



2 December 2019

Mr Brendon Roberts
Director, Regional Assessments
Department of Planning, Industry and Environment

Attention: Michelle Niles
By email: brendon.roberts@planning.nsw.gov.au
Cc: michelle.niles@planning.nsw.gov.au

Dear Mr Roberts

Wahroonga Estate Concept Plan (MP 07_0166 MOD 8)

Thank you for the Department's email dated 8 November 2019 responding to the Commission's query regarding condition B5(1) of the Wahroonga Estate Concept Plan Approval (**Concept Plan Approval**) the subject of the above modification application.

We note the Department's advice states:

'... should FAR B5(1) now sought to be amended, the Department recommends further consultation be undertaken with the Rural Fire Service, Council and the Environment, Energy and Science Group of the Department to determine bushfire and biodiversity impacts of the changes.'

In this regard, the Commission notes the 15 October 2019 letter from Ethos Urban (on behalf of the proponent) which proposes an amendment to condition B5(1) of the Concept Plan Approval to allow for the redefinition of "*conservation land*" and the subsequent application of Asset Protection Zones for the site.

The Commission also notes the advice obtained by the proponent from Lindsay Taylor Lawyers dated 22 October 2019 on this issue, a copy of which has been provided to the Commission. At [23] of that advice, the proponent's solicitor characterises as "misconceived or erroneous" the Department's proposition at page 29 of its Assessment Report dated September 2019 that:

'... the Department notes that the revision to the APZs has never been specifically sought as a modification to the Concept Plan'

On the basis of the above additional information, the Commission has formed the view that the proponent now seeks the amendment of Condition B5(1) of the Concept Plan Approval as part of Modification 8.

Accordingly, consistent with the suggestion in the Department's email of 8 November 2019, the Commission respectfully requests that the Department undertake further consultation and supplement its Assessment Report with an assessment of the proponent's proposal to amend condition B5(1) of the Concept Plan Approval as detailed in the additional information prepared by Ethos Urban dated 15 October 2019 and supporting documentation.



The Commission is of the view that a formal assessment of this proposal should be undertaken prior to the determination of Modification 8 to the Concept Plan Approval because the definition of 'conservation land' has implications for the building footprint location going forward.

If you have any questions, please contact Casey Joshua, Senior Planning Officer, on 8289 6913 or at casey.joshua@ipcn.nsw.gov.au.

Yours sincerely

Samantha McLean
A/Executive Director
Independent Planning Commission