

## Geoffrey Hill

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**From:** Bevan Crofts <Bevan.Crofts@pmhc.nsw.gov.au>  
**Sent:** Thursday, 18 August 2016 4:11 PM  
**To:** Geoffrey Hill  
**Cc:** kate.macdonald@planning.nsw.gov.au; Dan Croft; David Troemel  
**Subject:** FW: 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Geoff,

Unhappily, due to the wording of condition E(4)(4) it appears a modification is the fastest option. Could you please coordinate with Kate Macdonald to have such a modification approved.

Thanks,

**Bevan Crofts**  
**Development Engineer**

Port Macquarie-Hastings Council  
Ph: (02) 6581 8050

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**From:** KATE.MACDONALD@PLANNING.NSW.GOV.AU [mailto:KATE.MACDONALD@PLANNING.NSW.GOV.AU]  
**Sent:** Thursday, 18 August 2016 1:04 PM  
**To:** Bevan Crofts  
**Cc:** Chris.Ritchie@planning.nsw.gov.au  
**Subject:** RE: 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

Hi Bevan,

Thanks for your email. The Department is supportive of the covenant being to the satisfaction of Council, however, the wording of Condition E4 4(e) would need to be modified to specify the covenant will be to Council's benefit as there may be issues with the registration of the Subdivision Certificates if this does not occur (the Minister would still have to be identified as the party with the benefit of the easement even if the OEH advised Council it was happy with the wording of the covenant).

It would be a very minor modification and could be resolved in a short timeframe.

Kind regards,

Kate

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**From:** Bevan Crofts [mailto:Bevan.Crofts@pmhc.nsw.gov.au]  
**Sent:** Thursday, 18 August 2016 11:38 AM  
**To:** Kate MacDonald <KATE.MACDONALD@PLANNING.NSW.GOV.AU>  
**Cc:** Kate Masters <Kate.Masters@planning.nsw.gov.au>  
**Subject:** FW: 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

Hi Kate,

Please see below email trail in relation to Part 3A Approval MP06\_0212

Can I assist in any way in relation to moving this forward?

Thanks,

**Bevan Crofts**  
**Development Engineer**

Port Macquarie-Hastings Council  
Ph: (02) 6581 8050

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**From:** Bevan Crofts  
**Sent:** Thursday, 4 August 2016 12:09 PM  
**To:** Kate Masters  
**Cc:** David Troemel  
**Subject:** TRIM: FW: 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

Hi Kate,

As discussed in relation to River Park SANCROX ('Le Clos Verdun') the relevant condition of the (latest modified) Part 3A approval is:

**E4 Registration of Easements / Restrictions to use / Right of carriageway**

- (4) The following is to be included in the Section 88B Instrument to accompany the final plan of subdivision. Apart from point e. below, the restrictions are to be worded to the satisfaction of Port Macquarie-Hastings Council and Council is to be listed as the sole party to vary or extinguish the restrictions.
- e. A positive covenant is to be created over all the 7(h) Environmental Protection – Habitat zoned land under the Hastings Local Environmental Plan 2001 along Haydons Creek and the Bloodwood Open Forest on **Lots 158 – 159**. The covenant is to be in favour of the Minister for Environment and Climate Change and Water and be worded to the satisfaction of the **Office of Environment and Heritage** so as to secure the long-term management of the vegetation contained on the land.

See email trail below for OEH agreement that PMHC would ideally be the authority benefitted by the covenant. Because the change is outside of the control of the developer, and also the intent of the condition is achieved (ensuring environmental outcomes are reinforced), can we avoid a modification to the Part 3A consent? For example by interpreting the words 'to the satisfaction of the OEH' to have been achieved by agreement with OEH.

Kind regards,

**Bevan Crofts**  
**Development Engineer**

Port Macquarie-Hastings Council  
Ph: (02) 6581 8050

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**From:** Steve Lewer [<mailto:Steve.Lewer@environment.nsw.gov.au>]  
**Sent:** Thursday, 4 August 2016 7:27 AM  
**To:** Bevan Crofts  
**Subject:** RE: 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

Bevan

As per recent telephone discussion, OEH have no objection to Council becoming the signatory to the 88B, given that in the 6+ years since providing our original advice (to Dept. of Planning) on this matter OEH's position on 88B covenants has changed (i.e. we no longer support them as mechanisms for long-term conservation of biodiversity offsets). As such we would support the change to the below condition as per your suggestion - i.e. to substitute from E4(4)(e) the words 'Minister for Environment and Climate Change and Water' and 'Office of Environment and Heritage' with the words 'Port Macquarie - Hastings Council'.

Furthermore, we support and recommend that you seek the Department of Planning and Environment's endorsement given that they were the consent authority for the original Part3A DA.

Any other queries please call or email.

Regards Steve

Steve Lewer  
Acting Senior Team Leader (Planning) – Hunter / Central Coast Region  
Hunter Central Coast Region  
Regional Operations Group  
Office of Environment and Heritage  
Level 4, 26 Honeysuckle Drive  
NEWCASTLE  
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T: 4927 3158  
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W: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

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**From:** Bevan Crofts [<mailto:Bevan.Crofts@pmhc.nsw.gov.au>]  
**Sent:** Wednesday, 3 August 2016 6:36 PM  
**To:** Steve Lewer <[Steve.Lewer@environment.nsw.gov.au](mailto:Steve.Lewer@environment.nsw.gov.au)>  
**Cc:** David Troemel <[David.Troemel@pmhc.nsw.gov.au](mailto:David.Troemel@pmhc.nsw.gov.au)>; Dan Croft <[Dan.Croft@pmhc.nsw.gov.au](mailto:Dan.Croft@pmhc.nsw.gov.au)>  
**Subject:** 13.2014.0965.03 - Verdun Dr SANCROX - OEH concurrence to PMHC as authority

Hi Steve,

Sorry about the delay on this matter. This email relates to the Community Title subdivision (our ref 13.2014.0965.03) known as River Park, Verdun Dr SANCROX NSW, and my previous emails attached for your reference.

The Part 3A consent includes this condition:

**E4 Registration of Easements / Restrictions to use / Right of carriageway**

- (4) The following is to be included in the Section 88B Instrument to accompany the final plan of subdivision. Apart from point e. below, the restrictions are to be worded to the satisfaction of Port Macquarie-Hastings Council and Council is to be listed as the sole party to vary or extinguish the restrictions.

- e. A positive covenant is to be created over all the 7(h) Environmental Protection – Habitat zoned land under the Hastings Local Environmental Plan 2001 along Haydons Creek and the Bloodwood Open Forest on **Lots 158 – 159**. The covenant is to be in favour of the Minister for Environment and Climate Change and Water and be worded to the satisfaction of the **Office of Environment and Heritage** so as to secure the long-term management of the vegetation contained on the land.

As discussed previously, Port Macquarie-Hastings Council (PMHC) and the Developer (Le Clos Pty Ltd and others) both believe that the appropriate authority to benefit from the covenant is PMHC, if this is satisfactory to the Office of Environment and Heritage (OEH). PMHC has a number of other environmental responsibilities in relation to the subdivision, including approval, supervision and enforcement of the Vegetation Management Plan, which will further uphold the appropriate environmental outcomes intended by the condition.

Would you please confirm whether OEH support that interpretation of the above condition (i.e. to substitute from E4(4)(e) the words 'Minister for Environment and Climate Change and Water' and 'Office of Environment and Heritage' with the words 'Port Macquarie - Hastings Council')?

If acceptable to OEH, PMHC intends to forward to the NSW Department of Planning and seek confirmation that the condition can be construed to read as such (without requiring formal modification to the Part 3 Approval) on the basis that the OEH have no objection to the change, and the intent of the condition is achieved.

If you require any further information please don't hesitate to call or email me.

Kind regards,

**Bevan Crofts**  
**Development Engineer**

Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444  
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**Connect with Council:**



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