

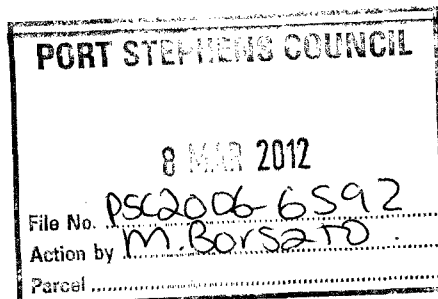


Office of Environment & Heritage

Your reference: PSC2006-6592
Our reference: DOC12/8207; FIL06/925-11
Contact: Karen Thumm, 4908 6829

Mr Peter Gesling
General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Attention: Matthew Borsato



Dear Mr Gesling

RE: PLANNING PROPOSAL FOR BOUNDARY ROAD LOTS 93 – 96 DP 753194 MEDOWIE

I refer to your letter dated 24 February 2012 seeking advice on the revised concept for a planning proposal for Boundary Road, Medowie. This request for further advice is a result of ongoing discussions regarding this planning proposal, including advice to Council on 19 October 2010 and meetings with relevant parties on 28 September 2011 and 8 February 2012. The Office of Environment and Heritage (OEH) has reviewed the additional information provided, in particular the letters from Umwelt Environmental Consultants to Port Stephens Council (dated 9 November 2011 and 14 February 2012), and offers the following advice:

OEH acknowledges that the proponent has modified the planning proposal to reflect advice provided at the above meetings. The modified proposal adds approximately three hectares of land to the offset lands, which now includes 33 hectares of Swamp Sclerophyll Forest endangered ecological community as well as Coastal Plains smooth-barked Apple Woodland (36 hectares) and a small area of Forest Red Gum / Red Mahogany Open Forest. The proposal also undertakes to commit to the 'maximum' retention of vegetation within the area containing larger lots, including those adjacent to the National Park reserve (i.e. Medowie State Conservation Area) as well as the inclusion of a corridor between the Koala feed trees in the community park and the conservation offset areas to the north-east. OEH supports the commitments to ecological planning principles, which include, but are not limited to the greatest possible retention of vegetation within the larger lots, prevention of cat and dog ownership, ropes in pools to prevent Koala drowning, 'post and rail' type fencing to allow fauna movement, and the use of native plants in landscaping and gardening. It is recommended that landscaping carried out by the proponent utilises plants which make up the vegetation types of the local area.

The report has identified that the offset area will be transferred to the adjacent National Park reserve and that a planning agreement will be the enabling mechanism for this transfer. Whilst an in-principle agreement has been made with the Manager of the Hunter Region, Parks and Wildlife Group to accept this land into the reserve system, the final decision on whether the property will be accepted for transfer and reservation under the *National Parks and Wildlife Act 1974* (NPW Act) rests with the Minister for the Environment. OEH is also required to adhere to formal whole-of-government protocols for referral of land reservation proposals to other NSW government agencies prior to acting to acquire and reserve land under the NPW Act. This is known as the reserve referral process. It will not possible to complete the reserve referral process with other NSW agencies, before a final decision has been made on this rezoning approval.

Aspects of the development including the control of public access, stormwater runoff, buffers to Medowie State Conservation Area, bushfire asset protection zones, and the location of utilities will also need to be considered and discussed with the Parks and Wildlife Group of OEH during the detailed design phase of the project. Guidelines for development adjacent to National Park reserves are available on the following website:

- www.environment.nsw.gov.au/resources/protectedareas/080290devadjoindecc.pdf

OEH acknowledges that the proponent has chosen to not formally enter a BioBanking agreement for this site. OEH therefore takes this opportunity to highlight that despite the proposed offsets, further threatened species assessments under the *Environmental Planning and Assessment Act 1979* (EP&A Act) would be required at the subsequent development application stages of the project. Further, section 93F(9) of the EP&A Act provides that a planning agreement cannot impose an obligation on a planning authority to grant development consent. However, any planning agreement which has been entered into or any draft planning agreement which a developer has offered to enter into will form one of the matters which a consent authority must take into consideration in determining a development application under section 79C of the EP&A Act.

If you have any enquiries concerning this advice please contact Karen Thumm, Conservation Planning Officer, on 4908 6829.

Yours sincerely



6 MAR 2012

RICHARD BATH
Head - Hunter Planning Unit
Conservation and Regulation - North