

Kylie Rourke - 9710 0535
File Ref: PAD14/0083

13 October 2014



Matt Crews
Bluestone Capital Ventures N1 Unit Trust
Suite1 Level 6
71 Macquarie St
SYDNEY NSW 2000

By email: mcrews@bluestonegroup.com.au

Dear Mr Crews,

RE: Pre-Application Discussion regarding foreshore landscape works at 461-471 Captain Cook Drive, Woollooware.

Council refers to the pre-application meeting (PAD) held on 25 September 2014 regarding the above development proposal. Michael Hornery (Acting Team Leader), Kylie Rourke (Development Assessment Planner), Beth Noel (Environmental Scientist) and Barbara Buchanan (Landscape Architect) attended the meeting on behalf of Council. Matt Crews & Adam Lucas (Bluestone), Julia Proud (AT& L) Beth Medway (Ecological) and Joel Munz (Aspect) attended on behalf of the applicant. The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you should you proceed with preparing a development application (DA). Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

The Site

The has an extensive history, most significantly, the approval of a Concept Plan (MP10_0229) by the Planning Assessment Commission (PAC) on 27 August 2012. The Concept Plan includes a mixed use development comprising residential, leisure and retail components. An indicative landscape design for the site was included as part of the Concept approval.

The area to which the PAD relates is the foreshore area contained within the setback of the residential component (lot 20 DP529644) and the stadium component (lot 2 DP1180482) of the Concept Plan development. The works area also includes the tidal creek running into Woollooware Bay located between the residential and stadium components. The foreshore landscape works adjacent to the retail component and the works on "the hill" within the stadium component did not form part of this discussion.

Proposal

A Preliminary Landscape Design, prepared by Aspect Studios, was provided to Council for consideration. The proposed works are contained primarily in land zoned under Sutherland Shire Local Environmental Plan 2006 (LEP 2006), being zone 15 - *Private Recreation*, with a small strip adjacent to the wetland to the north zoned 14 - *Public Open Space (Bushland)*.

Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that the provisions of any Environmental Planning Instrument do not have effect to the extent to which they are inconsistent with the terms of the approval of a Concept Plan. On this basis, the proposed land uses are permissible subject to the compliance with the Cronulla Sharks Concept Plan approval.

Comments on the Proposal

The following comments are provided in respect to the concept plans presented for consideration at the meeting.

1. Concept Plan

As per Schedule 6A of the EP&A Act, the development must be consistent with any development standard within the terms of the Concept Plan approval and generally consistent with the terms of approval for the Concept Plan. Relevant to the landscape works, various conditions of consent were imposed under the Concept Approval which relate to public domain and landscape requirements and ecological considerations. The Ecological Commitments contained in Schedule 5 of the Concept Approval are also relevant to the landscape works. These commitments include:

- the submission of a VMP for the foreshore riparian buffer areas
- the use of local provenance species
- use of species characteristic of the Swamp Oak Floodplain Forest
- the addressing of light spill impacts.
- site specific management plans should the Large-footed Motis be present

Council will require that any future landscape design demonstrates consistency with the Concept Plan requirements, whilst incorporating the specific recommendations of the various ecological reports prepared for the site. Council was advised during the discussion that Ecological had been consulted as part of the development of the preliminary landscape design.

It is acknowledged that Condition 22 of the Concept Plan has presented challenges for both the applicant and for Council at the detailed design phase of previous applications for the residential stages. Preliminary discussions with the OEH to ensure that the landscape design and documentation addresses this condition as far as is practicable is recommended and evidence of those discussions is to be submitted with the DA.

2. Land Owners Consent

The extent of the application appears to extend beyond the property boundary and onto land in the ownership of Sutherland Shire Council. Owner's consent would be required to lodge the DA if the DA is to include development on this land. Council's Properties Services Unit (97100487) can be contacted to discuss this matter.

3. Fisheries NSW

Fisheries NSW (Fisheries) has raised concerns about the inconsistency of the proposed works with the proposal considered by Fisheries under the Concept Plan, particularly the large scale removal of Mangroves to accommodate the proposed foreshore paths and the drainage channel works. Increased sedimentation into the adjoining aquatic reserve was raised as a potential impact of Mangrove removal in the channel.

Fisheries previously provided a number of recommendations to the (now) Department of Planning and Environment (DoPE) in response to the Concept Plan proposal. These requirements are reflected in Condition 21 of the Concept Approval and must be addressed as part of the DA.

Preliminary feedback from Fisheries regarding the proposal is summarised below:

- The drainage channel is mapped as key fish habitat, and therefore any excavation proposed within the banks of the channel would require a s.201 permit to dredge under the Fisheries Management Act 1994.
- The harming or removal of Mangroves within Woollooware Bay would require a permit to harm marine vegetation under s.205 of the Fisheries Management Act 1994.

The requirement for a s.201 and/or a s.205 permit would also trigger the Integrated Development requirements under s.91 of the EP&A Act. The proposed works would also trigger the need for a referral to Fisheries under s.197C&D of the Fisheries Management Act 1994 given the proximity of the works to the adjoining aquatic reserve. Council recommends that preliminary discussions with Fisheries are commenced prior to the submission of the DA. Such discussions should address the above and discuss the necessary approvals and lodgement requirements. Evidence of those discussions is to be submitted with the DA.

4. Tree Plantings

New tree planting should provide a strong visual framework for the residential towers as well as shelter from the wind and summer sun, and reinforce the key functions of the riparian buffer. To achieve this, the design should provide additional planting of indigenous canopy trees along the water course, adjacent to the stadium and over the picnic and play areas. The implementation of shade structures to picnic and play areas, until such time as the new trees can provide adequate shade, is recommended.

Council's experience with *Casuarina glauca* species is that their root systems can damage surfaces within playgrounds, and therefore they should be avoided close to playground spaces. It is recommended that the tree species within the playground area be restricted to *Banksia integrifolia* (Coast Banksia), *Banksia serrata* (Old Man Banksia), *Elaeocarpus reticulatus* (Blueberry Ash) and *Cupaniopsis anarcioides*

(Tuckeroo). If plantings of *Ficus rubiginosa* are included in the playground they must be planted in Strata Tree Cells by Arborgreen or equivalent.

Council also recommends the following be incorporated into the landscape design:

- *Ficus rubiginosa* be planted on either side of the water channel on the NE corner of the residential area and NW corner of the stadium.
- *Casuarina glauca* (Swamp Oak), *Melaleuca linarifolia* and *M. stypheloides* be planted on the lower levels of the park, near the mangroves.
- *Eucalyptus botryoides*, *E. robusta* and *Angophora costata* be planted in clumps with view corridors between shall be planted on the banks north of the residential area.

As suggested in the meeting, all plant pot sizes are not required to be super-advanced (100-200L). Smaller indigenous plants (5-25L) will develop quickly, are cost effective and provide the advantage of being more resilient to the site conditions once mature. Given the site is within a Greenweb 'support' zone, it is important that plants are grown from locally sourced seed, consistent with the Concept Plan Ecological Commitments.

Greater use of indigenous species from the Estuarine Swamp Oak Forest on the lower ground adjacent to the Mangroves, or Coastal Flats Swamp Mahogany Forest vegetation communities on the higher ground respectively is recommended. It is acknowledged that the plant list is proposed to be amended as per the Ecologist's recommendations.

5. Pathways & Structures

A number of structures, including paths, picnic facilities and playground equipment are located within the foreshore riparian buffer. The proposed Mangrove boardwalk appears to be situated on land currently occupied by Mangroves and crosses onto land owned by Sutherland Shire Council.

One of the key features that a vegetated riparian buffer provides is the management of stormwater discharge and surface flows, which can have critical implications on a wetland and the biodiversity of a waterway. As reflected in the DoPI planning report dated June 2012, approval of these structures within the buffer zone was recommended on the basis that:

"provision of boardwalks and structures such as bio-swales within the riparian corridor is supported where they do not negatively impact upon the function of the riparian corridor"

Council will therefore only support the location of structures in the buffer zone where the above can be demonstrated. To achieve this, structures within the riparian zone should be minimised to the greatest extent practical. The area of hard paving should be reduced to improve permeability and green space, for example, the gravel area around the picnic area (No. 16 Dwg DA A1-04) could be replaced by grass. It is recommended a visual hierarchy of paving be introduced, for example, the path through the playground and ramp could be of a different material in more muted tones than the main paths in order that they read as secondary paths.

With regard to pathway design, the proposed bicycle path should ensure compliance with Austroads Guidelines - *Cycling Aspects of Austroads Guides*. An appropriate width for shared pathways in high use areas, such as is likely with the subject development, will be a minimum of 4m. Council's Traffic Engineer, Mark Chigwidden (97100130), can provide further guidance on the recommended design.

6. Operational Considerations

Council's experience with synthetic softfall material is that it will quickly degrade when exposed to mulch or sand material. It is unclear whether the softfall material proposed in the playground is in part synthetic (item 8 on Dwg. 11017). Council recommends against using this combination of materials.

Further detail is required on the groundcover proposed in the space titled "playground turf area". Considering the objective of the riparian buffer zone, natural plantings are encouraged.

The sand proposed in the waterplay facility may present challenges due to the potential for sand to block the water filter and pump mechanisms. In addition, the maintenance of hygiene for sand materials is intensive and an item of concern regularly raised with Council by the public. The introduction of an alternative material in this space, such as smooth rocks, is recommended. Council also recommends the use of potable water for the waterplay facility.

An additional BBQ could be provided to the westernmost picnic area, and bubblers be should be introduced to the picnic spaces.

Signposting should be provided indicating rules and regulations, and importantly, contact information for the site manager. Council suggests future signage reflects the general formatting of signage used in Council's public spaces to enable ease of identification for users. Council's Parks Project Officer, Karen Marshall (97100201), can provide further guidance on this matter.

A Management Plan must be submitted to Council. It should include the following details:

- Waste management, including garbage collection, and rubbish build up in the picnic areas and drainage canal.
- Signage.
- Complaints handling procedures, recording and follow up actions.
- Safety and security measures i.e. a regular inspection and maintenance schedule.
- Methods of management of Mangrove propagule from upstream Mangroves.
- Playground operating hours (if restricted), and management of specific user groups such as personal trainers and fitness groups.

7. Light Spill & Crime Prevention

An approach which balances the ecological requirements to minimise light spill, and the need to provide effective lighting in accordance with Crime Prevention Through Urban Design (CPTED) principles will form an important element of the application for the works. The design should rely upon the recommendations of the light spill studies.

Comments of the NSW Police will assist Council in its assessment of safety and security measures.

8. Stormwater and Flooding

Providing Fisheries supports the proposed drainage channel treatment, the drainage channel contours would need to be altered to ensure an appropriate environment for the proposed saltmarsh plantings. At present the channel is permanently inundated and this will not provide the ideal environment for saltmarsh species. The environmental impact of the regrading of the channel would need to be carefully considered, and would be subject to an assessment by Fisheries. To ensure the ongoing function of the stormwater channel, the landscape design should ensure that the end of the main channel is provided directly out to the bay, with no obstructions.

Previous reports to Council have indicated flood evacuation routes located in the foreshore area. Detail on such flood evacuation routes are to be detailed with the DA. The impact of the altered drainage treatment on upstream riparian vegetation should also be investigated and addressed.

9. Contamination

Extensive investigative studies have been undertaken as part of the previous applications, however the study area for these surveys does not cover the location of the landscape works. To address State Environmental Planning Policy No. 55 - Remediation of Land, and condition 20 of the Concept Plan, a Site Assessment, Acid Sulfate Management Plan and Remedial Works Plan should be submitted with the DA.

Conclusion

The premise of the scheme is generally sound, however further development of the proposal to address the matters raised would provide an improved outcome for the future residents of the development and the locality. It should be noted that some of the more formal aspects of the design, such as the playground, picnic area and picnic facilities are neither requirements of the Concept Approval or of Council. A less formal and more natural foreshore landscaped space could be provided. This would be more consistent with the existing foreshore landscaping and cycleway/walkway along the immediate western side of the bay.

The site adjoins an area of high environmental significance and is within a Greenweb support area, it is therefore critical that a sensible balance between the concept plan commitments, environmental performance of the site, aesthetic considerations, and functionality is achieved.

The proposal is likely to require permits under the Fisheries Management Act 1994, and trigger the Integrated Development provisions of the EP&A Act. The development may present challenges in achieving Fisheries NSW requirements. Council encourages you meeting with Fisheries NSW and the OEH to discuss and resolve relevant aspects of the proposal prior to the submission of the DA.

Council should be contacted as soon as practical to discuss land owners consent, if the application is to include works on any Council land.

Although the works are substantially within private land, the proposed facilities could be frequently used by the general public. The DA must clearly address how the ongoing operation and maintenance of the facilities will be managed to ensure a high standard of safety and functionality for all future users. A detailed Management Plan and signage will assist in providing additional clarity.

Further detail on the removal of mangroves and restoration of the drainage channel is required to ensure a balance is achieved between the channel functionality and environmental impacts.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided.

Yours faithfully

Chris Greig
Manager – Coast Assessment Team
for J W Rayner
General Manager