

# **Addendum Advice Regarding Submission from Lynden Jacobi – Secretary WCA Inc**

15 December 2015

A submission has been received from Lynden Jacobi as Secretary WCA Inc, provided as Attachment A to this Addendum Advice. The following is provided in response to this submission.

Additionally, the applicant has provided a reply to the submission, provided as Attachment B to this Addendum Advice, which is accompanied by legal advice, provided as Attachment C to this Addendum Advice.

The submission effectively raises the question of whether the JRPP should determine the application in light of the application not being supported by a species impact statement (SIS). The legal advice from the applicant's solicitor responds to this issue.

It is confirmed the proposal will not have a significant impact on threatened species. The ecological findings confirm that:

- gliders can move through the area presently, and as a result of the development will still be able to move through the corridor.
- ameliorative measures are not as a direct result of the development proposal; however provide greater benefit to the community and to the ecology of the area.
- the proposed glider poles provide insurance and will embellish the existing vegetation. It is acknowledged there will be a loss of vegetation as a result of the development this loss does not trigger the requirement for a SIS.
- any additional requirements reinforce the proposed landscaping but similarly do not trigger and SIS. The recommended conditions of consent are in no way seeking to overcome an issue that would be resolved by the SIS process.

Having regard to the legal advice (attachment C), there would appear to be no legal impediment to the JRPP determining the application.

## **Conditions of Consent**

As a result of reviewing the recommended conditions of consent requested by the applicant, Council officers advise as follows:

### **Condition 14 - Vegetation Management Plan and Implementation**

This condition requires a Vegetation Management Plan be prepared for the development, which includes a requirement for glider poles, ameliorative landscaping and environmental measures on Dudley Road and Station Street and restrictions on pet ownership. The condition reads as follows:

*The person entitled to the benefit of the consent shall engage a person qualified in natural vegetation management, ecology or bush regeneration to prepare a Vegetation Management Plan (VMP) in consultation with Council's Development Planner – Flora and Fauna. The VMP shall be submitted and approved by Council prior to the issue of the first construction certificate.*

The VMP shall address and identify:

- *Compensatory planting within land zoned RE1, E2 and the Kopa Street Road reserve of native groundcover, shrubs (including Allocasuarina torulosa and a mix of Acacia sp. and Banksia sp.), and trees (including Eucalyptus globoides, Corymbia gummifera, Eucalyptus racemosa, Eucalyptus haemastoma, Eucalyptus piperita and Angophora costata)* Compensatory planting will occur in the south and eastern areas of the subject site including surrounding the proposed stormwater basins, on adjacent Council land within and adjacent to the Fernleigh Track, and within Council land adjacent to the Fernleigh Track at Hudson Street, Dudley Road and Station Street as shown in Figure 13 below.
- *Weed removal and rehabilitation of native vegetation on land indicated above and shown in Figure 13 below.*
- *Ecological Corridor Landscape Rev D, Dwg No DA-EC-01 and DA-EC-02 Mansfield Urban 20 February 2015 shall be amended to include the provision of 11 clumps comprising three trees per clump of plantings (allowing for 5 m canopy separation when mature) on the subject site within land zoned E2. Species shall be scribbly gum Eucalyptus racemosa and red bloodwood Corymbia gummifera.*
- *Measures to establish a functioning corridor to enable fauna movement, in particular squirrel gliders. Structures (glider poles) shall be installed on land zoned E2 at the south eastern boundary of the subject site with the intent to facilitate movement of squirrel gliders between patches of native vegetation along the south eastern boundary of the subject site (a minimum of two is required). Glider poles shall be installed south of the Dudley Road/Station Street intersection and north of the Dudley Road/Station Street intersection on Council land with the intent to facilitate movement of squirrel gliders across this intersection (a minimum of three is required). Input from a squirrel glider expert shall be obtained and included in the design, placement and to confirm the number of these structures. They must be designed with consideration to site constraints including power lines and traffic/public safety requirements and have regard to any requirement of the Roads and Maritime Services, and be certified by a practicing structural engineer.*
- *The batters of the proposed stormwater basins shall be planted with native groundcover, trees and shrubs (as detailed above). Land between the proposed stormwater basins and the Fernleigh Track shall be mulched, excluded from mowing (to allow for natural regeneration) and planted with native groundcover, trees and shrubs (as detailed above), in compliance with the required density for bushfire asset protection zones.*
- *Clear depiction on plans and on the ground, areas that are not to be mown by maintenance staff and are to be maintained with native species.*
- *A suitable mechanism for continued maintenance and management in perpetuity of the native vegetation corridor and Asset Protection zone that is to be established on the E2 land.*
- *At least five years maintenance of rehabilitation and weeding on Council land, and at least 10 years maintenance, revegetation and rehabilitation of E2 zoned land.*

*Implementation of the VMP shall be carried out in accordance with the VMP approved schedule of works. Annual Monitoring statements shall be provided to Council's Development Planner Flora and Fauna verifying compliance with the VMP. The VMP shall be implemented and rehabilitation works maintained to the satisfaction of Council's Development Planner – Flora and Fauna.*

Keeping of Pets – Section 88B Restriction

*The registered Proprietor of the land shall provide an instrument under Section 88B of the Conveyancing Act requiring that cats shall be only kept as indoor pets. Cats shall not be permitted unless on a lead outside, on public roads or in private or public open space areas. Pets including dogs may be permitted within the outdoor private open space of the dwellings, but shall not be permitted off lead outside private open space areas.*

*The above restriction shall be placed on all lots including Torrens title and strata lots within the subdivision.*

*The Section 88B restriction shall be registered on the title of the lot prior to the issue of the first occupation certificate for that stage of the development.*

*Council shall be the party empowered to release, vary or modify this restriction.*

Council does not support a variation to this condition as requested by the applicant.

Condition 91 – Adjustment to Kopa Street Intersection

Condition 91 presently reads as follows:

*The person entitled to the benefit of this consent shall arrange for Kopa Street to be extended, at its current width, to the end of the driveway that will service proposed Lot 23. The intersection of the new access road and Kopa Street shall be designed as a “T” intersection.*

It is proposed to amend this condition as follows:

Driveway Access to Proposed Lot 23

*The person entitled to the benefit of this consent shall arrange for the construction of a concrete driveway 3.0 metres wide to provide vehicular access to proposed Lot 23. The driveway shall be constructed within the Kopa Street road reserve. A Public Positive Covenant shall be placed on the title of proposed Lot 23 at the time of registration of the subdivision. The Covenant shall require the owner of Lot 23 to maintain the driveway in a good and safe condition at no cost to Council.*

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