

Summary Response to Council's Flora and Fauna Planner Referral Response dated 8 July 2010

INTRODUCTION

This document provides a response to the ecological questions in the internal referral prepared by Sarah Warner, Councils Flora and Fauna officer (Referral Response dated 8 July 2010). It should be read in conjunction with legal advice provided (Norton Rose, 23 July 2010).

Over the past 12 months, Stockland has engaged renowned owl expert John Young and Principal Ecologist at Dr. Jacqui Coughlan (ngh environmental) to undertake extensive surveys of its lands and the greater North Wallarah Peninsula, specifically targeting large forest owls and their nesting and roosting resources. That survey effort now amounts to more than 200 hours and includes 62 discrete survey events undertaken during the 2010 breeding season. John Young has over 30 years experience surveying owls in Australia and Jacqui Coughlan has a PhD in ornithology with 20 years of field experience (CVs available in Nghenvironmental 2010a and on request).

Upon review of the Referral Response, Mr Young and Dr Coughlan maintain their advice and conclusions as stated in the submitted Masked Owl Discussion Paper (ngh environmental, 2010a), John Young Wildlife letters (9 April 2010 and 10 May 2010) and Revised 7 part Test of Significance (ngh environmental, May 2010b). They confirm that the development of Stage 14 as proposed is unlikely to significantly affect the Masked Owl either at the individual or population level.

POSITION SUMMARY

The Owl Experts and Principal Ecologist advise that they:

- have a high degree of certainty about how the pairs of Masked Owls are functioning with North Wallarah Peninsula based on extensive and systematic survey and his knowledge and observations on owl ecology;
- are confident that the Stage 14 pair will continue to successfully breed utilising their current resources, including once Stage 14 development is completed;
- are confident that should the Stage 14 pair relocate (with or without development), there are adequate, high quality and appropriately sited alternative resources available;
- are categorical that should the Stage 14 pair relocate, there will be no impact on the other 2 pairs of Masked Owls confirmed within the North Wallarah Peninsula area;
- support the management approach for the Stage 14 owl resources (nest and roost trees) via the subdivision design, conservation management and monitoring as proposed;
- believe that sufficient information about this species is available to form the conclusion of the 7 part test that the development is unlikely to have an adverse effect on the life cycle of the species such that a viable local population would be placed at risk of extinction;
- maintain their position that a Species Impact Statement is not required.

SPECIFIC RESPONSES

1. Uncertainty in information applied in assessing potential impact & Adequacy of addressing relevant legislation

Sarah Warner comments (Page 2, 4 and 5):

- an SIS should have been prepared particularly given the level of proposed impact as well as the uncertainties that have been applied in considering the key factors required for consideration under Section 5A.

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- not satisfied that Section 5A of the EP&A Act has been adequately addressed particularly given the level of proposed impact as well as the uncertainties that have been applied in considering Section 5A(a), d(ii), (d)(iii), (f) and (g)). (*i.e. the 7 part test*)

Response:

There is a great degree of certainty in the information we have applied in reaching the conclusions regarding potential impact. The certainties are a result of extensive survey (200+hrs since August 2009 including full breeding season) to identify breeding pairs and map alternative nesting and roosting resources for the Masked Owl on the North Wallarah Peninsula and by applying the extensive experience of John Young in working with this species for many years and observing it in proximity to disturbance. We are confident of our conclusions regarding potential impact and specifically that a viable local population of the Masked Owl will not be placed at risk of extinction by the proposal. Please refer to page 22 of the Masked Owl Discussion Paper (nghenvironmental 2010a) for a more detailed explanation of how this conclusion has been reached.

We believe Section 5A has been addressed thoroughly and in accordance with the objective and intent of the Act. This has been confirmed by Norton Rose Australia in advice dated 23 July 2010. The 7-Part test that thoroughly addresses all the statutory requirements pursuant to s78 A and s5A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) was prepared in February 2010 (nghenvironmental 2010a). In addition, as required under s 5A (1)(b) of the EP&A Act, the Threatened Species Assessment Guidelines (DECC 2007) were taken into account in preparing that assessment. The 7-part test drew on information within the detailed 'Masked Owl Discussion Paper' (Feb 2010), which included the results of the habitat and owl surveys undertaken to that point, a landscape level assessment of the availability of vegetated land within a 2 km radius (1200 ha) and specifically, alternate roosting and breeding resources for large forest owls on the North Wallarah Peninsula, and a summary of existing scientific literature on the species.

Council provided the Masked Owl Discussion Paper (ngh environmental 2010a) and 7-part test to its own appointed recognised Australian owl expert Dr Rod Kavanagh, specifically requesting that he review the adequacy and conclusions of those documents (with respect to legality and uncertainty). On the basis of the information provided, Dr. Kavanagh stated that he was satisfied that an SIS was not required for the Stage 14 development "*because the report contains much of the information and assessment that would be provided in an SIS...*" (refer Appendix A email dated 4 March 2010 from Rod Kavanagh to Sarah Warner). At Council's request, a revised 7 part test was prepared and submitted (May 2010b).

2. Uncertainty re Local Population Functioning

Sarah Warner question (Page 3 final paragraph, Page 4):

- How many nest sites occur within the area?
- What proportion of these nest sites occur within secured conservation areas?
- What are the home ranges of these nesting pairs?

Response:

- In the immediate North Wallarah Peninsula area, John Young's field work has confirmed there are 3 pairs of masked owls (refer Fig 1 and pg A-2 of nghenvironmental 2010b).
- Specific nest trees have been identified for 2 pairs (Stage 14 and eastern North Wallarah National Park). The nest site for the northern sector has been identified to within 100m.

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- Conservation of these sites in perpetuity will be ensured through their locations within the dedicated National Park and the Community Association land to be created in Stage 14 as part of this proposal. The final site would be secured as part of future applications for the Northern Sector.
 - Importantly, the owls are utilising many trees within their home ranges, not only those in conservation areas. These areas include the Habitat Corridor, Foreshore Reserve, Riparian Corridors, the covenant protected bushland located throughout the development area and conservation zoned lands beyond.
 - The pairs are currently separated by more than 2km, consistent with a 2km radius or 1200 ha area recorded for the home range of the Charlestown pair tracked by Dr. Kavanagh. John Young has confirmed that home ranges overlap, are not exclusive between pairs and extend beyond the North Wallarah Peninsula (Stage 14 Male has been observed returning to site from across Lake Macquarie).
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3. Breeding Activity, Extent of population and genetic diversity

Sarah Warner comment: (page 3/4)

- Based on the information provided to date the Stage 14 site has potential to impact 1 or the 3 known pairs and potentially the only pair actively breeding on the peninsula (ie; 1/3 of the known local population).

Response:

There are at least three confirmed breeding Masked Owl pairs on the North Wallarah Peninsula (not one). It is the firm belief of John Young that given the extensive amount of suitable habitat on the Peninsula, more pairs are likely to occur, particularly to the south. There are several more known breeding pairs in the greater Lake Macquarie LGA.

The assumption of Ms Warner that an impact to one pair of Masked Owls would decrease genetic diversity of the population by one third is flawed. Looking at the known locations of breeding pairs in the LGA, the connectivity of vegetated land between those pairs and considering the ability and habit of the birds to cover large distances (dispersal activity is 80+km (DEC 2006)), it is unlikely that the three known pairs in North Wallarah Peninsula constitute a discrete population. It is far more likely that they are a sub-population within a larger meta-population in the Lake Macquarie LGA. That includes Awaba (Todd 2006 a & b), Charlestown, Northlakes and West Wallsend pairs and potentially many others. Still more pairs are expected to exist throughout the LGA and to the south of the Peninsula. Thus the assertion that any impact on the stage 14 pair would reduce the population size and genetic diversity of a population by one third is spurious and has no scientific basis.

4. Tolerance of Masked Owls to disturbance and ability to relocate

Sarah Warner comment: (Page 4)

- There is no scientific research to demonstrate that the masked owl can tolerate encroachment and encompassing residential development to the level proposed (ie; to within 30 and 50 metres) so the application will rely heavily on the owls ability to relocate.
- If relocate likely they will be forced to compete with other pairs for same resources and/or permanently move from the area.

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Response:

- There is substantial evidence that they can tolerate disturbance around their roost and nest trees (including vegetation clearance, human occupation, and construction activity) and Masked Owls are the most resilient of all Australian owls. (Note: Kavanagh and Murray (1996) radiotracked a masked owl near Newcastle and noted that it spent 82% of its time in or next to environments that had been extensively modified by man, and during the non-breeding season roosting within trees on residential properties).
 - The Stage 14 pair has now bred for 2 consecutive breeding seasons (2009 and 2010) within 25m of construction and subsequent occupation of a dwelling. Given that there will be no construction within a 50m radius of the nest site during breeding season, there is no reason to believe the pair will relocate as a result of development. John Young has repeatedly confirmed this position.
 - There are ample identified alternative nest and roost sites within the immediate area used by the Stage 14 pair (including numerous ones protected in the western Wallarah National Park, Habitat Corridor, Foreshore Reserve and Community land). John Young has confirmed by survey that the alternative resources are not being used by the other two pairs. As such, if the Stage 14 pair were to relocate, there would be no impact on the other 2 pairs of Masked Owls.
 - Due to the nesting resources in the Northern Sector and the National Park, the pairs in those locations do not use (and are not likely to use) or rely upon the nesting resources identified for the Stage 14 pair. The breeding resources for each pair are separated (physically by Pacific Highway) and are more than adequate.
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5. Security of alternative resources

Sarah Warner comment: (Page 4):

- Majority of alternative owl trees for pair to potentially relocate to occur within areas already approved for residential development or within areas immediately adjoining development placing their validity under question.

Response:

As addressed in item 4 above, there is ample, high quality nesting and roosting resources within the Habitat Corridor, Foreshore Reserve and western side of the National Park that will be managed in perpetuity and would function as appropriate alternatives. These managed areas have already been created.

In terms of the trees within the residential development, John Young categorically refutes that the validity of alternative trees is under question. The Stage 14 pair are currently utilising other high quality trees throughout the development area by choice, and several of those are well suited to function as an alternative nest tree should the pair relocate. The male has used at least 4 alternate roosting trees during the 2010 breeding season.

Furthermore, John Young has repeatedly made it clear that it is not about the number of alternatives, but the individual quality of the hollow and it's siting relative to the mosaic of roosting resources and features.

Dr Jacqueline Coughlan
ngh environmental

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REFERENCES

Department of Environment and Conservation (NSW) 2006. NSW Recovery Plan for the Large Forest Owls: Powerful Owl (*Ninox strenua*), Sooty Owl *Tyto tenebricosa*) and Masked Owl (*Tyto novaehollandiae*). DEC, Sydney.

Kavanagh, RP and Murray M (1996). Home Range, Habitat and Behaviour of the Masked Owl *Tyto novaehollandiae* near Newcastle, New south Wales. *Emu* **96**: 250-257.

Nghenvironmental (2010a). Masked Owl Discussion Paper and 7-Part Test. Stage 14 North Wallarah Peninsula. Report prepared for Stockland.

Nghenvironmental (2010b). Revised 7 part test. Stage 14 North Wallarah Peninsula. Report prepared for Stockland.

Todd, M. (2006a). The Monkey-faced owls of Awaba. *Wingspan*. pp 10-13.

Todd, M (2006b). Prey partitioning and behaviour of breeding masked Owls *Tyto novaehollandiae* on the Central Coast of New South Wales. *Australian Field Ornithology*. **23**: 186-191.

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APPENDIX A CORRESPONDENCE FORM ROD KAVANAGH

-----Original Message-----

From: Rod Kavanagh [mailto:rodk@sf.nsw.gov.au]

Sent: Thursday, 4 March 2010 5:57 PM

To: Sarah Warner

Subject: RE: Masked Owl advice response

Dear Sarah,

I have read the report prepared by NGH Environmental on behalf of Stocklands, including their responses to the "7 part test" (Appendix A).

This report appears to provide sufficient assurances as to allay most of my concerns about the impact of the Stage 14 residential development on the continued occupancy of a breeding pair of Masked Owls living in this area. As such, I no longer think that it is necessary to require Stocklands to prepare a Species Impact Statement before Council proceeds to further consider this Development Application.

However, I remain concerned about the cumulative impacts of other residential developments in the general locality. This concern refers partly to any additional developments within the estimated home-range of this pair of Masked Owls. However, and given the assurances provided in the above report, I am mainly concerned about other developments that may be proposed or planned within the estimated home-ranges of other known or unknown pairs of the Masked Owl that are adjacent to or near the subject pair of Masked Owls. The occurrences of other species of large forest owls in these areas, including the Powerful Owl and potentially the Sooty Owl, also need to be taken into account.

I agree that Stocklands, in relation to the Stage 14 Development, should not have to bear the cost of additional surveys for owls and their nest trees and roost trees in other areas on the Wallarah Peninsula.

However, if substantial new developments are proposed or planned for adjacent areas then the danger of cumulative impacts must be considered, most appropriately in an SIS, and new broader-ranging surveys should be undertaken.

In summary, I do not believe that an SIS is required to consider the Stage 14 development because the report contains much of the information and assessment that would be provided by an SIS, or at least provides an undertaking that the required information will be obtained. However, if substantial new developments are planned or proposed in neighbouring areas (especially those outside of the estimated home-range of this pair of Masked Owls) then I believe that an SIS is required to adequately consider the likelihood of unfavourable cumulative impacts on the local populations of large forest owls.

Regards,

Rod

Dr Rod Kavanagh

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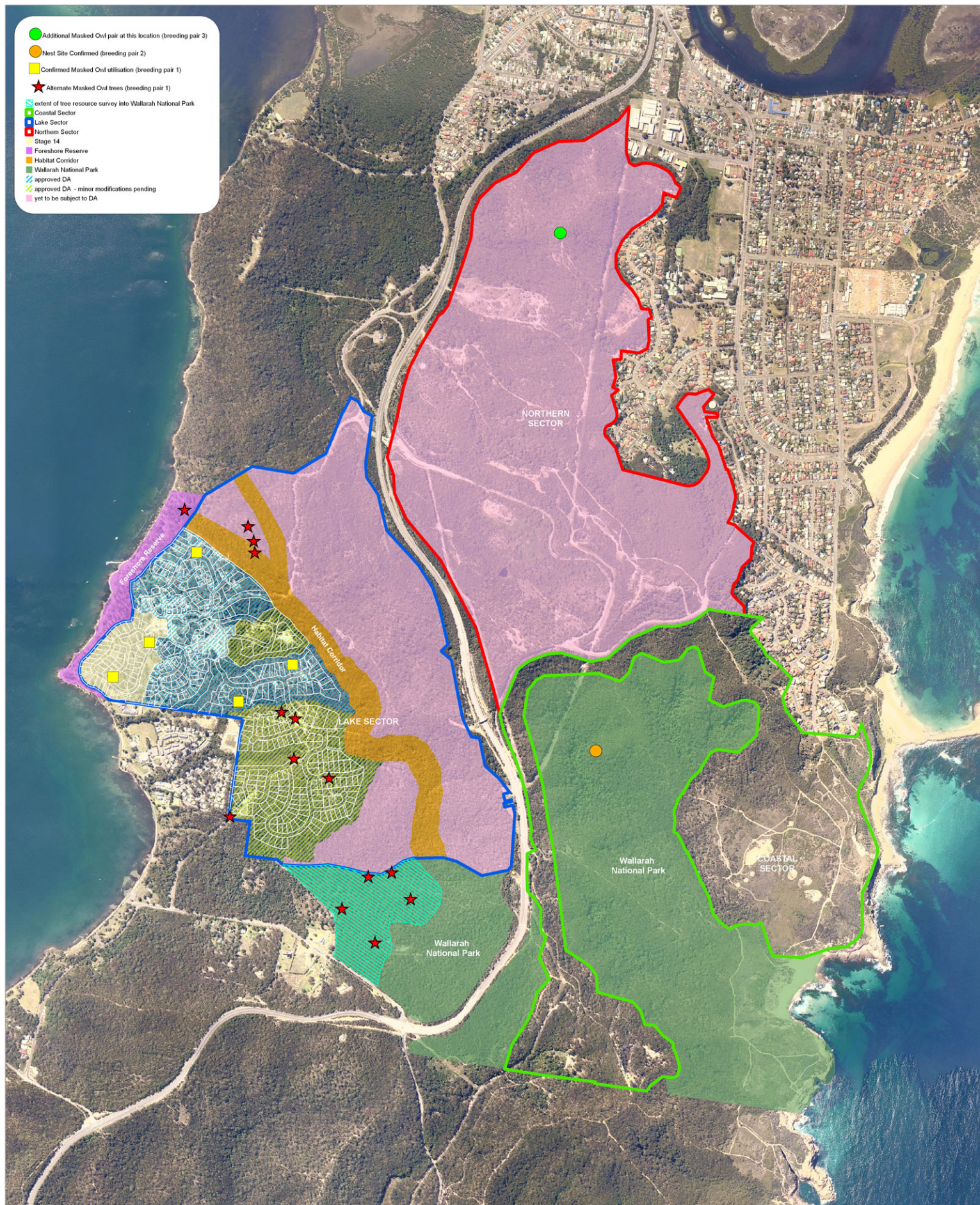
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FIGURE 1

Masked Owl Nesting, Roosting and Observation Points

MASKED OWL NESTING, ROOSTING AND OBSERVATION POINTS



Notes:

1.0 Ecological Surveys undertaken by ngh environmental ecologists and John Young over April to June 2010

2.0 Aerial photography © NearMap 2010

3.0 All features are approximate only and subject to detailed survey

4.0 Sector information digitised from the Cadastre, received from ADW Johnson April 2010

From: John Young [mailto:john@johnyoungwildlife.com]
Sent: Monday, 19 July 2010 8:29 PM
To: Jacqueline Mckean
Cc: Oliver Finch; Lewis Bird; Sandra Hutton
Subject: Re-Response to Sarah Warner

Hi Jackie
the following is in response to Sarah Warners Memo regarding questions and conditions to Stage 14 Murrays Beach.

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To Whom it may concern.

I John Young of Johnyoung wildlife enterprises have read Sarah Warners Memo regarding Stage 14 - re her conditions for consent or otherwise.

I would like to clearly state here that I have read her memo and am in disagreement in many areas.

I have freely conducted a live interview on Stage 14 and my thoughts on the ameliatary measures being taken to protect the Masked Owl - and for me - what you see on this video is what my thoughts are in a very comfortable, informative and direct way.

My thoughts are clear and precise with no deviation. I strongly believe in the direction the interview has gone and totally stand by my convictions on the Masked Owl at Stage 14.

There will be no change of opinion on my behalf than what those see on this interview.

Yours Sincerely

John Young

19th July 2010

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23 July 2010

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Ms Jacqueline McKeon
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Our reference
FJR:NAB:2688487

Dear Jackie

**Development Application for Stage 14 Land, Murrays Beach, Wallarah Peninsula
Masked Owl - supplementary advice on whether Species Impact Statement is required
Council reference: DA/1297/2009, JRPP reference: 2009HCC004**

We refer to our letter of advice dated 2 February 2010 and to your email dated 13 July 2010.

We understand that Stockland's development application DA/1297/2009 (**DA**) has been referred to the Hunter and Central Coast Joint Regional Planning Panel for determination (**JRPP**). The JRPP, as the relevant consent authority, must determine whether a Species Impact Statement (**SIS**) is required to accompany the DA, prior to determining the merits of the DA itself.

In our letter of 2 February 2010, we advised that the NGH Report dated February 2010 provided an appropriate and persuasive basis upon which the consent authority could conclude that the proposed development is not likely to significantly affect the Masked Owl threatened species and therefore that an SIS is not required.

Since the provision of our advice on 2 February 2010, further reports have been prepared by NGH Environmental, Mr Young and Dr Kavanagh. Council's Assessment Report and Referral Response Report have also been prepared. You have asked us to review these additional reports and provide supplementary advice on the requirements for an SIS with respect to the Masked Owl threatened species.

In preparing this supplementary advice, we have reviewed the documents contained in Schedule 1 of this letter.

Having considered these additional documents, it remains our view that it would be reasonable, appropriate and lawful for the JRPP to determine that an SIS is not required, and to proceed to determine the DA in the absence of an SIS.

APAC-#6878045-v2

1 JRPP to determine if SIS required

- 1.1 Stockland's ecological experts, Mr Young and Dr Coughlan, together with Council's ecological expert, Dr Kavanagh, have advised that an SIS is not required.
- 1.2 Council's Development Assessment Report also says that an SIS is not required and recommends that the DA be determined with approval.
- 1.3 However the Referral Response Report prepared by MS Warner in Council's Development Assessment and Compliance Unit recommends that an SIS be required. The Referral Response Report is discussed in more detail in section 4 of this advice.
- 1.4 The JRPP, as the consent authority, must determine for itself whether an SIS is required. It is not obliged to follow the recommendation of either the Council Assessment Report or the Referral Response Report in making its determination. The JRPP must consider the information before it and ensure that its decision is reasonable, appropriate and informed having regard to the legal requirements.
- 1.5 Having considered the ecological reports in Schedule 1 of this letter, it is our view that it would be open to the JRPP to lawfully and reasonably determine that an SIS is not required and to proceed to determine the DA in the absence of a SIS.

2 Case law – legal requirements for an SIS to be prepared

- 2.1 The legislative requirement for an SIS is contained in section 78A(8)(b) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
- 2.2 Section 78A(8)(b) requires that a development application be accompanied by an SIS if the application is in respect of the development of land that "*is likely to significantly affect threatened species, populations or ecological communities, or their habitats*".
- 2.3 Satisfaction of the requirement is an essential pre-requisite to granting consent to a development application.
- 2.4 Justice Preston, Chief Judge, has helpfully summarised the key legal points relating to the requirement for an SIS in the recent NSW Land and Environment Court case of *Newcastle and Hunter Valley Speleological Society Inc v Upper Hunter Shire Council and Stoneco Pty Limited* [2010] NSWLEC 48 as follows:

"First, section 78A(8)(b) focuses on the development proposed in the development application; the inquiry is whether the "development" in respect of which application is made is likely to significantly effect threatened species, populations or ecological communities or their habitats"...

"Secondly, the description of the development the subject of the development application is not restricted to the nature, extent and other features of the development but can also include ameliorative measures to prevent, mitigate, remedy or offset impacts of the development"....

"Thirdly, the word "likely" means "a real chance or possibility" and "significantly" means "importantly", "notable", "weightly" or "more than ordinary"..."

"Fourthly, in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats, the consent authority and the Court on appeal must take the factors in section 5A of the EP&A Act into account and in particular the factors in the now 7 part test in section 5A(2)"...

"Fifthly, a positive answer to any one or more of the seven factors does not mandate an affirmative answer to the question of whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats but equally does not preclude a negative answer to the question".... (paragraphs 82 to 86 of the judgment).

3 Recommendations made in expert reports and Council Assessment Report

- 3.1 Stockland has provided the consent authority with detailed ecological reports from Mr John Young, renowned Masked Owl expert, and Dr Jacqui Coughlan of NGH Environmental. These reports have assessed the likely impact of the proposed development on the pair of Masked Owls that inhabit the development site. Dr Coughlan's reports contain a detailed assessment of the 'seven part test' as required by section 5A of the EP&A Act, to determine if the proposed development is *likely to significant affect* the Masked Owl.
- 3.2 Both Mr Young and Dr Coughlan have advised that the proposed development is unlikely to have a significant effect on the Masked Owl species and accordingly an SIS is not required.
- 3.3 Mr Young and Dr Coughlan have considered the Referral Response prepared by Ms Warner of Council and have confirmed in writing that they maintain their views that an SIS is not required.
- 3.4 Council's own owl expert, Dr Rod Kavanagh, has also advised that in his opinion, having read the reports of NGH Environmental, an SIS is not required (Dr Kavanagh's email advice dated 4 March 2010).
- 3.5 Council's Assessment Report considered the expert reports prepared by Dr Kavanagh, Mr Young and Dr Coughlan and the Referral Response Report prepared by Ms Warner of Council. Council's Assessment Report has concluded that an SIS should not be required (page 8 of the Council Report).

4 Referral Response Report dated 8 July 2010

- 4.1 Ms Sarah Warner of Council's Development Assessment and Compliance Unit, has prepared a Referral Response Report dated 8 July 2010. Ms Warner has recommended that an SIS should be required.
- 4.2 We are concerned that the reservations and uncertainties expressed in Ms Warner's report reflect her lack of familiarity with the detailed ecological reports that have been submitted in support of the development application, and are not a fair assessment of the ecological risks associated with the development. It is not apparent from the Referral Response Report whether Ms Warner is an expert or qualified in this field.
- 4.3 We make the following brief comments with respect to the Referral Response Report:

Ms Warner's comments	Norton Rose comments
Ms Warner has stated that an SIS should be prepared on the basis that there are a number of uncertainties associated with the proposed development, including impact on the life cycle of the Masked Owl, impact on the habitat of the Masked Owl, impact on the long term survival of the Masked Owl as a result of habitat removal and concerns relating to the Large Forest Owl Recovery Plan.	These matters have been comprehensively addressed in the reports of Dr Kavanagh, Mr Young and Dr Coughlan. For example, Mr Young in his report dated 9 April 2010 confirms that there are unlikely to be significant impacts on the Masked Owl as it is unlikely that the pair of Masked Owls that live within the development site will abandon their nest sites. In the unlikely event that they do there are adequate alternative nesting resources available. The availability of habitat is also discussed in detail in the NGH Reports dated February 2010 and May 2010. Dr Kavanagh in his email advice dated 4 March 2010 confirms that in his view an SIS is not required.
Ms Warner states that she is concerned about the impact of substantial future development in the Wallarah area.	Case law confirms that in determining whether an SIS is required, the consent authority must determine whether the "development" is likely to significantly affect the threatened species. The SIS test in section 78A(8)(b) requires that the determination of the SIS be made with respect to the

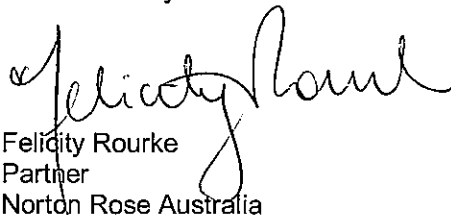
	current proposed development not anticipated future development in the general locality. This requirement is reaffirmed by Chief Justice Preston at paragraph 82 of his judgment in the <i>Newcastle and Hunter Valley Speleological Society</i> case.
Ms Warner refers to previous development applications concerning Masked Owls and to previous decisions made by consent authorities.	Reference to previous decisions relating to different development sites is not relevant or helpful. Chief Justice Preston at paragraph 99 in the <i>Newcastle and Hunter Valley Speleological Society</i> case states: "Reference to other cases where assessments of significance of loss of EECs (endangered ecological communities) have been made is not particularly helpful. Each case must turn on its own facts."
Ms Warner refers to internal legal advice that she has received from Council's solicitor.	We note that the legal advice Ms Warner refers to is contained in a 5 line email from Council's solicitor which is very brief and does not contain any analysis of the facts or law.
Ms Warner refers to the legal interpretation of the term "significantly" for section 5A assessments.	We confirm that a body of law has been developed in relation to the interpretation of Part 5 of the EP&A Act and the meaning of "likely" and "significantly". Justice Biscoe in the Land and Environment case of <i>Nambucca Valley Conservation Association Inc v Nambucca Shire Council</i> [2010] NSWLEC 38 at paragraph 112 states: "The statutory test is not whether the development is likely to impact to any extent on threatened species, populations or ecological communities, or the habitat. It is whether the development is likely to "significantly effect" them."

5 Summary

- 5.1 Having considered the scientific reports prepared by Mr Young, Dr Coughlan and Dr Kavanagh, it is our view that it is reasonably open to the JRPP to determine that an SIS is not required for the proposed development.
- 5.2 Whilst Council's Referral Response Report recommends that an SIS be required, Council's Development Assessment Report recommends that an SIS is not required. The consent authority is not obliged to follow either recommendation. Rather, as the decision making authority, it must formulate its own view. From a legal perspective, given the evidence provided by Mr Young, Dr Kavanagh, Dr Coughlan and Council's Assessment Officer, it is our view that it would be lawful and reasonable for the JRPP to determine that an SIS is not required and to proceed to determine the DA.

Please don't hesitate to telephone us if you have any questions in relation to this advice.

Yours faithfully



Felicity Rourke
Partner
Norton Rose Australia

Contact: Nikolina Babic
Copy to: Ms Victoria Edge, Legal Counsel – Group Legal, Stockland

Schedule 1

For the purposes of the supplementary advice, we have reviewed the following documents:

1. Council's Assessment Report for DA1297/2009 prepared by Mr David Pavitt, Principal Development Engineer, Lake Macquarie City Council, undated.
2. Referral Response Report prepared by Ms Sarah Warner, Development Assessment and Compliance Unit, Lake Macquarie City Council, dated 8 July 2010.
3. NGH Environmental reports dated February 2010 and May 2010 (containing 7 part test and revised 7 part test).
4. NGH Environmental Summary Response Report (responding to Council's Referral Response) dated 23 July 2010
5. Expert ecological reports of Mr John Young dated 9 April 2010 and 10 May 2010.
6. Mr John Young email to Stockland dated 19 July 2010 (confirming his expert opinion following consideration of Ms Warner's Referral Response)
7. Expert ecological report of Dr Rod Kavanagh dated 11 January 2010 and email advice dated 4 March 2010.
8. Email from Council's Legal Officer Mr Grant Long to Sarah Warner dated 7 July 2010.