetraphylla* is listed as a vulnerable species under both the *Biodiversity Conservation Act 2016* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

There are numerous records for this species south of the site in vegetation communities mapped as camphor laurel dominated closed to open forest, sub-tropical / warm temperate rainforest and regrowth rainforest as mapped in the Tweed Shire Council vegetation mapping (2012). The presence of this individual is therefore likely to be as a regrowth plant rather than one that has been planted.

Although there is no current development application for Lot 1 DP 175234, an ecological assessment has been undertaken by Burchills (August 2017) for a proposed future subdivision. This assessment provides some conflicting advice about impacts on the bushnut. The executive summary states that the bushnut will not be impacted by the proposed development, but elsewhere the report states the bushnut will be relocated to a protected area nearby under an approved translocation plan.

There is no assessment of the proposal's impacts on this threatened species under the Framework for Biodiversity Assessment (FBA). The OEH therefore considers the impacts on this threatened plant have not been adequately assessed.

The ecological assessment by Burchills also maps the vegetation on Lot 1 DP 175234 in the area to be impacted by the bulk earthworks as Type A Tall Closed Forest (*Cinnamomum camphora*). The community is described as being dominated by camphor laurel as a canopy species with a mixed mid-storey of rainforest regrowth and exotic weeds.

The species list in Table 5.4 of the Burchills report indicates some species are present that are consistent with the *Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions* endangered ecological community (EEC). The Burchills report also notes the community includes rainforest regrowth.

There is no assessment of the proposal's impacts on this EEC under the FBA. The OEH therefore considers the impacts on this EEC have not been adequately assessed. Impacts on both *Macadamia tetraphylla* and the EEC should also be considered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and may require a separate approval, noting the *Lowland Rainforest of Subtropical Australia* is a critically endangered ecological community under the EPBC Act.

The OEH also notes the Altitude Central development planned for Lot 1 DP 175234 will be required to be assessed under the *Biodiversity Conservation Act 2016* and a Biodiversity Development Assessment Report (BDAR) will need to be prepared by an accredited assessor for that development.

Recommendation

The OEH recommends:

2. The ecological assessment be updated to accord with the Framework for Biodiversity Assessment for impacts to biodiversity arising from the modification, including the Lowland Rainforest endangered ecological community and the threatened flora species rough-shelled bushnut (*Macadamia tetraphylla*), which have been recorded in the area subject to the modification.

3. Aboriginal cultural heritage

The OEH notes the proposed modification intends to increase the extent of bulk earthworks in Lot 1 DP 175234 No. 93 Parkes Lane, amend the design of the central drainage corridor and construct a roundabout at the intersection of Parkes Lane (Road 10), Townsend Crescent (Road 12) and the future Road 15 to the west into Lot 1 DP 175234. These changes have the potential in directly or indirectly impact on Aboriginal cultural heritage values.

The OEH recommends the proponent reviews its Aboriginal cultural heritage assessment in line with the proposed modification works to ensure it includes all areas of potential impact and has been undertaken in accordance with the appropriate OEH Aboriginal cultural heritage assessment guidelines and consultation requirements.

The OEH also notes the proposed modification intersects lands identified in the draft *Tweed Shire Council Aboriginal Cultural Heritage Management Plan 2017* (see Figure 1 below). The OEH recommends the proponent reviews, and consider the recommendations of this management plan during the current assessment of the proposed modification works.

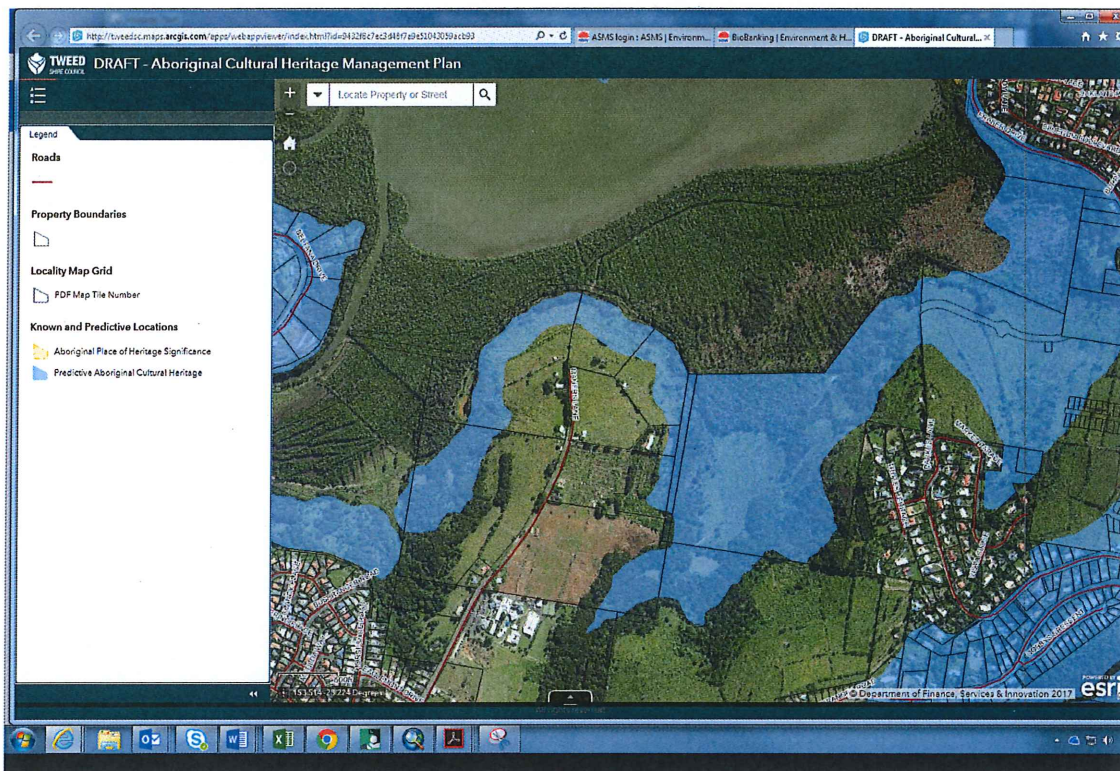


Figure 1. Extract from Tweed Shire Council draft Aboriginal Cultural Heritage mapping

Recommendations

In summary, the OEH recommends that the DPE requires the proponent to:

3. Review the Aboriginal cultural heritage assessment in line with the proposed modification works to ensure it includes all areas of potential impact and has been undertaken in accordance with the appropriate OEH Aboriginal cultural heritage assessment guidelines and consultation requirements, as the draft *Tweed Shire Council Aboriginal Cultural Heritage Management Plan 2017* identifies part of the area subject to the proposed modification as predicted to contain Aboriginal cultural heritage.

