



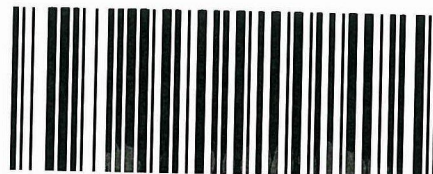
**Environment,
Climate Change
& Water**

Our reference : DOC10/44368, FIL06/925/08

Contact : P. Hughes, (02) 4908 6819

DEPARTMENT OF PLANNING NSW
Mr A Bright,
Acting Director, Regional Projects
GPO Box 39
SYDNEY NSW 2001

Attention Ms L Pemberton



Department of Planning
Received
4 NOV 2010
Scanning Room

Dear Mr Bright

RE: SALAMANDER SHORES HOTEL REDEVELOPMENT – MP06_0183

Reference is made to the Department of Planning's (DoP) letter received 1 October 2010 requesting comments on the accompanying "*Environmental Assessment, Salamander Shores Hotel Redevelopment September 2010*" (the EA). The Department of Environment, Climate Change and Water (DECCW) has reviewed the document and notes that as the proposal does not require an Environment Protection Licence under the Protection of the Environment Operations Act the main comments from DECCW are:

- Threatened species and biodiversity. DECCW is generally of the opinion that the proposal will be unlikely to have a detrimental impact on threatened species, populations, ecological communities and/or their habitats. However, DECCW has a concern about the lack of targeted surveys for certain orchids. One of the main known regional populations of *Corybas dowlingii* is located approximately 350 m from the site yet this species was not appropriately surveyed via targeted searches at the right time of year despite potential habitat on site. This however, and one other issue, can be addressed via a condition of consent (Attachment B).
- Aboriginal Cultural Heritage. The proponent should seek final comments/evidence from the Worimi Local Aboriginal Land Council regarding the nature and outcomes of the consultation process prior to finalising the ACH assessment process.

The detailed comments of DECCW are shown below in Attachment A. Conditions requested to be included in any Development Consent granted for the proposal are listed in Attachment B.

If you would like to discuss this please contact Peter Hughes, at this office, on (02) 4908 6819.

Yours sincerely

 29-10-10

PETER JAMIESON
Head Regional Operations Unit – Hunter Region
Environment Protection and Regulation

Attachment A – DECCW’s Detailed Comments

Threatened Species and Biodiversity

DECCW notes that it has previously provided feedback to EcoLogical Australia regarding threatened species impacts (as outlined in Appendix F – Consultation with DECCW on the *Flora and Fauna Assessment Report* [Appendix 15 of the EA]).

DECCW has reviewed the EA and the associated *Flora and Fauna Assessment Report* (prepared by EcoLogical Australia) and is generally of the opinion that the proposal will be unlikely to have a detrimental impact on threatened species, populations, ecological communities and/or their habitats. DECCW generally concurs with the conclusions presented by EcoLogical Australia. However, DECCW requires some clarification of matters it raised during the consultation phase and how they have been addressed in the current EA.

The main issue for DECCW is the lack of targeted surveys for certain orchids. One of the main known regional populations of *Corybas dowlingii* is located approximately 350 m from the site yet this species was not appropriately surveyed via targeted searches at the right time of year. DECCW noted during the consultation with EcoLogical that the EA would need to adequately address locally known threatened flora species, particularly orchids, such as *Corybas dowlingii*, *Cryptostylis hunteriana*, *Diuris arenaria* and *Diuris praecox*. Whilst acknowledging the site is predominantly disturbed and offers only a very small area of intact native vegetation / habitat, DECCW notes that some of these orchids can occur in disturbed environments, occupy small areas and may occur in the vegetation community present site (i.e. Broad-leaved Mahogany [*Eucalyptus umbra*] / Smooth-barked Apple [*Angophora costata*] forest). DECCW acknowledges that the *Flora and Fauna Assessment Report* of the EA has assessed these orchid species, but does not necessarily agree with the conclusions. As such, DECCW requests further clarification on why such species were either not considered, and/or were not appropriately surveyed, via targeted searches. DECCW notes that the field investigation of the site was only conducted on 25 August 2008, which is outside the known flowering period for some of these orchid species. Specific species which DECCW is concerned about include:

- *Corybas dowlingii* (Red Helmet Orchid) – this orchid is known from Stoney Ridge Reserve, approximately 350 m to the south-west of the site, where it ‘prefers locations where the ground is covered with the needles of *Allocasuarina torulosa* (Forest Oak), and within *Corymbia gummifera* (Red Bloodwood), *Angophora costata* (Smooth-barked Apple) and *Eucalyptus racemosa* (Scribbly Gum) growing areas’ (Okada 2006). Okada (2006) also notes that the species occurs beneath *Pteridium esculentum* understorey, but not in densely grassy areas. DECCW considers that the small area of intact forest vegetation may offer potential habitat for this species, given the dominance of *Angophora costata* and that the proposed development is close to known extensive records of the species, and as such, should have been considered in the threatened species assessment. The species is also known from more than just four localities (e.g. Karuah, Medowie, Lemon Tree Passage and Wangi Wangi) and not just restricted to wet gullies (e.g. at Stoney Ridge it occurs on ‘relatively moist soil at the middle to lower area of slopes’ and ‘beneath fallen logs around the top of slopes’ [Okada 2006]).

Jones (2004) notes that this orchid flowers between June to August (Jones 2004), where Okada (2006) implies flowering at the Stoney Ridge Reserve occurs between late June to late July. DECCW notes this orchid is a tiny terrestrial species which typically grows in a colony and is difficult to identify without a flowering specimen. Furthermore, it is easily confused with the closely allied *Corybas aconitiflorus*, which also occurs at the Stoney Ridge Reserve. Given that DECCW is of the opinion this species should have been considered in any threatened species assessment it should have been appropriately surveyed via targeted searches at the right time of year. Late August is not considered an

appropriate period to be surveying this species as the available evidence suggests the nearby reference population flowers in late June to July.

- *Cryptostylis hunteriana* (Leafless Tongue Orchid) – DECCW does not agree with the EA comment that the site lacks suitable habitat. Bell (2001) indicates this orchid occurs in a variety of variable habitats, including eucalypt forest dominated by *Eucalyptus umbra* and edges of disturbed forests, and as such should have been considered in the threatened species assessment. Furthermore, the conclusion that it was not recorded on site was not verified by an appropriate targeted search. This highly cryptic species is only detectable during flowering, which occurs between December to February (Nicholls 1938, Jones 1993, Harden 1993), though Bell (2001) states that the Central Coast populations (i.e. Freeman's Waterhole, Vales Point and Wyee) flower in November. DECCW does not consider August an appropriate time to search for this species, nor base its absence on.

DECCW considers that the above threatened orchids need to be appropriately addressed in the development application or approval, and given potential habitat appears to be present on site (albeit a very small area), adequate targeted searches should be conducted. DECCW advises the level of targeted survey for *Diuris arenaria* and *Diuris praecos* was adequate.

Other minor issues concern indirect impacts and the necessity for a management plan and licenses should fauna need to be translocated.

During the consultation with EcoLogical Australia (dated 31 May 2010) DECCW concurred that direct impacts were likely to be minimal, but indicated that secondary (indirect) impacts would need to be addressed. DECCW acknowledges that ameliorative measures have been included to reduce the impact of some of these issues, but notes the EA should have better addressed this issue, for example, dust, noise, increased human traffic and possible changes to hydrology (e.g. increases in surface runoff).

With respect to hollow-bearing trees and possible fauna within, DECCW notes that the *Flora and Fauna Assessment Report* recommends that the few hollow-bearing eucalypts present on site should be retained, but in event where this is not possible, 'a suitably trained ecologist should inspect hollows prior to tree felling and be available during tree felling'. The EA does not address what would happen to any displaced hollow-dependant fauna detected during this process. DECCW recommends that further details be provided on potential relocation of displaced hollow-dependant fauna and if translocation is proposed. This issue should have been addressed in the EA but can be dealt with via a condition of consent.

References

- Bell, S. (2001) Notes on population size and habitat of the vulnerable *Cryptostylis hunteriana* (Orchidaceae) from the Central Coast of New South Wales. *Cunninghamia*, **7(2)**: 195-204.
- Harden, G.J. (ed.) (1990-2002) *Flora of New South Wales: Volumes 1 - 4*. New South Wales University Press, Kensington.
- Jones, D.L. (1993) *Native orchids of Australia* Reed Books: Sydney.
- Jones, D.L. (2004) *Corybas dowlingii* (Orchidaceae), a new species from north-eastern New South Wales. *The Orchadian* **14**: 418-420.
- Nicholls, W.H. (1938) A new species of the genus *Cryptostylis* R.Br. *Victorian Naturalist* **54**: 182-183.
- NPWS (2001) *Policy for the Translocation of Threatened Fauna in NSW*. Policy and Procedure Statement No. 9, Threatened Species Management, NSW NPWS, Hurstville, NSW.
- Okada, S. (2006) *The Distribution and Abundance of Callistemon linearifolius and Corybas dowlingii at Stoney Ridge Reserve, Soldiers Point, NSW*. Unpublished report, University of Newcastle for Port Stephens Council.

Aboriginal Cultural Heritage Assessment:

Local Aboriginal community consultation:

DECCW acknowledges that the EA provides a summary of the consultation process undertaken with the registered local Aboriginal stakeholders. However, the proponent has not provided formal evidence from all of the registered Aboriginal stakeholders in support for the Aboriginal Cultural Heritage (ACH) assessment process. The absence of support from the Worimi Local Aboriginal Land Council (WLALC) means DECCW is unable to comment on the appropriateness of the proposed ACH management strategies, or offer support, or otherwise, for the ACH assessment process. DECCW acknowledges that additional consultation was undertaken by the archaeological consultant (see pg 12 of Steele ACH Report) in an attempt to resolve this matter.

In order to progress this outstanding issue, DECCW recommends that the proponent seek final comments/evidence from WLALC regarding the nature and outcomes of the consultation process prior to finalising the ACH assessment process. We have included a recommended condition of consent at Attachment B to target this matter.

DECCW encourages the proponent to continue to engage with all the registered local Aboriginal stakeholders in developing appropriate cultural heritage outcomes for the life of the proposed development.

Attachment B – Recommended Conditions for Inclusion in Development Consent

Threatened Species

1. Prior to construction commencing targeted surveys at the appropriate time of year must occur for the threatened species *Corybas dowlingii* (i.e. late June to late July) and *Cryptostylis hunteriana* (i.e. November to January). Should these orchids be detected on site: a management plan must be developed in consultation with DECCW; be approved by the Director General, and; any recommendations implemented, prior to construction commencing on site.

Note: If a significant population of either orchid is found on site, then *in situ* conservation may be required.

2. Should hollow bearing trees need to be removed for the proposal, prior to construction commencing a management plan must be developed in consultation with DECCW and approved by the Director General, dealing with what will happen to displaced fauna.

Note: Any translocation of wildlife must be done in accordance with DECCW policy - *Policy for the Translocation of Threatened Fauna in NSW* (NPWS 2001), and translocation of threatened species will likely require a license (e.g. section 132 under the *National Parks and Wildlife Act 1974* and/or section 91 under the *Threatened Species Conservation Act 1995* if species are being relocated to areas outside the approved development consent area).

Aboriginal Cultural Heritage

1. The applicant must continue to consult with and involve all of the registered local Aboriginal representatives for the project in the ongoing management of all of the Aboriginal Cultural Heritage matters for this project. Evidence of this consultation must be collated and provided to the consent authority upon request.
2. The applicant shall provide fair, equitable and reasonable opportunities for the registered local Aboriginal community to monitor any soil disturbance/earth moving activities associated with the approved project area.
3. In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and representatives of the local Aboriginal community must be contacted to determine the significance (cultural and scientific) of the object(s). The site is to be registered in the AHIMS (managed by DECCW) and the management outcome for the site included in the information provided to the AHIMS. The proponent must consult with the Aboriginal community representatives the archaeologist, and DECCW, to develop and implement management strategies for all objects/sites.
4. All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and DECCW. All sites impacted must have a DECCW Aboriginal Site Impact Recording (ASIR) form completed and submitted to DECCW AHIMS unit within 3 months of completion of these works.
5. An application for a Care & Control Permit must be lodged along with any application for any Aboriginal objects that are located and moved in accordance with the *NPW Act*. The applicant must consult with all of the registered Aboriginal stakeholders identified in the consultation process and provide evidence of the support with any application for a care and control agreement.

6. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police must be contacted immediately. No action is to be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact DECCW's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until DECCW provides written notification to the proponent.
7. An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted, and the date it occurred, for the duration of the project. The program should be developed and implemented in collaboration with the Aboriginal community.