



Office of
Environment
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19 DEC 2014

LAKE MACQUARIE
CITY COUNCIL

Your reference:
Our reference:
Contact:

DA/251/ 2013
DOC14/230474-02
Robert Gibson, 4908 6851

Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HUNTER REGION MAIL CENTRE NSW 2310

Attention: Mr Brian Gibson

Dear Mr Bell

RE: THREATENED SPECIES CONCURRENCE – PROPOSED DEVELOPMENT AT 4B SOUTH STREET, WINDALE, NSW, 2306 BY HYDROX NOMINEES PTY LTD (DA/251/2013) – NEW CONCURRENCE CONDITIONS

The Office of Environment and Heritage (OEH) issued its concurrence, with conditions, for the proposed development (DA/251/2013) at Windale on 10 November 2014. On 26 November 2014, Lake Macquarie City Council contacted OEH and highlighted a potential problem with the implementation of the translocation of ten plants of *Grevillea parviflora* subsp. *parviflora* as stipulated in concurrence condition 7(b). OEH discussed this matter further with Council on 16 December 2014.

OEH has considered Council's concerns and has agreed to allow more flexibility in the location in which the ten translocated plants may be located on Lot 10 DP 1013486; provided that the site has similar attributes to those where the plants occur naturally, including soil type and hydrology, and associated species. As a consequence OEH has changed the wording of concurrence conditions 7(b) and 7(d).

OEH is unable to vary the conditions of a concurrence issued under Part 4, section 79B of the *Environmental Planning and Assessment Act 1979*, and so the previously-issued concurrence has now been revoked and a new concurrence issued. A copy of the new concurrence conditions for this project are provided in **Attachment 1**.

If you require any further information regarding this matter, please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely

 17 DEC 2014

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

Enclosure: Attachment 1

ATTACHMENT 1:**NEW CONCURRENCE CONDITIONS FOR A PROPOSED RETAIL DEVELOPMENT (DA/251/2013) ON LOTS 10, 11, 12, 13 & 14 OF DEPOSITED PLAN (DP) 1013486 (4B SOUTH STREET, WINDALE, NSW, 2306), LAKE MACQUARIE LGA**

1. The development must be undertaken in accordance with the Species Impact Statement (SIS) including but not limited to the ameliorative measures documented in Section 7 of the SIS.

Reason: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 for this issued Concurrence.

2. The provision of biodiversity offset at Ryhope ('the Offset') as shown in Figure 1 (below) must be secured in perpetuity for conservation prior to any construction certificate being granted. Evidence of this is to be provided to the planning authority prior to the granting of any construction certificate by the Principal Certifying Authority. As a minimum such evidence is to include transfer of the 4.35 hectares of unmade roads (known as Lot 1 DP 1198888) in the Offset from the applicant to the consent authority; a Planning Agreement with the consent authority or future owner of the offset land demonstrating commitment and funding for ongoing conservation management; and a Section 88E instrument under the *Conveyancing Act 1919* securing the land for conservation purposes.
3. The Proponent must only sell the 4.35 hectares of unmade roads in the Offset (shown in Figure 1, below) to Lake Macquarie City Council, as described in section 7.3.1 of the SIS.
4. The proponent must develop a 'Vegetation Management Plan' and a 'Plan of Management' for the Offset land as required under the Planning Agreement. A Vegetation Management Plan must be submitted to and approved by Lake Macquarie City Council's nominated delegate prior to the granting of any construction certificate. A Plan of Management is to be submitted to and approved by Lake Macquarie City Council prior to completion of maintenance works.
5. The Vegetation Management Plan must be implemented in accordance with the requirements of the Planning Agreement agreed between the proponent and Lake Macquarie City Council until such time as the Offset Land has reached a Stable State. Stable State means the condition of the Offset Lands so that they require minimum management works to maintain conservation value and can be mainly self-managed with only low levels of annual maintenance management after the maintenance works have been undertaken.

The Proponent must provide funding to Lake Macquarie City Council in accordance with the provisions of the Planning Agreement for the ongoing management of the Offset Land after it has reached a Stable State. The Offset Land will then be managed by the Council in accordance with a 'Plan of Management' prepared in accordance with the Planning Agreement. The Plan of Management will contain a provision requiring consultation with OEH's Senior Team Leader Planning, Hunter Central Coast Region on review of the plan by the Council.

Note: Definitions. For the purposes of this Concurrence references to:

- 'Stable state' means the condition of the Environmental Conservation Lands so that they require minimum management works to maintain conservation value and can be mainly self-managed with only low levels of annual maintenance management after the Maintenance Works have been undertaken and which must have achieved, at a minimum:
 - (a) 100% removal of Noxious Weeds and Transformer Weeds (unless otherwise agreed with the Planning Authority, acting reasonably);
 - (b) a locked gate at the start of the fire trail, nearest Wakefield Road;

(c) fencing on the perimeter of the Environmental Conservation Lands to prevent illegal vehicular access and at a minimum, the fencing is to be constructed along the Wakefield Road boundary including with adequate returns;

(d) removal of rubbish (unless otherwise agreed by the Planning Authority, acting reasonably);

(e) prevention of accelerated erosion through erosion control generally in accordance with the 'Blue Book', *Managing urban stormwater: Soils and construction Volume 1*, Landcom, Fourth Edition, March 2004 ISBN 0- 9752303-3-7; and

(f) signs on the perimeter to promote appropriate use of the Environmental Conservation Land. Signage is to be approved by Planning Authority prior to installation, but excludes the upgrade of the track through the Environmental Conservation Lands; and

- 'OEH's Senior Team Leader Planning, Hunter Central Coast Region' means 'Senior Team Leader Planning, Hunter Central Coast Region, North Branch, Office of Environment and Heritage'.

6. The Offset land must be managed for conservation in perpetuity, as per OEH's offsetting principles (OEH 2011b).

Reasons: To ensure that the proposal is undertaken as described in the SIS and incorporates amelioration measures for threatened species as agreed to by the Minister administering the Threatened Species Conservation Act 1995 for this issued Concurrence.

7. The measures stated in Section 7 of the SIS must be implemented and in addition to the following conditions:

- (a) The proponent must enter into an access / works license with Council's Property Department for translocation work (described below) on Council land, and / or as otherwise agreed with the Planning Authority. Any license is to be entered into prior to issue of any construction certificate;
- (b) The proponent must translocate ten (10) ten plants of Small-flower Grevillea from across the development footprint on Lot 10 DP 1013486 into an another area on Lot 10 DP 1013486 considered by an ecologist to have similar site attributes to those supporting the local remnant population;
- (c) Any translocated plants must be planted within the area enclosed by exclusion fencing as described in Section 7.2 of the SIS;
- (d) Any translocated plants must be removed in a mass of soil at least 30 cm diameter by 30 cm deep centred on any existing stem, and each plant with soil wad must be carefully planted so as not to harm any naturally occurring stems of Small-flower Grevillea, if present. The soil around each plant must remain intact during the translocation and planting steps. Care must be exercised so that shape of the hole conforms to the shape of soil wad so as to prevent holes or settling of soil that could adversely affect plant survival. All plants must be watered in well within one (1) hour of being translocated;
- (e) Translocation must be supervised by an appropriately qualified ecologist;
- (f) Each translocated plant must be allocated a unique number, be photographed, have its maximum height measured and its location recorded by GPS (Eastings and Northings in World Geodetic System (WGS) 84, Zone 56);
- (g) The translocation must be done in accordance with 'Guidelines for the Translocation of Threatened Plants in Australia (Second edition)' produced by the Australian Network for Plant Conservation;
- (h) The translocated plants must be monitored on an annual basis for a period of five (5) years in which the number and height of live stems; presence of flower buds, open flowers,

developing fruit, ripe fruit or old fruit stem, number of dead stems, height of dead stems per plant is noted, and each translocated plant is photographed. Annual monitoring reports are to be submitted to the planning authority over the 5 year monitoring period; and

- (i) Weeding and other appropriate management activities, as determined by an appropriately qualified ecologist may be conducted in and around the translocated plants of Small-flower Grevillea.

Reasons: (a) *To preserve the genetic variation of this isolated population of Grevillea parviflora subsp. parviflora;* (b) *to learn more about the ecology of this species and how this species may be managed to ensure its survival.*

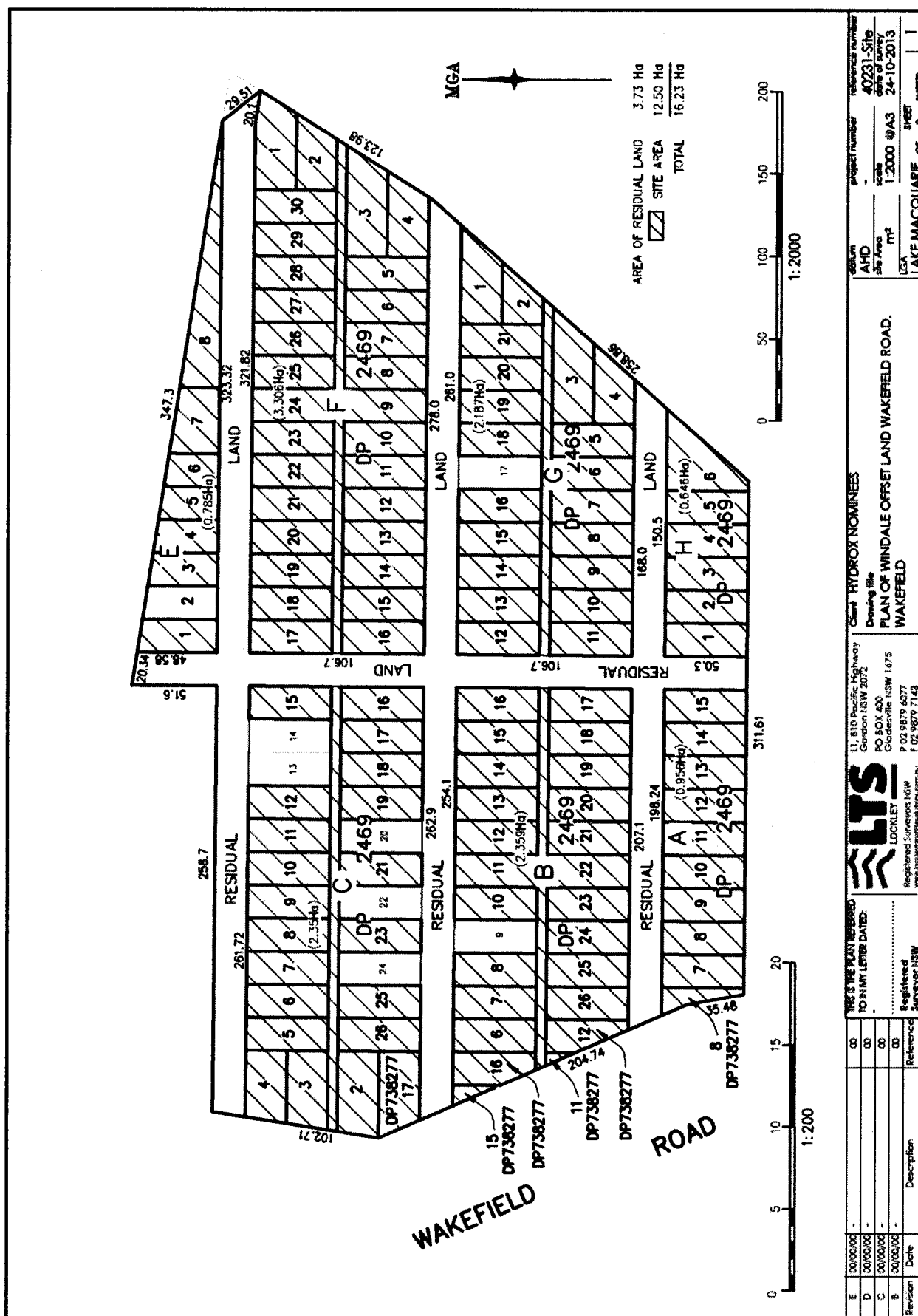


Figure 1. Map of the Offset land at Ryhope. The Offset comprises 118 lots but excludes eight (8) privately-owned lots (Lot 9/B/2469, Lots 13,14,20,22 & 24/C/2469, Lot 2/E/2469, and Lot 17/G/2469).