

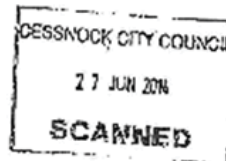
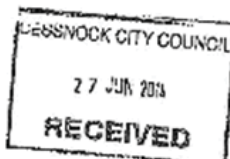


Office of
Environment
& Heritage

Your reference: DOC2014/023545
OLR reference: DOC14/09211-01; SF14/12381
Contact: Ziggy Anderson, 4538 6820

Mr Stephen Glen
General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Attention: Robert O'Brien



Dear Mr Glen

RE: PLANNING PROPOSAL – JAMES STREET, CESSNOCK

I refer to your letter dated 11 June 2014 requesting a submission from the Office of Environment and Heritage (OEH) regarding the above mentioned planning proposal. OEH understands that the objective of the planning proposal is to rezone part of Lot 101, DP 1193184 from RU2 Rural Landscape to R3 Medium Density Residential and to amend the minimum lot size.

Biodiversity

OEH acknowledges that the majority of the site is cleared of native vegetation and that the 'approximately one hectare' of Lower Hunter Spotted Gum Ironbark Forest within the site is relatively small and that it is generally lacking an understory due to past, and what appears to be current management of the site. Nonetheless, this vegetation does qualify as the Lower Hunter Spotted Gum Ironbark Forest endangered ecological community (EEC). In addition OEH acknowledges that no threatened species were recorded within the site during 2014 or past surveys, though due to known records of highly mobile threatened species within the vicinity of the site the vegetation on the site is highly likely to provide a foraging resource for these species.

OEH does not object to this proposal, though as outlined in 'NSW 2021: A plan to make NSW number one', the overarching goal for conservation in NSW is to protect our natural environment through protecting and conserving land, biodiversity and native vegetation. Within the relevant legislation and policy (*Threatened Species Conservation Act 1995*, *Native Vegetation Act 2003*, Regional Strategies and Regional Conservation Plans), this means that biodiversity and other environmental values must be 'improved or maintained'. That is, gains in biodiversity and other environmental values must be greater than or equal to any losses resulting from land clearing and / or other forms of environmental degradation.

Therefore for any future development applications within the site where impacts are proposed on areas of biodiversity value, the proponent should clearly demonstrate how they propose to mitigate and offset any loss in biodiversity value to meet the 'improve or maintain' threshold.

Aboriginal cultural heritage

OEH acknowledges that an archaeological assessment has been conducted over the wider Cessnock Civic Precinct and that no items of significance were recorded on the subject site. To ensure that Cessnock City

PO Box 4699 Newcastle NSW 2302
117 Bldg Street Newcastle West NSW 2302
Tel: (02) 4908 6800 Fax: (02) 4909 5610
ABN 30 841 397 271
www.environment.nsw.gov.au

Council is confident that this is in fact the case, OEH recommends that a Due Diligence Aboriginal Archaeological Assessment be conducted for any future development applications within the site. It should be noted that the Due Diligence Aboriginal Archaeological Assessments are only valid for a period of three years and that any future development applications will require an updated assessment.

Council should note that the *National Parks and Wildlife Act 1974* (NPW Act) clearly establishes that Aboriginal objects and places are protected and may not be harmed, disturbed or desecrated without an Aboriginal Heritage Impact Permit (AHIP). It should also be noted that the requirements of the NPW Act were amended in 2010. Council and the proponent should ensure they are familiar with the new requirements during the development and any subsequent assessment processes. Further information can be found at: www.environment.nsw.gov.au/legislation/NPWamendmentAct2010.htm

Further advice regarding Aboriginal cultural heritage can be found on OEH's website at: www.environment.nsw.gov.au/cultureandheritage.htm

In the event that any inadvertent damage does occur to Aboriginal cultural heritage as a result of the proposed development, there is potential for an offence under Part 6 of the NPW Act, irrespective of any development consent or determination granted by Council under the *Environmental Planning and Assessment Act 1979*.

Yours sincerely



23 JUN 2014

RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations