

31/10/19

Our Ref: N-12005/AW

Alexandra Macvean
Senior Strategic Planner
MidCoast Council
Alexandra.Macvean@MidCoast.nsw.gov.au

Dear Alex,

RE: BLUEYS ESTATE, CHARLOTTE BAY (PLANNING PROPOSAL PP_2015_GLAKE_002_00) - REQUEST TO ALTER GATEWAY DETERMINATION

I am writing on behalf of City Plan Strategy & Development (City Plan), who acts for the applicant of the abovementioned Planning Proposal. This letter responds to your email dated 22 October 2019 requesting a progress update for the Planning Proposal. I understand this progress update will be used to support a request by MidCoast Council (Council) to alter the gateway determination, seeking an extension of time to complete the LEP amendment.

The conditional Gateway Determination was made on 28 April 2015, providing a completion date within 24 months. It has twice been altered:

1. on 12 May 2017, extending the completion date to 2 May 2018 and making minor amendments to correct a zone description; and
2. on 22 December 2017, extending the completion date to 5 November 2019.

The purpose of extending the timeframe was to allow completion of technical studies and stakeholder consultation efforts in line with the gateway conditions. The status of each condition is provided in Attachment 1 to this letter. Importantly, all required investigations have been commissioned and are underway.

A key challenge for this Planning Proposal is the identification of suitable protection measures for natural assets, particularly considerations for biodiversity and water quality. These considerations are heavily influenced by the regulatory (statutory and policy) frameworks for conserving and managing biodiversity. Changes to the State-level framework, which have commenced in stages from August 2017, have been incorporated into the technical work underpinning the applicant's review of the Planning Proposal. This has warranted additional studies and negotiations with key stakeholders, including Council, to identify and establish in-perpetuity arrangements for biodiversity offsets.

The E2 - Environmental Conservation zone was originally proposed for 257 hectares (72%) of the subject site (commonly referred to as the 'Environmental Land'). Gateway condition 6 mandates the Planning Proposal cannot be finalised until an agreement is in place for the in-perpetuity protection of the 'Environmental Land'. I understand Council was seeking a biodiversity-neutral outcome, whereby all biodiversity offset requirements arising from the proposed development area were to be sourced from within the 'Environmental Land' area.

On-site investigations completed in late 2017 (ecology) and mid 2018 (hydrology) significantly improved the accuracy of environmental mapping, and supported modelling (biodiversity, riparian lands, stormwater, and flooding). These studies were used to consider a combined constraints scenario for development that was presented to Council, the (then) NSW Department of Planning and Environment

and (then) Office of Environment and Heritage (OEH) in August 2018. The combined constraints scenario demonstrated that the subject site will not be capable of entirely fulfilling its biodiversity offset requirements, and offsets will need to be sourced from elsewhere. It is also evident that the subject site contains ecological values that may be traded as biodiversity credits separately from the proposed development.

The above conclusions have led to a substantial review of the 'Environmental Land' boundary, alongside considerations for permanent conservation and management arrangements. The purpose of this review is to satisfy Gateway Condition 6 and ensure the updated Planning Proposal accurately reflects the extent of land to be permanently conserved either through a voluntary private land conservation agreement (e.g. Biodiversity Stewardship Agreement) or through the transfer of land to public ownership for conservation.

The review of land suitability for development and permanent conservation is nearing completion.

I acknowledge the concern raised by the (then) NSW Department of Planning & Environment in December 2017 in relation to Planning Proposals that have sought multiple extensions to completion dates. In our opinion, the extensions sought for this Planning Proposal are warranted, given the fundamental changes to regulatory (statutory and policy) frameworks for conserving and managing biodiversity. The project team acting for the applicant is continuing its efforts to ensure high quality research and understanding is available to underpin strategic planning decision making. Key milestone dates are:

- **November 2019** - all draft technical reports completed to date submitted to Council for review.
- **February 2020** - boundaries of permanent conservation candidate areas submitted to Council for comment.
- **May 2020** - updated Planning Proposal submitted to Council.

This timeframe is predicated on the timely return of feedback and assumes no major re-assessments or additional technical investigations would be required to finalise the updated Planning Proposal.

Following submission of the updated Planning Proposal, I understand Council will:

- provide copies to the NSW Department of Planning, Industry and Environment (DPIE) and (former) OEH for comment, as required by Gateway Condition 1;
- endorse exhibition of the Planning Proposal and any accompanying documentation;
- exhibit the Planning Proposal and any accompanying documentation for 28 days;
- review and respond to submissions to finalise the Planning Proposal, DCP, and Planning Agreement (if required);
- endorse the LEP and DCP;
- enter into the Planning Agreement, if required; and
- submit the final Proposal to DPIE.

The applicant has engaged a consultant (Architectus) to prepare a draft DCP, to ensure this would be available for exhibition alongside the Planning Proposal. The applicant has also previously submitted to enter into a Planning Agreement to transfer any environmental conservation lands, as relevant, to public ownership as an offset to development. I understand the public owner is expected to be Council, subject to further assessment and resolution.

I would expect an extension to the completion date of at least 24 months would reflect a reasonable timeframe to work with Council, and DPIE (including the former OEH), to identify suitable arrangements for the permanent conservation and management of environmental lands.

I look forward to continuing to work with Council to identify suitable arrangements for achieving the subject site's full potential. This recognises the multiple objectives outlined in the 2015 Planning Proposal Report, including to:

- utilise land that is well-located and capable of being serviced to provide low-impact development, with opportunities for residential, recreational and other compatible uses; and
- identify and protect, in perpetuity, land with very high conservation values, realising opportunities to increase the connectivity of protected land from Wallis Lake to the Pacific Ocean and from Booti Booti National park to Myall Lakes and Wallingat National Park.

Please do not hesitate to contact me directly by email (amandaw@cityplan.com.au) or phone (02 4925 3286) to discuss anything described in this letter or accompanying attachments.

Yours Sincerely,



Amanda Wetzel
Regional Director | Newcastle