



Office of Environment & Heritage

Our Ref: DOC16/64414
Your Ref: SM5709(5709_303.docx)

Mr Scott Marchant
Director
King and Campbell
PO Box 243
Port Macquarie NSW 2444

Dear Mr Marchant

Re: Proposed Modification of Concept Approval 06_0085. 1350 Ocean Drive Bonny Hills for St Vincent's Foundation Pty Ltd

Thank you for your letter dated 3 February 2016 and your e-mail of 5 April 2016 about the Proposed Modification to Concept Approval 06_0085 at Bonny Hills. I appreciate the opportunity to provide input and thank you for making the time to attend a site inspection with your consultant planner, your consultant ecologist and representatives of the Office of Environment and Heritage (OEH) on 30 March 2016.

The OEH has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats), Aboriginal and historic heritage, National Parks and Wildlife Service estate, flooding, Acid sulfate soils and estuary management. Matters relating to noise, air and water quality and any licensing requirements under the *Protection of the Environment Operations Act 1997* are the responsibility of the Environment Protection Authority (EPA) which is no longer part of the OEH.

We have reviewed the documents supplied and although we have no concerns about NPWS estate, Aboriginal cultural heritage, flooding, historic heritage or acid sulfate soils, a number of issues are apparent with respect to the assessments for biodiversity. These issues are discussed in detail in **Attachment 1** to this letter.


In summary, the OEH recommends that prior to lodging modification proposal:

1. The vegetated buffer area north of the identified *Swamp Oak Floodplain Forest Endangered Ecological Community* (SOFF EEC) should meet or exceed the minimum 25 metre vegetated buffer requirement and the buffer should be established and managed in accordance with an approved vegetation management plan;
2. The revegetated buffer to the SEPP 26 Littoral Rainforest, adjacent Lot 5 DP 25886, should extend to the eastern edge of the approved rising main easement and be established and managed in accordance with an approved vegetation management plan.

3. The northern, eastern and southern boundaries of the southern school site should be adjusted to widen the regeneration and rehabilitation area and thereby provide for a 100 metre wide vegetated buffer between the southern school site and the adjacent existing development.
4. The regeneration area between the southern school site and the district sporting fields should be fenced off and bush regeneration procedures be implemented in accordance with an approved vegetation management plan.
5. In regard to the vegetated regeneration area on Crown Land Reserve R754444, the condition should be refined to relate specifically to the area likely to be impacted by the proposed development.

If you have any further questions about this issue, Mr Clyde Treadwell, Conservation Planning Officer, on 6659 8288, or via email clyde.treadwell@environment.nsw.gov.au. Please note that Clyde works Tuesday, to Friday each week.

Yours sincerely

 7 April 2016

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

Contact officer: CLYDE TREADWELL
6659 8288

Enclosure: Detailed OEH Comments – Proposed Modification to Concept Approval 06_0085 Bonny Hills.

Attachment 1: Detailed OEH Comments – Proposed Modification to Concept Approval 06_0085 Bonny Hills

The Proposal

This concept approval applies to Lot 1 DP 1193553, Lots 1, 2, 3, & 4 DP 1150758 and Lot 5 DP 25886, being land located at 1350 Ocean Drive, Bonny Hills.

The OEH notes that whilst some of the conditions proposed to be modified are of an administrative nature, others relate to the interface between the proposed development footprint and the proposed environmental management lands. The OEH notes that proposed modifications as provided have been informed by a review of the historical environmental assessments relating to this and adjoining projects, an updated ecological assessment carried out by Mr Jason Berrigan of NatureCall, a Soil Profile Assessment undertaken by Regional Geotechnical Solutions Pty Ltd and consultation with the Port Macquarie Hastings Council.

Officers representing the OEH attended a site inspection with the Project Manager for the landowner, a consultant planner and consultant ecologist on 30 March 2016.

This site inspection has helped to clarify some of the issues involved in the modification sought.

The proposed modification provides discussion with respect to the following:

1. Background Information;
2. Concept Approval Condition B2;
3. Concept Approval Condition B3;
4. Concept Approval Condition B6; and
5. Concept Approval Condition C1(23).

1. Background Information;

The proposal forms an integral part of Port Macquarie Hasting Council's urban growth management strategy. The majority of the land has been zoned for residential purposes since 1984 and is currently zoned partly R1 General Residential and partly RU1 Primary Production under LEP 2011. There has been environmental investigation, planning assessment and on ground regeneration and rehabilitation work undertaken with respect to the land.

Following is a summary of the work which relates to the subject land and the concept approval:

- A regeneration and rehabilitation program has been established and is being implemented. This work includes extensive weeding carried out and the planting of approximately 100,000 plants, including 10,000 koala food trees. This work has also extended to weeding and rehabilitation of parts of the adjoining Crown Reserve;
- Both the Concept Approval MP 06_0085 and the Project Approval MP 07_0001 establish the future land uses on the site as well as the nature of the central corridor and beach access to Rainbow Beach;
- The Rainbow Beach Central Corridor Planning Agreement has been entered into with suggested amendments to the agreement currently being considered by the council.
- The Lake Cathie Primary School has been established under DA 2013/491;
- The detailed design and documentation of Wallum Drive has been prepared in accordance with DA 2013/358. The required construction approval applications are currently being assessed by the council.

Following is a brief summary of the work which relates to the subject land;

- The detailed design and documentation of the central corridor works has been prepared in accordance with Project Approval MP 07-0001, being the site excavation and fill operation, the establishment of the major stormwater management facilities required for the development, the filling of the district sporting fields, as well as the establishment of landscaping works such as children's play areas, link bridges and walkways, cycleway and picnic areas.
- Construction approval applications are currently being assessed by the council.
- DA 2014/751 has been approved, providing for the placement of temporary stockpiles of fill on the land to assist with bringing forward the construction of the district sporting fields;
- Planning provisions relating to the rezoning of the land and the development of the proposed Village Centre are continuing to be worked on with council staff; and
- The preparation of a development application for the subdivision of the land (village centre and urban areas) to provide for areas of open space and environmental management lands, the Rainbow Beach Village Centre and approximately 970 new dwellings is well advanced.

The work outlined above required detailed of consideration with respect to the development of the land. The proposed modification has been informed by this work together with updated specialist sub-consultant investigations and consultation with the council.

OEH Comment:

The OEH notes this background information.

2. Concept Approval Condition B2:

This condition states:

Condition B2 - *'All residential areas (as identified in the concept plan) adjacent to the identified Swamp Oak Endangered Ecological Community in the north-eastern portion of the subject site are required to have a minimum biodiversity enrichment/fully vegetated buffer of 25 metres as shown in Schedule 3. Note: road reserves and APZs must not be included as part of these buffer areas. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 8 – 10 of the Environmental Land Use Management Plan.'*

A review of the extent of the *Swamp Oak Floodplain Forest Endangered Ecological Community* (SOFF EEC) was carried out, including a soil profile assessment to assist with defining the extent of the SOFF EEC. A subsequent assessment by NatureCall advises that the limit of the alluvial soil profile can be considered to be the extent of the SOFF EEC.

The proposed modification seeks to:

- a) remove some vegetation for the development area and southern road link.
- b) delete the proposed northern road link across the eastern creek area
- c) provide a 25 metre wide buffer from the vegetation as illustrated in Plan I from the Concept Approval.

OEH Comment:

The Eastern Creek Environmental Management Principles Plan prepared illustrates:

- *There is no northern link road as required by Condition B7 of the concept approval*
- *The dimensions available to provide for a fully vegetated buffer between the SOFF EEC and the development layout is a minimum of 25m as required by Condition B2;*
- *The buffer is proposed to be planted with species recommended by NatureCall.*

The OEH agrees with the revised extent of the Swamp Oak Floodplain Forest EEC (SOFF EEC) as depicted by the orange broken line on the Eastern Creek Environmental Management Principles Plan (Revision D dated 07.2015).

The extent of the SOFF EEC should include all characteristic vegetation on both the floodplain (i.e. defined by the 1:100 ARI) and areas associated with the floodplain (i.e. adjacent areas with alluvial soil that drain onto the floodplain). However, the original additional assessment undertaken by NatureCall relating to the extent of the SOFF EEC does not provide any justification for reducing the width of the vegetated buffer below the existing minimum required width of 25 metres as stated in Condition B2. This matter was further discussed on site and the OEH subsequently received an email which identified an amended buffer.

The proposed vegetated buffer shown on revision E, dated 05.04.2016, of drawing number 5709_VMP Base for Freehand Drawing Sheet 01 to the SOFF EEC meets or exceeds the minimum 25 metre vegetated buffer requirement. The OEH supports the proposal to meet the vegetated buffer of at least 25 metres adjacent the SOFF EEC. The establishment and long-term management of this vegetation should be documented in a vegetation management plan approved by the consent authority.

Recommendation

The OEH recommends that the vegetated buffer north of the identified SOFF EEC meets or exceeds the minimum 25 metre vegetated buffer requirement and the buffer be established and managed in accordance with an approved vegetation management plan.

3. Concept Approval Condition B3:

This condition states:

Condition B3 - *'The cleared pasture area on Lot 5 DP 25886 situated between the residential area of the concept plan and the Crown land reserve to the east identified as R754444 is required to have a minimum biodiversity enrichment/fully vegetated buffer of 50 metres as shown on the amended Principles Plan at Plan II. The biodiversity enrichment/fully vegetated buffer is to be revegetated in accordance with ELUC 17 – 18 of the Environmental Land Use Management Plan*

The proposed modification seeks to reduce the width of the vegetated buffer below 50m.

OEH Comment:

Justification for the reduction in the 50 metre buffer is required. The OEH notes that the modification sought is to increase the development area of Lot 5 by some 0.44 hectares, meaning that the proposed revegetation area of Lot 5 will now be 1.45 hectares.

It is acknowledged that a recent approval for services from adjacent development will traverse Lot 5 and create an edge to the development area. It is our understanding, from discussions with Port

Macquarie Hastings Council, that it is the council's policy to keep easements clear of vegetation to enable access for maintenance and repairs and because vegetation can impact the integrity of the services within the easement. It is therefore unlikely that the easement (with a width of 5.03 metres) can become vegetated as part of the buffer as required by Condition B3 of the Concept Approval.

The OEH is generally unsupportive of any proposed reduction in buffer widths, particularly buffers to protect sensitive coastal areas with high conservation values and regional corridor functions.

However, given that an easement for an approved rising main will prevent effective revegetation of a linear strip close to the western edge of the 50 metre buffer, the OEH agrees that any revegetation west of the rising main easement would be very narrow and would provide minimal added protection to biodiversity values on and adjacent to the subject land. The establishment and long-term management of this vegetation should be documented in a vegetation management plan approved by the consent authority.

Recommendation

The OEH recommends that the revegetated buffer to the SEPP 26 Littoral Rainforest, adjacent Lot 5 DP 25886, should extend to the eastern edge of the approved rising main easement and be established and managed in accordance with an approved vegetation management plan.

4. Concept Approval Condition B6:

This condition states:

Condition B6 - *'The concept plan and principles plan provided with the PPR is to be amended to make provision for the identified Eastern Chestnut Mouse habitat on Lot 5 DP 25886 as recorded in Appendix 6 of the Environmental Assessment. This area is to be collectively fenced off, re-vegetated by way of Coastal Sands Forest Regeneration (as per the Environmental Land Use Management Plan) and the total area regenerated and managed appropriately for these species in perpetuity to maximise the potential viability of this small population. This excluded area must be fenced off and incorporated into the central corridor as shown in the amended Principles Plan II.'*

The proposed modification seeks to increase the development area of Lot 5 by some 0.44 hectares, resulting in the proposed revegetation area of Lot 5 being reduced to 1.45 hectares.

OEH Comment:

*The OEH attended a site inspection to assist in making an informed assessment of the modification sought. On the basis of this inspection we advise that it is likely from the condition of the site in this location (Lot 5 DP 25886) that the Eastern Chestnut Mouse (*Pseudomys gracilicaudatus*) (ECM) is locally extinct and unlikely to recolonise given the lack of suitable habitat.*

In regard to the findings of the 2015 Nature Call assessment, the OEH supports the proposed amendment to these conditions as long as a vegetated buffer with a width of 100m is established between the southern school site and the adjacent existing development and appropriately fenced. The establishment and long-term management of this vegetation should be documented in a vegetation management plan approved by the consent authority.

Recommendations

- 1. The northern, eastern and southern boundaries of the southern school site should be adjusted to widen the regeneration and rehabilitation area and thereby provide for a 100 metre wide vegetated buffer between the southern school site and the adjacent existing development;*

2. *The regeneration area between the southern school site and district sporting fields should be fenced off and bush regeneration procedures be implemented in accordance with an approved vegetation management plan;*

5. Concept Approval Condition C1 (23):

This condition states:

Condition C1(23) - *'Prior to lodgement of any development application for residential subdivision, the proponent must prepare and implement a vegetation management plan for the Crown land reserve to the east identified as R754444 to the satisfaction of Council. The plan must demonstrate:*

- a) the establishment of a 'vegetated regeneration area';*
- b) removal of all weed species and retention of all native vegetation within the vegetated regeneration area';*
- c) replanting of endemic rainforest species within vegetated regeneration area;*
- d) erection of temporary fencing;*
- e) erection of fencing enclosing regeneration area."*

Given that the Crown Reserve extends for several kilometres, the proposed modification seeks to limit the implementation of the vegetation management plan to areas adjacent to the existing beach access pathway.

OEH Comment:

The OEH notes this information and makes the observation that the condition requires a vegetation management plan to be prepared and implemented to "the satisfaction of Council" for R754444. This condition needs to be refined to relate specifically to the area likely to be impacted by the proposed development, that is, the area adjacent either side of the beach access pathway, near the identified SEPP 26 Littoral Rainforest. The OEH considers that the statutory obligations required under SEPP 26 would need to be satisfied by the council. If the council wishes to seek advice directly from the OEH on this matter, then we would be happy to provide a response.

The OEH supports the proposed amendment to this condition.

