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Contact : Adam Fawcett - (02) 4908 6830

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Port Macquarie HASTINGS COUNCIL	
Parcel	18173
15 APR 2009	
Library	Land use
Room	034 Part 3(a)
Cabinet	
Binder	034 2007-0001

8 APR 2009

Dear Mr Croft

RE: Part 3A Major Project Application (MP 06-0212) - Le Clos Verdun Rural Residential Subdivision Sancrox Road, Sancrox

I refer to your letter dated 5 March 2009, requesting the Department of Environment and Climate Change (DECC) to review and provide comments on the Proponents response to submissions for Major Project 06-0212, including revised ecological and archaeological assessments and the Environmental Site Assessment for a proposed rural residential subdivision at Sancrox, namely those that relate to previous DECC correspondence dated 22 May 2008.

DECC requested a time extension on 10 March 2009 to respond on this matter. Confirmation of this extension via email was provided on 10 March 2009.

DECC has reviewed the Preferred Project Report, Ecological Assessment and Cultural Heritage Assessment. While these reports have addressed a majority of issues, DECC considers it is still lacking in the following areas:

- The timing of surveys conducted for microchiropteran bats, reptiles and amphibians was not undertaken within an appropriate season to target a majority of species. While this was noted as a limitation within the report and DECC acknowledges that the site history limits available habitat for many species, surveys should have been timed inline with the Threatened Species Survey and Assessment guidelines (DEC 2004).
- Flora surveys were not undertaken within the flowering period for the threatened orchid *Phaius tancarvilleae*, greatly limiting the possible identification of this on site. DECC suggests that additional species specific surveys should have been conducted for this species during its known flowering period (September-October).
- No trapping surveys were undertaken targeting the Brush-tailed Phascogale (*Phascogale tapoatafa*). While DECC acknowledges the site history has limited available habitat there is both available habitat on site and within adjacent areas of forested land for this species. Recent records also occur to the south of the site within Cowarra State Forest. No clear reason as to why targeted surveys for this species were not undertaken was included within the report.



- The endangered ecological community Subtropical Coastal Floodplain Forest of the NSW North Coast bioregion was identified on site and is to be cleared through proposed earthworks. However, no offsets for this EEC have been proposed to compensate the loss of this community and, irrespective of the level of degradation of this EEC, appropriate compensatory habitat measures should be applied. Existing offsets do not compensate like-for-like for the loss of this area of EEC. DECC strongly recommends that the proponent provides adequate offsets and compensatory habitat measures in accordance with DECC guidelines (*Principles for the use of biodiversity offsets in NSW* available at <http://www.environment.nsw.gov.au/biocertification/offsets.htm>).
- Figure 4 of the ecological assessment report provides only a general location of the four EECs and other vegetation communities identified on the site. The extent of all vegetation communities, particularly EECs, should be mapped based on ground truthing of the site.
- No statement of commitment is included with the Preferred Project Report that commits to protecting the proposed offset area of extant vegetation in perpetuity. DECC recommends that all vegetated areas to be conserved under the proposed offset strategy should be afforded long-term conservation under a proposed restriction on title, either as an 88B-E covenant (under the *Conveyancing Act 1919*) or a Voluntary Conservation Agreement (under the *National Parks and Wildlife Act 1974*).
- DECC acknowledges that the proponent is proposing a 'Vegetation and Habitat Management Plan' be developed for the offset areas. DECC recommends that these plans should be prepared prior to any potential approval of the subdivision. These management plans should clearly document how any retained vegetated areas or habitat features will be managed with respect to long-term conservation and viability. They should cover aspects of (but not limited to):
 - weed management,
 - native vegetation management,
 - feral animal control,
 - fire management (including APZs),
 - public access (including increased traffic, and associated impacts, such increased refuse and pets),
 - minimisation of edge effects,
 - stormwater control and changes to hydrology (including stormwater / runoff control and sediment / erosion control measures),
 - management of specific habitat enhancement measures (e.g. hollow / habitat trees, animal fencing (e.g. Koala),
 - artificial hollows and nest boxes), fauna displacement,
 - details of long-term monitoring, and
 - clearly indicate long-term financial commitment to any proposed conservation measures, including any mechanisms to be implemented to achieve this.

DECC is satisfied with the Cultural Heritage Assessment for the project application and recommends that the following conditions of approval are reflected in any approval conditions for the project.

PROPOSED CONDITIONS OF APPROVAL FOR ABORIGINAL CULTURAL HERITAGE VALUES

1. The proponent must develop an Aboriginal Cultural Heritage Management Plan (ACHMP) or similar for the site. The ACHMP should be developed and

implemented in consultation with the relevant Aboriginal stakeholders. The plan must include procedures for ongoing Aboriginal consultation and involvement, management of any recorded sites within the project area, details of proposed further archaeological investigation and/or salvage projects prior to impact, identification and management of previously unrecorded sites (excluding human remains), identification and management of any proposed conservation area(s) and details of an appropriate keeping place agreement with local Aboriginal community representatives for any Aboriginal objects salvaged through the development process.

2. If human remains are located during the project, all works must halt in the immediate area to prevent any further impacts to the find or finds. The local police, the Aboriginal community and DECC are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, DECC should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by DECC. In the event that a criminal investigation ensues works are not to resume in the designated area until approval in writing from the Police and DECC.
3. If Aboriginal cultural objects are uncovered due to the development activities, all works must halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the find(s). The site is to be registered in the AHIMS (managed by DECC) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.
4. All reasonable efforts must be made to avoid impacts to Aboriginal Cultural Heritage values at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Aboriginal community and DECC.
5. The applicant must continue to consult with and involve Aboriginal representatives for the project, in the ongoing management of the Aboriginal Cultural Heritage values.
6. An Aboriginal Cultural Education Program must be developed for the induction of personnel and contractors involved in the construction activities on site. The program should be developed in collaboration with the Aboriginal community.

WATER QUALITY

DECC recommends that council ensure that any onsite wastewater disposal systems, both for construction and occupation of the proposed site, comply with the requirements of Section 120 of the Protection of The Environment Operations Act 1997.

DECC acknowledges that final determination of significance for this Major Project sits with Port Macquarie-Hastings Council unless council requires DECC concurrence for this project.

However, given the above concerns with respect to the Ecological Assessment, DECC has determined that it is not able to support the proposal in its current format. DECC would reconsider the development proposal in the light of its concerns being addressed. Specifically DECC requires a suitable offset / compensatory habitat packages to be provided for the area of Subtropical Coastal Floodplains Forest in the NSW North Coast bioregion EEC to be cleared.

If you require any further information regarding this matter please contact Adam Fawcett on (02) 4908 6830.

Yours sincerely



MARK HARTWELL
Acting Head Regional Operations Unit
North East Branch
Environment Protection and Regulation