



PCU027797

7 November, 2011

Department of Planning  
GPO Box 39  
SYDNEY NSW 2000

**Attention: Stuart Withington**

Email: [Stuart.Withington@planning.nsw.gov.au](mailto:Stuart.Withington@planning.nsw.gov.au)

Dear Mr Withington

**Submission in regard to Exhibition of Environmental Assessment for Bayside Brunswick  
Concept Plan 905\_0091)**

## BACKGROUND

Council officers prepared a report to Council's Ordinary Meeting of 20 October 2011 in regard to the subject application. This report detailed the background to the application and the scope of the proposed development.

This report made the following points:

- No issue can reasonably be taken with substantial residential subdivision of the site.
- Residential subdivision of the land is anticipated by the 2(a) zoning and Chapter 6 – Bayside Brunswick Estate of Development Control Plan 2010 and has been delayed due to the sewerage moratorium.
- The proposal critically fails to protect high conservation value vegetation in parts of the development site.
- The location and configuration of a number of lots would place desirable vegetation at high risk of removal for construction requirements and/or for bush fire safety and/or for landowner amenity.
- The proposed 13ha public reserve in the south-eastern part of the site should be managed for conservation purposes.
- The proposed cut and fill and relocation of the existing north-south drainage swale has not been demonstrated to achieve the **HABITAT** objective.
- The estate lay out fails to incorporate bus routes and appropriate road design





Council resolved at its Ordinary Meeting of 20 October 2011 as follows:

**11-840 Resolved:**

1. That Council prepare a submission to the Department of Planning and Infrastructure in relation to the Concept Plan for residential subdivision at Lot 1 DP 871039, known as Bayside Brunswick, lodged under Part 3A of the Environmental Planning and Assessment Act 1979.

2. That Councillors be forwarded a copy of submissions as soon as possible.

**ECOLOGICAL IMPACTS**

The site contains recognised and significant ecological values. The site is known habitat for koalas, glossy black cockatoos, and the wallum froglet and provides habitat for a diversity of other threatened species including the grass owl, eastern blossom-bat and the yellow-bellied sheath tail-bat.

The urban development of the site (including removal of regenerating wallum heath and existing vegetation stands including old growth trees, extensive in-filling, occupational impacts including impacts from stormwater and human occupation of the site and provision of insufficient buffers between the areas of high conservation value vegetation and the proposed development) will generally tend to the degrading of these values. A number of elements of the proposed development are unreasonably and significantly detrimental to these ecological values and are not justified by the merits of the circumstance.

**Lots B3 – B10**

The location of proposed lots B3 – B10 as identified on drawing LM080082-DR24, dated 17.08.11 is on land that contains significant trees including old growth specimens of *Eucalyptus signata*, a listed koala feed tree under SEPP 44 and habitat for threatened microbats. The residential development of these lots would generate vegetation loss from construction work, from the interest of residents for an amenity that precludes large trees on the lots particularly with limbs overhanging houses and their surrounds, and from the needs for vegetation removal and management arising from bushfire safety requirements. The cumulative impact of these measures in this part of the site cannot be supported.

It is noted that the application incorporates a Bushfire Assessment dated August 2011 which nominates vegetation classes and calculates assets protection zone distances. Such nominations and calculations define the fact and degree of necessary vegetation removal and management. Conclusions drawn now as to these matters will affect the fact and degree of ultimate vegetation removal.

Council is not aware as to whether the application has been referred to the NSW Rural Fire Service (RFS) for its confirmation, or otherwise, of the conclusions of the Bushfire Assessment. Residential subdivisions commonly require a bush fire safety authority issued by the RFS. Because of the ramifications of any conclusions made at this time as to the matters specified in Planning for Bushfire Protection, it is appropriate that the view of the RFS be obtained at this time.

Whatever conclusions are drawn as to the extent of required assets protection zones to the east, bush fire safety requirements will effectively require the removal of all substantive vegetation from the side setbacks of house on these lots with consequent cumulative widespread vegetation removal and significant reduction to the ecological values of this part of the site.

It is also noted that conclusions drawn now as to vegetation classes and APZs will provide the future basis for the calculation of the building construction standards that will ultimately be imposed on houses to be erected on the site. These standards are of significance for future owners in regard to house design and cost. It is not appropriate in an urban subdivision such as that proposed for



construction standards to be excessive. For example, a required BAL of –40 would be absolutely inappropriate. Only when there is a confirmed conclusion as to the application of Planning for Bushfire Protection to these lots can the matter of required construction standards be considered and the suitability of the proposed lots be assessed. These lots have varying east-west depths from 18m to 40m. Proposed Lot B10 with a depth of 18m would be particularly susceptible to an onerous construction standard ultimately being imposed or alternatively for a demand for substantive vegetation removal to the east of the lot.

Council supports this area becoming common land providing an amenable and soft transition between the urban area and the high value conservation land to the east and providing an assets protection zone for houses on lots B11 – B20.

#### Lots B150 – B155

The same general concerns as expressed above apply to proposed Lots B150-B155. This part of the site contains vegetation of high conservation value the retention of which is incompatible with the demands of building and roads construction, a likely residential interest in the removal of larger vegetation from areas proximate to buildings and the requirements of bush fire safety and which latter should avoid any requirements for an asset protection zone to be required over adjoining southern land.

In the case of lots B150 and B155, APZ requirements would necessarily extend to the adjacent western and eastern lots respectively. Bush fire safety requirements should avoid reliance on other lands and in this case the other lands contain high conservation value vegetation that should be retained.

Council supports this area becoming common land.

It is recognised that this recommendation may place some pressure on the land containing the proposed lots B150-B155 for assets protection zone purposes for the needs of housing on proposed Lots B166-B161. However, it is not the intention of this submission to unreasonably or excessively limit the housing yield from the estate and this recommendation is reasonable in the circumstances.

#### Lots B149 and B156

These lots are characterised in the application as “environmental lifestyle lots” and in the drawing LM080082-DR10 dated 17.08.11 submitted with the Bushfire Assessment as “Conservation Area Excluded From Development.” In any event the lots contain high conservation value vegetation, the preservation of which is incompatible with residential development.

These lots should become common land in conjunction with such use for the proposed lots between lot B149 and b156.

#### P1 Public Reserve

A 13ha public reserve is proposed in the south-eastern corner of the site and is categorised as an “EEC offset” area. The Environmental Assessment submitted by the landowner states that ‘The long-term ownership and management of this land is to be negotiated with Council and State agencies.’ The proposed “open space” use is contrary to use of the area for biodiversity conservation. The establishment of an ‘EEC offset’ area in the south eastern corner will require many years of careful management to meet the necessary performance targets.

It would be acceptable for Council to take over ownership of the proposed reserve area subject to a conservation agreement with the current landowner to rehabilitate and manage the area to achieve defined, agreed upon performance standards.



### P2 Drainage Reserve

The application does not demonstrate that the subdivision has a lawful point of discharge for stormwater disposal. The plans indicate a "proposed drainage reserve" along the existing open drain in the land to the south of the subject site, which is in different ownership. The outlets for the bioretention basins in lots B158 to B167 discharges to downstream properties. Outlets and drainage works on Crown Road reserve needs consent from the Crown Lands Department of LPMA. The use of the "Ecosol Net-Tech" filter bags will need to be considered further due to Council's resources (lack thereof) for maintenance. Council may require another form of Gross Pollutant Trap, which will be considered at the DA stage.

### Loss of wallum froglet habitat

The existing N-S drainage pattern/vegetation running down the middle of site should be retained 'as is' and significant buffers provided for improved water quality and riparian outcomes. It is not evident from the application that Wallum Froglet habitat is secured. The high nitrogen loads (post-development) modelled in Appendix 'L' are incompatible with the retention (or creation) of froglet habitat along any part of this stormwater drainage corridor and Council has concerns that there is a potential for the development, including from proposed cut and fill and the relocation of an existing drainage swale through the site, to impact on the Wallum Froglet habitat. It is not evident how lots 118-122 can be created consistent with the establishment of an adequate wetland area that serves as both a stormwater treatment area and viable Wallum Froglet habitat.

### Flooding

The impact of adopting the climate change parameters of DECCW (2009) instead of BSC (2009) on future house construction has not been addressed.

The impact of the stormwater detention basin on flood levels, or vice versa, has not been addressed.

### Roads

The road layout/hierarchy does not appear to provide for bus routes. Bus routes need to be nominated and a wider pavement proposed to allow for indented bus bays and parking bays.

The intersection with Gulgan Road (Old Pacific Highway) may need upgrading. The applicant needs to be directed to undertake further discussion with Council's traffic engineer in regard to an intersection analysis that models the current level of service with future service requirements. Further, the works recommended in the traffic report require appropriate local traffic committee approval.

Please contact me if you have questions on 02 6626 7000 or [ray.darney@byron.nsw.gov.au](mailto:ray.darney@byron.nsw.gov.au).

Yours sincerely



Ray Darney  
Executive Manager  
Environment and Planning Services