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19 November 2021

Our ref: 21NEW-20397

Salamander Hotel Unit Trust
147 Soldiers Point Road
Soldiers Point
NSW 2317

Attention: Alice O'Hara

Dear Alice,

Redevelopment of the Bannisters resort at 147 Soldiers Point Road, Soldiers Point

Eco Logical Australia Pty Ltd (ELA) was engaged by the Salamander Hotel Unit Trust (the proponent) to provide preliminary ecological advice for the proposed redevelopment of the existing Bannisters resort at 147 Soldiers Point Road, Soldiers Point. The proponent is also seeking to clarify assessment requirements in support of a planned application for the redevelopment. Recent planning advice from the Department of Planning Industry and Environment (the Department) was provided to ELA on 12 November 2021 for additional context. An updated assessment under the *Biodiversity Conservation Act 2016* along with other recently updated relevant legislation were flagged for consideration in the advice.

This brief report outlines the biodiversity values and constraints identified from a preliminary survey undertaken by ELA ecologist and BAM assessor Dan Watts on 25 October 2021. This preliminary assessment identified that:

1. There are three separate condition states, remnant, Asset Protection Zone and planted/modified, all of which align to the Plant Community Type 1626 *Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay*.
2. The removal of native vegetation requires consideration under the NSW *Biodiversity Conservation Act 2016* (BC Act). ELA requires further clarification of the assessment pathway under the NSW *Environmental Planning & Assessment Act 1979* (EP&A Act) to determine whether a Biodiversity Development Assessment Report or application for a waiver under section 7.9 of the BC Act is required or a Flora and Fauna Assessment will be required.

An outline of the methods, results and brief discussion is provided below. If you have any questions about any aspect of this letter report, please contact Dan on 0404 451 793.

Regards,

Dan Watts
Senior Ecologist/BAM Accredited Assessor

BACKGROUND

The proposed redevelopment of 147 Soldiers Point Road (the proposal) includes the demolition of existing buildings on site and the construction operation and maintenance of expanded hotel and residential structures. These structures are likely to include additional recreational facilities contained within the proposed construction footprint. The existing facilities will be replaced with five separate buildings that contain temporary and permanent residential accommodation, conference facilities, multiple hospitality venues, recreational/health facilities including outdoor pool and parking.

The Landscape Plan drawing provided to ELA (dated 18 November 2021) show a total of 28 trees to be removed, the majority of which are planted landscape trees and exotic. Of the trees to be removed only four are native remnant trees and are shown in Figure 1 (note: locations of the trees are approximate based on the above-mentioned Landscape Plan). The remainder are predominantly planted palm trees. The plans do not indicate whether an expansion to the existing Asset Protection Zone (APZ) will be required. ELA assessed an expanded footprint to account for any potential APZ expansion that may be required (the study area).

The purpose of the site inspection was to identify:

- Native vegetation and determine Plant Community Types (PCTs), and whether they are consistent with any Threatened Ecological Communities (TECs) under the NSW *Biodiversity Conservation Act 2016* (BC Act) and/or the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)
- Habitat features for threatened species listed under the BC Act and/or EPBC Act
- Threatened species (if incidentally observed)

This information can then be used to advise whether entry to the Biodiversity Offsets Scheme (BOS) is required under s7.1 of the NSW *Biodiversity Conservation regulation 2017* (BC Regulation) or if a Biodiversity Development Assessment Report waiver may be an appropriate first step.

METHODS

ELA ecologist Dan Watts met with Pete Bacon on 25 October 2021 to survey the site. Two Vegetation Integrity (VI) plots were completed in accordance with the Biodiversity Assessment Method (BAM) (Figure 1). A traverse of the site was a undertaken on foot to record:

- Plant Community Types (if appropriate) and condition of vegetation;
- Habitat features present e.g., hollow-bearing trees, threatened flora species habitat, other fauna habitat features;
- Dominant weed species present on site (within native vegetation).

RESULTS

Plant Community Types and vegetation condition

The remnant native vegetation present onsite is considered to align with PCT1626 *Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay*. The assemblage of canopy dominant species combined with landscape position rule out all other PCT options within the Karuah-Manning subregion of the NSW North Coast IBRA region (IBRA version 7.0). The PCT does not align with any currently listed TEC under the BC Act or EPBC Act.

Remnant vegetation areas of PCT1626 occur to the south of the study area (Plate 1). Vegetation onsite is characterised by a canopy of mixed eucalypt trees, dominated by *Eucalyptus umbra* (Broad-leaved White Mahogany), *Angophora costata* (Smooth-barked Apple) and *Eucalyptus tereticornis* (Forest Red Gum). The mid-storey was comprised of *Pittosporum undulatum* (Sweet Pittosporum), *Elaeocarpus reticulatus* (Blueberry Ash) and *Dodonaea triquetra* (Large-leaf Hop-bush). The dominant ground-layer species were *Themeda triandra* (Kangaroo Grass), *Hibbertia dentata* (Trailing Guinea Flower), *Xanthorrhoea macronema, Smilax glyciphylla* (Sweet Sarsaparilla) and *Imperata cylindrica* (Bladey Grass). These areas of vegetation have been considered to be in 'high' condition, and represents a high biodiversity constraint.

Plate 1: Plot 2 End - PCT1626 remnant condition vegetation

The existing APZ occurs as a modified version of this community with disconnected canopy and mid-storey species (Plate 2). The ground cover in this area is predominantly escaped Buffalo Grass, and is considered to be in 'moderate' condition and represents a moderate biodiversity constraint.

The final zone of native vegetation (planted/modified) exists as remnant Smooth-barked Apple and *Corymbia gummifera* (Red Bloodwood) trees with a mix of retained and planted native and non-native trees, shrubs and groundcovers (Plate 3). This zone is small and includes a paved road through it to the northeast of the study area, and is considered to be in 'low' condition and represents a low biodiversity constraint.

Plate 2: PCT1626 APZ

Plate 3: Planted/modified plot start

The remaining vegetation on site consists of managed *Stenotaphrum secundatum* (Buffalo Grass) lawns and planted exotic hedges & gardens (unconstrained).

Fauna habitat features and threatened species habitat

Five hollow bearing trees and three trees containing arboreal mud nests were identified within the study area (Figure 1) (Plate 4 & Plate 5). These features can provide vital habitat for fauna species within the area including various arboreal mammals such as *Petaurus norfolcensis* (Squirrel Glider – listed as Vulnerable under the BC Act) & *Petaurus breviceps* (Sugar Glider), various woodland birds such as *Trichoglossus moluccanus* (Rainbow Lorikeet) & *Dacelo novaeguineae* (Kookaburra) and microbats.

Plate 4: Hollow Bearing Tree

Plate 5: Arboreal Mud Nest

Many records for *Phascolarctos cinereus* (Koala) occur throughout the immediate area and sightings of individuals in the vegetation surrounding the existing structures are common. Preferred Koala habitat occurs to the east of the study area but will not be impacted by the proposal. Several different koala habitat classifications occur within the study area and surrounds, with Cleared Link occupying the central and western portion, Cleared Buffer in the eastern portion and Clear in the northeast of the study area (Figure 2). The Port Stephen Shire Council Comprehensive Koala Plan of Management (CKPoM) will need to be addressed as part of the detailed biodiversity investigation.

Weed occurrence on site

Weed incidence was low in unmodified remnant vegetation with *Lantana camara* (Lantana), *Ehrharta erecta* (Panic Veldtgrass) and *Ochna serrulata* (Mickey Mouse Plant) at low abundances. The understorey of the APZ to the east of the existing structures has a high level of weed occurrence, primarily Buffalo Grass with occurrences of various other weeds.

ENTRY INTO THE BIODIVERSITY OFFSET SCHEME

ELA understands the proposed redevelopment is planned to be submitted as a modification to an existing approval under Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). Part 3A has since been repealed and ELA will require confirmation of the assessment pathway to be used to confirm whether entry into the BOS is required. If Clause 30 and 30A of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* the BC Act applies then the proposal is eligible for entry into the BOS as a State Significant Development. If the proposal does not meet this criteria then the other thresholds are unlikely to be met for entry into the BOS and a Flora and Fauna Report will be adequate to support the Development Application. The thresholds for entry into the BOS for local development are:

- whether the amount of native vegetation being cleared exceeds the threshold based on the minimum lot size (0.5 hectares) – **not met**
- whether the impacts occur on an area mapped on the Biodiversity Values Map published by the Environment Agency Head – **not met**
- the result of any test of significance results in a conclusion of a potentially significant impact to a listed threatened entity – **unlikely to be met**

From the provided landscape plan, the proposed redevelopment is likely to remove four native trees (non-hollow bearing) which represents less than 0.02 hectares of clearing. The trees to be removed include small individuals (less than 10 cm diameter at breast height) as well as two larger *Angophora costata* retained in current landscaping. The removal of these trees is unlikely to have a greater than negligible impact to local biodiversity values. Additional surveys are required to determine whether any of the existing structures to be demolished are used as habitat for threatened species.

ADVICE

Biodiversity surveys for development assessments have a five-year time frame to be considered current. The previous Flora and Fauna Assessment report (completed 2010) falls outside of the five-year limit and is no longer adequate for an assessment under the BC Act. In the event the proposal meets the criteria for entry into the BOS ELA recommends applying for a BDAR waiver, subject to an inspection of the existing structures for roosting or nesting microbats. The removal of some small areas of native vegetation, i.e. individual native tree species, is unlikely to have a greater than negligible impact, and the proposal meets the below listed criteria to be considered for a BDAR waiver. The waiver could be the lowest cost option but runs the risk of being rejected, resulting in the need to complete a fully compliant BDAR regardless. A BDAR requirement could be waived if the proposal is considered as unlikely to have any significant impact on biodiversity values, if it:

- will not clear or remove native vegetation other than:
    - a few single trees with no native understorey in an urban context
    - planted native vegetation that is not consistent with a Plant Community Type (PCT) known to occur in the same Interim Biogeographic Regionalisation of Australia (IBRA) subregion (e.g. street trees, trees in carparks, landscaping)
- will have negligible adverse impacts on threatened species or ecological communities, considering habitat suitability, abundance and occurrence, habitat connectivity, movement and

water sustainability including consideration of any non-natural features, non-native vegetation and human-built structures

- will have negligible adverse impacts on protected animals because of impacts to flight path integrity.

If a waiver is unsuccessful or not pursued a BDAR will be required to address the additional impacts to native biodiversity. ELA considers a Part 4 (small area) assessment, under the Streamlined assessment module – Small area, to be suitable for the assessment of the proposal given the current Landscape plan (provided to ELA on 30 September 2021). The Small area module allows for the completion of an assessment without extensive field surveys for threatened species. Only species at risk of a Serious and Irreversible Impact (SAII) need to be considered further in the BDAR.

OTHER CONSIDERATIONS

The advice provided only relates to the biodiversity assessment requirements under the BC Act and does not consider other requirements of the EP&A Act or other acts or policies that may need to be considered during the assessment of the proposal. This advice is provided without a confirmed assessment pathway and the recommended ecological assessment is dependent upon this

This document may only be used for the purpose for which it was commissioned and in accordance with the contract between Eco Logical Australia and Salamander Hotel Unit Trust. Changes to available information, legislation and assessment requirements are made on an ongoing basis and may require updates to the information reported in this document.

Figure 1: Preliminary ecological assessment constraints

Figure 2: Port Stephens Comprehensive Koala Plan of Management - Planning Map categories relevant to the study area