



FM/MO
14574
31 July 2017

Carolyn McNally
Secretary
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Attention: Anthony Witherdin, Natasha Harras

Dear Anthony,

**MP10_0229 MOD 5 LANDSCAPING - WOOLLOOWARE BAY TOWN CENTRE
FURTHER RESPONSE TO SUBMISSIONS (RESPONSE #3)**

We write to you on behalf of Bluestone Capital Ventures No. 1 in response to the further submissions received in relation to the Response to Submissions (RtS) package for MP10_0229 (MOD 5) and to outline the final proposed modifications. This letter is accompanied by:

- Concept Landscape Masterplan prepared by Habit8 (**Attachment A**);
- Detailed Response to Submissions prepared by JBA (**Attachment B**);
- RMS Permission to Lodge (**Attachment C**).
- Registered Survey and RMS Approval (**Attachment D**)
- Engineering Advice – Stage 3 prepared by Calibre (**Attachment E**)
- Modifications to Conditions prepared by JBA (**Attachment F**)

There has been no changes to the modification submitted on 22 May 2017. A detailed response to all submissions received is provided at **Attachment B**. In preparing this response, the proponent has carefully considered all issues raised in coordination with expert ecological, engineering and landscaping advice. The final proposed landscape concept plans are as were submitted in the May 2017 submission, unless modifications are prescribed by a condition of approval and will be actioned in the subsequent Development Applications to the local determining authority.

1.0 BACKGROUND

The Section 75W Modification Application was exhibited between 1 December 2015 and 8 February 2016. Following this, a Response to Submissions Report, accompanied by an amended Landscape Concept Masterplan and Ecological Report, was publicly exhibited for a period of 42 days from 21 December 2016 through to 31 January 2017. Following exhibition of the proposal, no submissions were received from members of the general public and three (3) submissions were received from the following government agencies and Council:

- Department of Primary Industries (DPI);
- Office of Environment and Heritage (OEH); and
- Sutherland Shire Council (Council).

Both DPI and OEH objected to the proposed modifications, whilst Council expressed support. OEH and Council acknowledged that improvements had been made to the modification proposal, with Council making a number of additional recommendations for future planting and landscaping treatments.

The applicant arranged a meeting at the site on 31 March 2017 to enable the agencies that made submissions on the application to experience the existing conditions on the site. DPI, OEH and Council were invited to attend this meeting and it is noted that only DPI (Office of Water) chose to attend.

Following this site meeting, a further Response to Submissions and an amended Landscape Concept Masterplan was submitted to the Department of Planning and Environment on 22 May 2017. This amended concept modification responded to matters raised in agency submissions, and included the following improvements:

- Increased area of riparian planting.
- Reduced size of the turf area outside the residential precinct.
- Increased offset planting.
- Mangrove rehabilitation areas adjoining the riparian corridor, where the applicant commits to rehabilitation and maintenance of the mangroves in this area to the benefit of Towra Point Aquatic Reserve.

The amended landscaping scheme proposed with the May 2017 package was designed to protect and maintain the ecological value of Towra Point Aquatic Reserve whilst providing significant community benefit for future residents and the wider Sutherland community. In particular, the previous modification proposal sought to implement the principles of the NSW Office of Water *Guidelines for riparian corridors on waterfront land* ('the NOW Guidelines') by providing a significant amount of riparian planting as well as offset planting.

The mangrove rehabilitation area to the north of the MHWL is proposed following advice that the current high tide level is further to the north than what is currently mapped. As a result of this and following expert ecological advice provided by Ecological Australia, it is proposed to rehabilitate the area between the Mean High Water Mark and the line of the existing mangroves in order to re-establish the environmental benefits that vegetation in this area has for the overall biodiversity of Towra Point Aquatic Reserve. Rehabilitation will assist with the natural recolonisation of the mangroves and provide an improved ecological outcome than what currently exists on the site.

It is noted that the mangrove rehabilitation works will take place on land owned by Roads and Maritime Services (RMS). Capital Bluestone has obtained permission to lodge from RMS, which grants land owner's consent for the lodgement of the Section 75W modification and a subsequent DA that will include the rehabilitation works. A copy of this letter is provided at **Attachment E**.

Following exhibition of this amendment, additional submissions were received from DPI, OEH and Council. A detailed response to the matters is provided at **Attachment B**, whilst matters requiring further assessment are discussed at **Section 2** below.

2.0 KEY ISSUES

A number of the matters raised in the most recent submissions do not differ from previous submissions are responded to in detail at **Attachment B**. The following section discusses matters which have not been previously raised.

2.1 Mean High Water Mark

The Mean High Water Mark shown on the plans is mapped in accordance with the registered land titles survey which has been approved by Roads and Maritime Services. Where the bed of the water body is not Crown land or vested in another authority, approval is required from RMS. As a

result, RMS is responsible for administering all land below mean high watermark in Botany Bay, including Woollooware Bay.

The previous submission noted that due to sedimentation and other changes to the foreshore levels over time, tidal movements do not reflect the Mean High Water Mark that has approved by the RMS. As a result, the maximum rise of the tidal waters is further north into Woollooware Bay due to the modified level of the embankment. This modified level has not been shown on the plans.

Salt marsh will not survive below the Mean High Water Mark, and all salt marsh planting has been located above the Mean High Water Mark registered on the survey. In order to reinstate this natural level, mangrove rehabilitation works are proposed. Whilst this takes place on land owned by RMS, the overall ecological benefit is considered to outweigh any land ownership matters – particularly as RMS has granted permission to lodge.

It is agreed that the primary objective of riparian planting is to return saltmarsh to the site, however due to the difference between the modified high tide level and registered Mean High Water Mark, saltmarsh planting is proposed only above the registered Mean High Water Mark in anticipation of restoring this natural level. If saltmarsh planting were to be provided in the area that is currently above the high tide level (where mangrove rehabilitation planting is proposed), there is a risk that this saltmarsh would not survive once the registered Mean High Water Mark is restored.

Ecological Australia have provided ongoing advice about the optimal location for saltmarsh planting, and the proposed landscape concept plan seeks to maximise all possible areas where saltmarsh will survive balanced against the provision of recreation infrastructure to the benefit of the wider Woollooware community.

A copy of the survey and RMS approval is provided at **Attachment F** to clarify any discrepancies about the Mean High Water Mark.

2.2 Detailed Design

There are a number of matters which Council has requested form part of the Concept Approval. Capital Bluestone is committed to working with Council to ensure that the detailed design of the foreshore landscaping is to the satisfaction of Council and is willing to accept conditions on the Concept Plan that require Council's requests to be accommodated, as noted at **Attachment C**. The Diagram Plan at **Attachment A** has also been updated to clarify the width of the paths.

It is noted that DPI has also sought clarification about the proposed sheet piling. These works form part of the Stage 3 Development Application and are proposed to minimise any disturbance of contaminated material or the existing electrical cables, as noted in the advice prepared by Calibre Engineering at **Attachment E**. This advice indicates that providing a batter would also create maintenance issues as tidal movement would distribute debris and litter along the channel, as currently occurs in the existing stormwater channel, and this issue would be exacerbated by the large surface area a batter requires. This is in contrast to the sheet piling where debris is not able to accumulate.

3.0 FINAL PROPOSED MODIFICATION

The proposed landscaping scheme has not changed from the previous submission in May 2017. The proposed landscaping scheme provides 11,955m² of riparian planting as well as 5,470m² of offset planting and mangrove rehabilitation, resulting in a total offset that is 2,175m² in excess of the amount required to be offset for encroachments in the buffer under the NOW Guidelines.

It is noted that the commitment to mangrove rehabilitation will achieve an outcome that is consistent with the Guidelines as it seeks to rehabilitate areas immediately adjoining the riparian corridor, will further minimise any disturbance to Towra Point Aquatic Reserve and create an enhanced buffer zone.

The breakdown of the foreshore planting is shown in **Table 1** (refer to following page) and remains unchanged from the previous submission.

It is emphasised that this riparian planting and mangrove rehabilitation will create a buffer along the foreshore to protect Towra Point Aquatic Reserve, in contrast to the current situation where no buffer is provided and minimal ecological qualities are possessed by the site (i.e. it is a bitumen car park). In relation to the social benefits of the proposal, the provision of an all-abilities playground in coordination with the Touched By Olivia Foundation and cycleway connecting Cronulla to Homebush will allow additional opportunities for outdoor recreation for all members of the community and form an important part of the Woollooware Bay Town Centre.

The objective and key intent of this modification application is to facilitate a balanced outcome, being one which does not prioritise a single aspect of the public interest but equally ensures that a positive result is achieved for all affected groups. The proposal seeks to balance ecological and social interests, achieving an outcome that allows for significantly enhanced ecological conditions, as well as an environment which is able to be utilised to its full extent by the community.

Table 1 – Breakdown of foreshore landscaping

Component	Original modification application	Proposed refined modification application Area (m ²)	Percentage of total waterfront land	Outcome of change (original modification to current proposal)
Waterfront land				
Riparian corridor area	-	17,425m ²	100%	No change
Riparian planting	10,434m ²	11,955m ²	69%	1,521m ² more planting
▪ Inner zone salt marsh planting		1,090m ²		
▪ Inner zone planting		7,910m ²		
▪ Outer zone planting		2,955m ²		
Pathways*	2,931m ²	2,175m ²	12%	756m ² less pathways
▪ Inner zone		632m ²		
▪ Outer zone		1,543m ²		
Non-riparian uses	4,224m ²	3,295m ²	19%	929m ² less non-riparian uses
▪ Vegetation (turf)	24%	1,243m ²		
▪ Recreation infrastructure		1,429m ²		
▪ Permeable paving for grass		623m ²		
Total vegetated land	12,878m ²	13,198m ²	76%	320m ² more planting
▪ Riparian planting		11,955m ²		
▪ Turf		1,243m ²		
Offset (beyond waterfront land)				
Offset riparian planting	3,021m ²	3,623m ²	-	602m ² more riparian offset
Mangrove rehabilitation offset works	-	1,847m ²	-	-
Total offset riparian planting	3,021m ²	5,470m ²	-	2,449m ² more offset planting
Offset planting excess (for non-riparian uses in buffer zone excl. pathways)	-	+2,175m ²	-	2,175m ² in excess of offset requirement (including mangrove rehabilitation area)
Vegetated land				
Total planting (riparian + turf + offset + pathways*)	18,831m ²	20,843m ²	-	2,012m ² more planting (including mangrove rehabilitation area)
Planting surplus (total planting – total waterfront land)	+1,241m	+3,418m ²	-	2,177m ² more planting surplus

*Generally in accordance with the NOW Guidelines, pathways have been classified as riparian as they are permitted to be included on waterfront land and do not require any offset.

As pathways within the inner zone comprise a total of only 632m² and 5,470m² of offset planting and mangrove rehabilitation works are proposed, it is noted that a full offset in excess of the total amount of all non-riparian uses is still achieved if the pathways in the inner zone are counted as requiring to be offset.

Modifications to Conditions

A complete list of all modifications to conditions and plans sought for approval is identified at **Attachment F**. It is noted that one plan reference is updated to reflect an annotation that indicates the width of the paths.

4.0 CONCLUSION

We trust that the information provided with this letter is sufficient to enable the Department to complete its assessment and determination. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or fmehrtens@jbaurban.com.au.

Yours faithfully



Frances Mehrtens
Urban Planner



Michael Oliver
Principal Planner