



Office of
Environment
& Heritage

DOC16/559921-1

Ms Fiona Gibson
Planner, Modification Assessments
Department of Planning and Environment
fiona.gibson@planning.nsw.gov.au

Dear Ms Gibson

Request for comment on modification to Concept Approval for North Cooranbong residential development (MOD4 MP 07 0147)

I refer to your e-mail dated 3 November 2016 seeking comment and any recommended conditions for a modification to a concept approval for North Cooranbong residential development. It is understood that the proponent has requested that the route of a road is modified so that it now passes through Lot 12 DP 1158508, the 'Thomson' land, which is predominantly vegetated. OEH understands that the proponent is seeking to include this land to the existing approved concept plan.

I refer to our previous correspondence (DOC15/366191-2) of 28 September 2015 relating to the planning proposal for this site. It was noted that the area was not included in any offsetting agreement for the adjacent residential development concept plan and that impacts to biodiversity should be offset as they are additional to the original approval.

The Office of Environment and Heritage (OEH) understands that the road realignment through Lot 12 DP 1158508 lies outside the existing concept plan. The road will impact on 0.39 hectares of vegetated land and will lead to the removal of 11 Charmhaven Apple (*Angophora inopina*) and seven clumps of Black-eyed Susan (*Tetralochea juncea*). Both these species are listed as vulnerable under the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999*. The road will also sever the connectivity of the bushland to the north.

The loss of biodiversity (including threatened species) due to habitat degradation and loss, should be offset in accordance with the NSW Government offsetting policy. OEH recommends that the Department include an approval condition that ensures that a biodiversity offset is provided and that it is managed and secured in perpetuity. With respect to managing and securing a proposed offset in perpetuity, the following conservation mechanisms would provide an in perpetuity outcome:


- the establishment of BioBanking sites with BioBanking agreements under the TSC Act
- the dedication of land under the NPW Act
- a Conservation Agreement under the NPW Act
- a Trust Agreement under the *Nature Conservation Trust Act 2001*
- a Planning Agreement under s 93F of the EP&A Act.

Note:

- OEH preferred method of securing an offset is under the BioBanking provisions of the *Threatened Species Conservation Act 1995* (i.e. a registered BioBanking Agreement site).
- OEH no longer supports public positive covenant under s88E of the *Conveyancing Act 1919* as an appropriate conservation mechanism to secure and/or manage biodiversity offsets.
- Although OEH supports the use of conservation agreements under the NPW Act as one of the acceptable offsetting mechanisms, we are reviewing this approach and it is advisable that if you are considering this mechanism you contact OEH's Conservation Partners Program (ph: 9995 6761) about its applicability.

If you require any further information regarding this matter please contact Karen Thumm, Biodiversity Conservation Planning Officer, on 4927 3153.

Yours sincerely



11 NOV 2016

RICHARD BATH
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