PLANNERS NORTH

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4rd June 2013
Our reference: 1292-420

The Director General
Department of Planning and Infrastructure,
GPO Box 39
Sydney NSW
2001

Attn - Mr Brent Devine

Dear Sir,

Re: Comments with respect to Submission 17 concerning MPI0_0I03 -Settlers Ridge Residential Subdivision and BioBanking Proposal.

Further to recent discussions with your Mr Brent Devine, we are pleased to provide comments in response to Submission 17 concerning MP10_0103 as an addendum to our Preferred Project Report (PPR) dated May 2013.

Firstly, we observe that the writer of anonymous Submission 17 has considerable background information in relation to the subject land. That material is comprehensively set out in the following sections of his submission:

1. BACKGROUND ECOLOGICAL INFORMATION

1.1 Previous Studies

1.2 Significant' Previous Results

2.0 REVIEW OF BIODIVERSITY ASSESSMENT REPORT (PARKER 2012)

2.1 Adequacy of Survey

2.2 Prediction of Species Occurrence

2.3 BioBanking Assessment

2.4 BioBanking Proposal

Despite the author's extensive understanding of the physical environment of the locality, we respectfully submit that the comments made in the abovementioned sections of Submission 17 are not simply relevant to the subject Application. This is because the proposal is being dealt with by way of the BioBanking Methodology which establishes its own survey, prediction and credit computation methodology. Attached is an advice from Mr Peter Parker who provides specific comments and sets out examples of where the author of Submission 17 is incorrect. One example Mr Parker cites is in relation to threatened species. Mr Parker advises that *"the threatened species, except the brush-tailed phascogale and the square tailed kite, listed in the submission are included in the* (BioBank Methodology*) calculator as "default" species which are likely to be affected by the proposal. The recording of additional threatened species would not alter the number of credits required to be retired. Similarly, the recording of greater densities of threatened species would also not alter the results of the calculations."*

As you will be aware the BioBank Assessor can turn off some or all of these default threatened species if they are considered by the Assessor as unlikely to occur at the site. This will reduce the ecosystem credits required to be retired. However, Mr Parker elected to retain all of these species and provided a list of those retained in the PPR. Thus, he adopted a precautionary approach which included the need to retire credits for the koala which does not appear to occur historically at the site.

At Section 2.0 REVIEW OF ENVIRONMENTAL ASSESSMENT (Connelly 2012), subsection 2.1 entitled Erroneous Information, the author of Submission 17 says:

"The primary concern with the Environmental Assessment (EA) is erroneous information provided in regards to the BioBanking Assessment.

Under section 4.9.2 OEH Policy on p47, the EA states that the proposal falls under Tier 3 of the OEH interim policy. However, in section 5.9 on p82, it states that "the proposed development has adopted the Tier 1 criteria". The latter is in line with the conclusion of the Biodiversity Assessment (Parker 2012)."

This objection is simply wrong. Section 4.9.2 of the Environmental Assessment describes the Office of Environment & Heritage policy. It does not in any way purport that this Application is made on the basis of a Tier 3 "*mitigated net loss*" approach. The Settlers Ridge proposal is lodged as a Tier 1 proposal to achieve the *"maintain or enhance"* standard. This is the standard that robustly addresses the Principles of Ecological Sustainable Development and the objectives of the *Threatened Species Conservation Act* 1995,

Submission 17 at 3.0 RECOMMENDATIONS, subsection 3.1 entitled Revisal of BioBanking Offset Calculations, calls for a comprehensive list of species, which as discussed above is simply not appropriate for a BioBank assessment. This section also seeks *"objective data of hollow-bearing tree abundance".* This comment again demonstrates the author's lack of understanding of BioBanking. The Methodology includes prescriptive requirements for hollow-bearing tree work in Appendix 2. The submission also raises *"edge effects"* as a concern. These too are scientifically dealt with in the Methodology where credits are required to be retired for areas adjacent to the development footprint e.g. Asset Protection Zones.

At Section 3.2 entitled Cumulative Impact on Threatened Species Population Viability in Western South West Rocks: Need for Offset Areas to be Secured in the Western Remnant, Submission 17 provides adverse commentary in relation to the offsets to be secured in the Western remnant . Please be advised that the Applicant has chosen to use BioBanking to avoid exactly this type of debate which inevitably arise over environmental offsets and the assessment of the impacts of a development proposal. Put simply, BioBanking scientifically and transparently deals with all of the anticipated impacts of a proposal and provides an outcome which improves or maintains a sites biodiversity values.

At Section 3.3 of the objector seeks the removal of the Western Distributor road reserve from the proposal. This request has been accepted and that road is now deleted from the project.

In the same section the author says *"A lack of informed planning from the 1987 Local Environmental Plan* (Sic) *to the recent Mid North Coast Growth Strategy* (Sic) *has unfortunately designated much of this now effectively isolated remnant, with regionally if not State significant conservation values to threatened species, as eligible for future development. This is despite the incremental and cumulative progression to Key Threatening Processes and the decline of biodiversity despite legislative and policy objectives to the contrary."* This submission is of course at odds with the very recent exhibition of the Draft Kempsey Local Environmental Plan 2012 which retains the existing rural at the rear and residential in the east zoning of the site. It also ignores the support given by Council and the Department to Gateway Planning Proposals for the development of other areas slated for residential release in the Mid North Coast Regional Strategy.

We reject the suggestion *that "The subject proposal proposes to offset its required habitat loss via BioBanking. Unless currently largely cleared land is restored to suitable habitat, this will <u>still</u> result in a net loss and hence a contribution to the processes responsible for the decline of the subject species".* The proposal is founded on the concept of Tier 1 compliance with the BioBanking Methodology. Under this Methodology, there is a guarantee (by statute) of no net loss in biodiversity in the area.

We are pleased to see the observation by Submission 17 that "*the permanent reservation of the western half of the subject land could set a beneficial planning precedent via defining the southwestern limit of urban development in southwest rocks. This has demonstrable benefits to maintaining and protecting remaining habitat*

in the southwest." The Preferred Project submission in fact proposes much greater preservation of land for BioBanking- now in the order of 73 %.

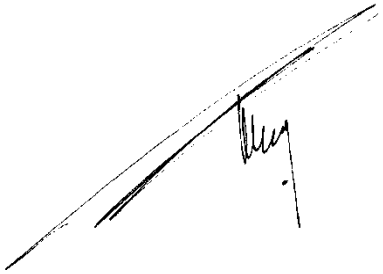
We also thank the anonymous author of Submission 17 in relation to his submission opining that the retention of area in the Western part of the site *"has significant ESD benefits as mentioned above in terms of securing more refugia to support viable populations in the isolated remnant, but could also initiate the progressive securement of the remaining remnant for Biobanking rather than allowing it become the focus of development proposals subject to extreme community conflict and legal challenges".*

We further agree with the comment that "*Establishment of a large BioBank site in this remnant could be used as a model to other adjoining landowners as a means to obtain a profitable return on this highly constrained land, rather than become embroiled in a prolonged and uncertain development proposal." In a nutshell, we* submit that the Preferred Project Proposal illustrates a best practice example of balancing the competing interests- allowing for the orderly planned settlement of South West Rocks, but maintaining the biodiversity of the locality for future generations.

Should the Department require any additional information in which to clarify any matter raised by this response to Submission 17, please feel free to contact the writer at any time.

Yours faithfully,

PLANNERS NORTH



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3 June 2013

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Dear Steve:

South West Rocks Submission No. 17

Further to your recent request, I provide a response to submission number 17 for the Settlers Ridge Project at South West Rocks.

Submission No 17 demonstrates that the author, while appearing to be familiar with the site and the South West Rocks environs, knows little about BioBanking and the way the BioBank calculator calculates threatened species loss, habitat fragmentation, loss of corridor function and survey effort, including hollow-bearing tree measurement.

Matters in the first seven pages of the submission (up to section 2.0) are irrelevant as they are specifically dealt with in the BioBanking Methodology (the "Methodology"). For example, the threatened species, except the brush-tailed phascogale and the square tailed kite, listed in the submission are included in the calculator as "default" species which are likely to be affected by the proposal. The recording of additional threatened species would not alter the number of credits required to be retired. Similarly, the recording of greater densities of threatened species would also not alter the results of the calculations.

In my recent response to the DoPI, I referred to the fact that the BioBank assessor can turn off some or all of these default threatened species if they are considered by the Assessor as unlikely to occur at the site. This will reduce the ecosystem credits required to be retired. However, I elected to retain all of these species and provided a list of those retained in my response. Thus, I adopted a precautionary approach which included the need to retire credits for the koala which does not appear to occur historically at the site.

The Methodology includes an analysis for each species' ability to withstand disturbance; known as the Tg value. The Tg value is modified by the OEH as more knowledge is obtained about individual species and can be modified by the Assessor with appropriate justification (e.g., recent published articles). It follows that the species less able to withstand disturbance are those which drive up ecosystem credits (i.e., those with the lowest Tg values). In the South West Rocks context, neither the squirrel glider nor the brush-tailed phascogale are species which drive the majority of ecosystem credits. This species is the masked owl with the lowest Tg vale of 0.33, whereas the brush-tailed phascogale has a Tg value of 0.5.

The submission makes a number of recommendations at section 3, the first of which includes a revision of the BioBank calculations. While new calculations have been undertaken for a reduced development footprint, the comment again demonstrates the author's lack of understanding of BioBanking. For example, the submission calls for objective data of hollow-bearing trees. The Methodology includes this in Appendix 2 which is the best practice for measuring condition attributes currently available. The submission also raises edge effects which are also scientifically dealt with in the Methodology where credits are required to be retired for areas adjacent to the development footprint e.g., asset protection zones.

The Applicant has chosen to use BioBanking to avoid these drawn out debates which inevitably arise over environmental offsets and the assessment of the impacts of a development proposal. BioBanking scientifically and transparently

deals with all of the anticipated impacts of a proposal and provides an outcome which improves or maintains a sites biodiversity values.

Should you require any further information, please do not hesitate to contact me on 6685 3148 or email peterp@mullum.com.au.

Yours sincerely,