

Response to Submissions

Section 75w Modification of
Concept Approval MP 06_0085
Rainbow Beach Estate

Lot 1 DP 1193553 (part of former Lot 1232 DP 1142133),
Lots 1, 2, 3 and 4 DP 1150758 and Lot 5 DP 25886,
Ocean Drive, Lake Cathie

Prepared for:

St Vincent's Foundation Pty Ltd

Prepared by:

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September 2016

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- Attachment 2 – Name withheld, Bonny Hills
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Section 1

Introduction

This Response to Submissions Report ('report') has been prepared on behalf of St Vincent's Foundation Pty Ltd following the public exhibition of a Section 75W Modification Application for Concept Approval MP 06_0085.

The Section 75W Modification Application was lodged in May 2016. The purpose of the application was to ensure consistency with the future Development Application for subdivision of the subject lands and to provide certainty with respect to the management of any environmental impact. The Section 75W Modification Application was placed on public exhibition and a total of 7 submissions were received, including submissions from State Government agencies, Port Macquarie Hastings Council, the Bonny Hill Progress Association and one (1) individual member of the local community whose name was withheld.

This report provides a response, in table format, to the issues raised during the public exhibition period.

Section 2

Response to Submissions

Author	Issues / Requirements	Comments
2.1 Department of Primary Industries	The Department has confirmed that no further comments will be made at this time.	Noted
2.2 Name withheld, Bonny Hills	<ul style="list-style-type: none"> - concern expressed with future care of areas set aside for public recreation - maintenance of existing open space is deplorable - proactive measures (spraying etc) are not taken - the proposal includes large areas of reserve that will become weed infested if not maintained - the applicant should make provision for maintenance into the future. 	<p>Concept Approval MP 06_0085 delineates future land uses within the 177.4Ha site, including the extent of the environmental land. In this regard, the Concept Approval identified approximately 88Ha of future environmental lands including the Central Corridor (includes the District Sporting Fields), the Pocket Woodland, the Eastern Creek and the Lot 5 environmental land.</p> <p>The approval of the environmental lands was supported by a detailed <i>Open Space Management Strategy</i> (Cardno 2010) that set out the required establishment and ongoing management regime for the environmental lands. This strategy was thoroughly considered and assessed during the Concept Approval and Project Approval process.</p> <p>To ensure that the agreed <i>Open Space Management Strategy</i> is implemented as part of the development, Statement of Commitment 4 of Concept Approval MP 06_0085 notes that the land owner will enter in to a Voluntary Planning Agreement with Port Macquarie-Hastings Council with respect to the establishment, management and dedication of the environmental land known as the Central Corridor. This agreement has been entered in to and requires the land owner to manage the environmental land for a period of 20 years before the land is dedicated to Council.</p> <p>Also in accordance with Statement of Commitment 4 of Concept Approval MP 06_0085, the land owner has offered to enter in to a Voluntary Planning Agreement with Port Macquarie-Hastings Council with respect to the establishment, management and dedication of the Pocket Woodland,</p>

Author	Issues / Requirements	Comments
		<p>Eastern Creek and Lot 5 environmental land. The offer includes the same terms as the above existing agreement with respect to the management of the environmental land by the owner for a period of 20 years before dedication.</p> <p>On this basis it is submitted that the future care and maintenance of the public open space areas has been thoroughly considered and documented. In addition, it is noted that the proposed modifications to the Concept Approval do not seek to remove any of the obligations of the land owner with respect to the establishment and management of the environmental land.</p>
2.3 Bonny Hills Progress Association	<ul style="list-style-type: none"> - many concerns allayed given involvement of ecologist and acceptance by council - however, maintaining ecological integrity in the long-term and issue of monitoring and compliance needs to be assured. 	<p>Conditions C20 and C21 of the Concept Approval relate to the integrity and monitoring of biodiversity matters. The conditions read as follows:</p> <p><i>C20 Prior to the commencement of works, or as otherwise determined by the Director-General, an appropriate Management Plan which clearly documents how identified habitats for the Wallum froglet, Common Planigale, Eastern Chestnut Mouse and Swamp Oak EEC will be managed and monitored in perpetuity must be prepared by a suitably qualified person/s and approved by the Director-General.</i></p> <p><i>C21 An Annual Flora and Fauna Monitoring Report must be prepared on an annual basis from the date of commencement of construction of the central corridor until completion of the project or as otherwise determined by the relevant consent authority. This Annual Flora and Fauna Monitoring Report shall include but not be limited to:</i></p> <ol style="list-style-type: none"> <i>1) The aims, objectives and methodology for the report;</i> <i>2) Baseline monitoring data focusing on existing populations of threatened species, including identified habitats for the Wallum froglet, Common Planigale, Eastern Chestnut Mouse and Swamp Oak EEC;</i> <i>3) Monitoring requirements for compensatory habitat works including:</i> <ol style="list-style-type: none"> <i>a) the monitoring of the condition of species and ecological communities at offset locations;</i>

Author	Issues / Requirements	Comments
		<p>b) the methodology for the program(s), including the number and location of offset; c) monitoring sites, and the sampling frequency at these sites; and d) provisions for the annual reporting of the monitoring results to the consent authority responsible.</p> <p>The proposed modification does not seek to amend these conditions.</p> <p>Accordingly it is submitted that the Concept Approval provides for the long term ecological integrity of the land as well as ensuring that appropriate monitoring and reporting is carried out.</p>
2.4 Port Macquarie Hastings Council	Confirmed that their support of the 75W submission is included in their letter of 21 December, 2015, included at Attachment 03 to the submission.	Noted.
2.5 North Coast Local Land Service	A formal submission has not been made.	Noted.
2.6 Office of Environment and Heritage	<p>Confirmed their prior consultation with the proponents representative and that the following matters were identified for attention as part of the 75W submission:</p> <ol style="list-style-type: none"> 1. That the vegetated buffer to the SOFF EEC should meet or exceed 25m and be managed in accordance with an approved VMP; 2. That the vegetated buffer to SEPP 26 should extend to the eastern edge of the approved rising main easement 	<p>We confirm our attendance on-site with representatives from the Department and that the matters identified in their submission have been resolved within the 75W submission, as set out below:</p> <ol style="list-style-type: none"> 1. The Eastern Creek Environmental Management Principles Plan (Attachment 09 to the 75W submission) illustrates the agreed extent of the SOFF EEC and a minimum biodiversity enrichment/fully vegetated buffer width of 25 metres; 2. The Lot 5 Environmental Management Principles Plan (Attachment 10 to the 75W submission) illustrates the extent of the vegetated buffer to SEPP 26, where the buffer extends to the eastern edge of the approved rising main easement;

Author	Issues / Requirements	Comments
	<p>and be managed in accordance with an approved VMP;</p> <p>3. That the northern, eastern and southern boundaries of the southern school site should be adjusted to widen the vegetated buffer to 100m;</p> <p>4. That the revegetation area between the southern school site and sporting fields should be fenced off and implemented in accordance with an approved VMP;</p> <p>5. That the vegetated regeneration area with the Crown Reserve be conditioned to relate specifically to the area likely to be impacted.</p> <p>In conclusion the OEH confirms that the above pre-lodgement advice has been incorporated into the 75W submission.</p>	<p>3. The 75W submission includes the recommendation of OEH that the vegetated buffer to the Southern School Site be widened to 100m;</p> <p>4. The current extent of the Southern School Site is fenced off. It is intended to move this fence to match the proposed extent of the Southern School Site;</p> <p>5. The 75W submission includes the recommendation of OEH that Condition C1(23) of the Concept Approval be amended to specify the land area limits of the VMP.</p>
2.7 NSW Rural Fire Service	No concerns raised with respect to the 75W submission to Conditions B2, B3, B6 and C1(23).	Noted.

Section 3

Conclusion

This Report has been prepared on behalf of St Vincent's Foundation Pty Ltd following the public exhibition of a Section 75W Modification Application for Concept Approval MP 06_0085.

A total of 7 submissions were received, including submissions from State Government agencies, Port Macquarie Hastings Council, the Bonny Hills Progress Association and one (1) individual member of the local community whose name was withheld.

The proposed modifications included in the 75W submission have been supported by the NSW Office of Environment and Heritage and Port Macquarie-Hastings Council, however, matters regarding the long term maintenance and monitoring of the proposed environmental lands have been raised by the Bonny Hills Progress Association and one (1) individual.

Section 2 to this Report has addressed the issues raised and has confirmed that the on-going monitoring and management of the environmental lands will be assured through the implementation of the existing approvals, management strategies and agreements.



Department of Primary Industries

OUT16/30625

Ms Evelyn Craigie
Industry Assessments
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Evelyn.craigie@planning.nsw.gov.au

Dear Ms Craigie

**DPI response to request for comment on proposed Modification to
Rainbow Beach Estate (MP 06_0085 MOD 1)**

I refer to your email dated 2 August 2016 to the Department of Primary Industries (DPI) in respect to the above matter. Comment has been sought from relevant divisions of DPI. Views were also sought from NSW Department of Industry - Lands that is now a division of the broader Department and no longer within NSW DPI.

The Department has no further comments at this time.

Any further referrals to DPI can be sent by email to landuse.enquiries@dpi.nsw.gov.au.

Yours sincerely

Rebekah Gomez-Fort
A/Director, Planning Policy & Assessment Advice
17 August 2016

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(Name withheld) , of Bonny Hills NSW, made the following submission on the project:

MP 06_0085 MOD 1

Comments on this project

As I live in an already completed part of the Rainbow Beach Estate, I am concerned about the future care of the areas set aside for public recreation/viewing etc. I reside adjacent to the lake system with a public reserve between my dwelling and the lake. I have resided at this address since 2009 and when I first moved in the reserve was maintained by an employee of the St Vincent Foundation and the area was kept immaculate.

A short time later the Port Macquarie Hastings council took over the maintenance of and the results are deplorable to say the least. The work crew from the council only comes when the grass is knee high, they mow it with a large commercial mower which leaves ugly amounts of cut grass all over the place. The garden areas are hardly maintained and the weeds have overtaken these areas.

I have spoken to the workers and they inform me that they cannot come more often because their workload is beyond their capability and they are constantly falling behind.

There are no proactive measures taken such as weed spraying edging etc. After rain the pathways hold so much water, that for days that it is difficult to walk on them.

The reason for my submission is that I have seen the plans for the proposed further subdivision and have noted the areas set down for reserves etc and I cannot believe that they will be maintained properly and will become weed infested and overgrown, like the existing reserve.

If these areas are to be provided by the applicant, provision should be made to ensure that they are maintained into the future.



Bonny Hills Progress Association INC.

PO Box 44
Bonny Hills 2445
bhpa@bonnyhills.org.au

Planning Services
Department of Planning and Environment
GPO Box 39
Sydney
NSW 2001

Attention – Acting Director Modification Assessments

**RE: Modification Request Rainbow Beach Estate, MP 06_0085 MOD 1
Ocean Drive Bonny Hills, (Lot 5 DP 25886)**

Dear Sir/Madam

Thank you for providing us with an extension of time to provide a submission on this application.

We note that the modifications applied for regarding the development have been attended by a report from a highly regarded Ecologist and have been 'signed off' by Port Macquarie Hastings Council and the Office of Environment and Heritage. As such many of our concerns are allayed.

This leaves the issue of monitoring and compliance with such a long term (the words "in perpetuity" are used in the application) objective of maintaining ecological integrity with rare species involved. There is no description that would give us faith in how this is to be achieved, even in the short term. Assurances in this regard would be very much appreciated.

Thank you for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. J. Hafey".

Phil Hafey
Secretary
23 August 2016

Good afternoon Leanne and Evelyn,

I would like to confirm that Port Macquarie-Hastings Council will not be making a submission on this modification application. Our advice in support of the modification, dated 21 December 2015, is included at Attachment 3 of the proponent's application.

Regards,

Steve Schwartz
Strategic Planner, Development & Environment

Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444
(02) 6581 8632

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Hello Evelyn

No we will not, the due date has passed and frankly when I went to look at the documentation for the proposal , I had no idea where to even start , as I wasn't the one who had previously commented it is all new to me, and my work priorities don't allow me to spend days ploughing through all the material .
I apologise for not advising you of this.

Lindy Brown | Team Leader Land Services
North Coast Local Land Services

On 29 August 2016 at 09:27, Evelyn.Craigie@planning.nsw.gov.au
<Evelyn.Craigie@planning.nsw.gov.au> wrote:

Hi Lindy,

Will LLS be making a submission on Rainbow Beach MOD 1?

Regards,

Evelyn



Office of
Environment
& Heritage

Our Ref: DOC16/385002
Your Ref: MP 06_0085 MOD 1

Ms Kate McDonald – Team Leader – Industry Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Ms Evelyn Craigie – Planning Officer

Dear Ms McDonald

Re: Modification Request for Rainbow Beach Estate, Ocean Drive Bonny Hills MP 06_0085 MOD 1. (Port Macquarie – Hastings LGA)

Thank you for your letter dated 2 August 2016 about the Modification request for Rainbow Beach Estate seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

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 and estuary management.

In February 2016 the OEH was approached by consultants on behalf of the landowner of the Rainbow Beach Estate seeking pre-lodgement advice on a modification proposal. The OEH reviewed the documents, liaised with the consultants, carried out a site inspection and issued advice in regard to the matter (copy attached).

In summary, in February 2016, the OEH recommended that, prior to lodging the modification proposal, the consultants should address the following matters:

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 to 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.

After reviewing the documentation provided on the Department of Planning and Environment (DPE) website as part of the current public exhibition of the Modification request, it appears that the OEH's pre-lodgement modification advice has been incorporated into the current documents and they accord with the requirements previously specified by the OEH.

The OEH would welcome the opportunity to provide further input to the vegetation management plan when it is lodged with the DPE for review and endorsement.

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

Yours sincerely



11 August 2016

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

Contact officer: CLYDE TREADWELL
6659 8288



NSW RURAL FIRE SERVICE



Director General
Dept. Of Planning - Urban
GPO Box 239
Sydney NSW 2000

Your reference MP 06_0085 MOD 1
Our reference D16/2541
DA16080903236 WS

Attention: Evelyn Craigie

26 August 2016

Dear Madam

Part 3A Development for Notification Of Modification Request For Rainbow Beach Estate, Ocean Drive, Bonny Hills

I refer to your letter dated 2 August 2016 seeking key issue and assessment requirements regarding bush fire protection for the above Part 3A Development in accordance with section 75F (4) of the 'Environmental Planning and Assessment Act 1979'.

The following key issue and assessment requirements regarding bush fire protection shall be included in the Director-Generals environmental assessment requirements:

1. All future development within the site shall comply with the requirements of 'Planning for Bush Fire Protection'.

General note;

The RFS raises no concerns with the modification of Conditions B2, B3, B6 and C1(23).

Postal address

NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
Planning & Environmental Services
(North)
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

T (02) 6691 0400

F (02) 6691 0499

www.rfs.nsw.gov.au

Email: pes@rfs.nsw.gov.au

For any queries regarding this correspondence please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Wayne Sketchley', with a large, stylized 'W' and 'S'.

Team Leader, Development Assessment & Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.