

Your reference : 10_0127 and 10_0128
Our reference : DOC10/53302
Contact : Dana Alderson 9995 6805

Mr Chris Ritchie
Manager – Industry
Mining and Industry Projects
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Haley Rich

Dear Mr Ritchie

Re: Jacfin Ropes Creek Concept Plan and Project Application Exhibition (10_0127 and 10_0128)

I refer to your letter dated 12 November 2010 to the Department of Environment, Climate Change and Water (DECCW) inviting DECCW to review the subject proposal.

The proposal has been reviewed by DECCW and our comments are provided below. Please note that any comments in relation to riparian issues and waterways will be provided by the NSW Office of Water which is a separate office within DECCW.

1. Aboriginal Cultural Heritage

The *Ropes Creek – Lot 5 DP262213 Heritage Assessment Report – Revised Report* prepared for Jacfin Pty Ltd dated October 2010 by Godden Mackay Logan has been reviewed.

1.1 Community Consultation

DECCW notes that the community consultation has been conducted using DECCW's current *Aboriginal cultural heritage consultation requirements for proponents 2010*. The Department of Planning (DoP) has previously indicated to DECCW that the *Interim Community Consultation Requirements for Applicants* as listed in the *Draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* are the relevant guidelines to be used for Part 3A projects.

Regardless of the guidelines used, the project should have been advertised in a newspaper distributed in the area in which the project is to be conducted. Rather, the project was advertised in the Koori Mail which is a nationally distributed newspaper and is not readily available to some Aboriginal communities.

The Department of Environment and Climate Change is now known as the Department of Environment, Climate Change and Water

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DECCW recommends that the project be readvertised in keeping with this requirement to ensure that relevant Aboriginal community groups are made aware of the project.

1.2 Statement of Commitments

DECCW recommends that Commitment 13 of the Statement of Commitments for the Draft Concept Plan be revised to read:

- That an Aboriginal Heritage Management Plan be prepared for lands to be zoned E2 Environmental Conservation Zone where no impacts from development are expected to occur.
- That Aboriginal Heritage Impact Assessments be undertaken and submitted with each future project application.

Please note that NPWS sites 45-5-3842, 45-5-3843 and 45-5-3062 referenced in the report were previously tested under s.87 Aboriginal Heritage Impact Permit by the Roads and Traffic Authority and an application for a s.90 AHIP is currently being assessed by DECCW for these sites.

In relation to Statement of Commitment 8 for the Stage 1 Project Application, DECCW does not endorse monitoring of earthworks because of the potential OH&S issues that could arise. As an alternative, DECCW recommends that consideration be given to providing the Aboriginal community representatives the opportunity to collect any surface objects prior to earthworks commencing. The Statement of Commitments should specify the storage location for any Aboriginal objects collected during the course of monitoring.

2. Biodiversity

The *Concept Plan and Concurrent Project Application for Employment Lands and Stage 1 Industrial Development Ecological issues and Assessment Report* (Flora and Fauna Assessment) prepared for Jacfin Pty Ltd dated August 2010 by Whelands Insites has been reviewed.

2.1 Flora and Fauna Assessment

The Flora and Fauna Assessment (Whelands Insites, 2010) does not consider potential impacts on the endangered Cumberland Land Snail (CLS). There are a number of recent CLS records in the area, including on similarly degraded sites, so there is a likelihood that the species occurs on site. The proponent should revise the Flora and Fauna Assessment to include an assessment of potential impacts on the CLS.

Other comments with respect to the Flora and Fauna Assessment include:

- The Assessment should outline the methods undertaken for the flora and fauna survey;
- Section 4.4 of the report states that the NPWS (2002) mapping identified a small patch of Cumberland Plain Woodland (CPW) in the north-western corner of the subject site. The report also states that the remnant of CPW, which includes a few scattered trees, pasture grasses and some limited native ground covers, does not conform to the definition of CPW as it is too degraded and has limited ecological functionality. However, the NSW Scientific Committee's final determination for CPW does not include minimum condition requirements. DECCW considers that if trees and some native ground covers are present, it may be better to describe this vegetation as 'degraded CPW'; and
- Section 4.4 of the report also states that the vegetation on the site cannot be regarded as an example of the EEC 'River-flat Eucalypt Forest on Coastal Floodplains' as it is not on a coastal floodplain. However, 'Coastal floodplains' includes any floodplains below the escarpment of Great Dividing Range' (as stated in the DECCW Identification Guidelines for this EEC). In addition, the list of local government areas in the final determination for this EEC includes the

Blacktown City LGA. The Flora and Fauna Assessment should be reviewed against this advice.

From the descriptions provided in the assessment, DECCW agrees that except for patches of remnant vegetation that occur along the drainage lines, some scattered pasture trees, and the wetland areas, as mentioned above, much of the remainder of the site appears to be degraded and of limited habitat value.

2.2 Ropes Creek Corridor

DECCW notes that much of Ropes Creek along the eastern boundary of the site is zoned E2 and will be rehabilitated in accordance with the Project Application approval for the Jacfin Warehouse Project at Lot 11 DP 229784 in Erskine Park. DECCW also notes that the northern section of Ropes Creek that occurs on the site has been identified in the draft Recovery Plan for the Cumberland Plain (DECCW, 2010) as part of the Priority Conservation Lands (PCL). The desired outcome for PCLs is an appropriate conservation zoning and active management. DECCW notes that as this section of Ropes Creek is zoned E2 and will be rehabilitated as part of the Offset Strategy for the Erskine Park project, both of the desired objectives for the PCL are being achieved on site. However, it is also important that any activities adjacent to the creek do not impact on the PCL.

2.3 E2 Zoned Land


DECCW also notes that the report states that the E2 zoning of the riparian areas on site is not warranted, given the levels of long term disturbance and degradation. However, DECCW considers the E2 zoning is warranted as these areas have important connectivity values, they include remnants of endangered ecological communities (EECs) (such as River-flat Eucalypt Forest), they act as buffers for the PCL, and their condition is to be improved through rehabilitation and active management. As such, DECCW supports their current zoning and requests that environmental controls are placed on the construction of any roads or other infrastructure that traverse these areas, so that any potential impacts are minimised.

2.4 Statement of Commitments

DECCW also notes that many of the large, scattered Forest Red Gums on site have hollows, which are important as fauna habitat. DECCW supports the implementation of the Tree Hollow Protocol, as identified in the Statement of Commitments (No. 12), to ameliorate any impacts associated with the loss of these trees.

If you have any queries regarding this matter please contact Dana Alderson on 9995 6805.

Yours sincerely

 23/12/2010

LIZ PETERSON
A/Manager Planning and Aboriginal Heritage
Metropolitan Branch
Environment Protection and Regulation Group