

Department of Planning and Environment

DOC23/392460

Emma Langan
The Hills Shire Council
PO Box 7064
NORWEST NSW 2153

5 June 2023

Subject: Planning Proposal Pre-Lodgement Advice – 1020 Melia Court, Castle Hill

Dear Ms Langan

Thank you for your letter of 1 May 2023 requesting advice on the scoping proposal for a potential planning proposal (PP) at 1020 Melia Court, Castle Hill.

The Environment and Heritage Group (EHG) has reviewed the Scoping Report prepared by Paro Consulting (9 February 2023) for the potential rezoning of the subject land to R3 Medium Density Residential and C2 Environmental Conservation which would facilitate the development of 191 dwellings, and associated infrastructure as well as a central park and nature reserve area. Based on EHG's review of the information provided, the scoping proposal does not currently meet EHG's requirements in relation to biodiversity assessment and floodplain risk management.

EHG has reviewed the Preliminary Ecological Assessment prepared by Fraser Ecological dated 4 April 2023 and notes that detailed surveys have not been undertaken. Further detailed site surveys are required to confirm the biodiversity values of the site prior to determining appropriate land use zone changes. Adequate biodiversity assessment would enable the proposal to avoid impacts to high biodiversity values including areas of the critically endangered ecological community (CEEC) Blue Gum High Forest (BGHF) and threatened species habitat. Adequate biodiversity assessment undertaken at this stage provides greater certainty for future development applications.

With respect to floodplain risk management, given the pre-lodgement submission proposes rezoning of the site to R3 Medium Density Residential, EHG recommends the proponent undertake a Flood Impact Risk Assessment (FIRA) in accordance with the [Flood Risk Management \(FRM\) Manual](#).

EHG provides detailed comments and requirements at Attachment 1.

If you have any queries regarding this matter, please contact Dana Alderson, Senior Project Officer Planning at Dana.Alderson@environment.nsw.gov.au.

Yours sincerely,



Susan Harrison
Senior Team Leader Planning
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Attachment 1 - EHG Planning Proposal Pre-Lodgement advice for 1020 Melia Court, Castle Hill

Biodiversity

The identification of land for development should be designed to avoid and minimise impacts to biodiversity values.

To demonstrate that the PP has adequately addressed biodiversity, it must:

1. assess and document the biodiversity values of the site and the impacts of development on biodiversity should the PP proceed
2. identify the land to be conserved for biodiversity (conservation land) with proposed zoning and land uses consistent with conservation
3. protect conservation land through minimum lot sizes, buffers located within development land, and ownership and management arrangements to provide for protection of conservation land in perpetuity.

Biodiversity assessment requirements

An assessment of the environmental and biodiversity values present on the subject land is required to inform the appropriate zoning and potential development layout including the identification of areas of environmental and biodiversity value to be avoided and conserved.

This assessment is to be prepared by a suitably qualified ecologist and must identify if the proposal is likely to result in development that exceeds the Biodiversity Offset Scheme (BOS) thresholds or is likely to have a significant impact on threatened species, ecological communities (TECs) or their habitats based on application of the test of significance in section 7.3 of the *Biodiversity Conservation Act 2016* (BC Act).

As the pre-lodgement proposal is likely to result in development that triggers the BOS threshold, the biodiversity assessment for a planning proposal for the site is to be undertaken in accordance with Stage 1 and 2 of the BAM 2020, including the most up to date survey guidelines.

Biodiversity survey

EHG has reviewed the Preliminary Ecological Assessment undertaken by Fraser Ecological (4 April 2023) and provides the following detailed site-specific advice.

The subject land:

- is partially identified on the NSW 'Sensitive Biodiversity Land Values Map'
- has large areas mapped of the CEEC BGHF, any impacts to which would require assessments in terms of Serious and Irreversible Impacts (SII) in accordance with the BAM 2020, and
- contains habitat for many threatened flora and fauna.

Mapping from the SVTM NSW Extant PCT mapping shows BGHF on most of the site. BGHF is listed as a CEEC under the BC Act and is listed as a SII entity.

No biodiversity survey of the site has been undertaken. In this regard, the TEC mapping on the site may be under-estimated.

Detailed site surveys are required to confirm the biodiversity values of the site prior to determining appropriate land zone changes on the subject land. Adequate surveys in accordance with Stage 1 of the BAM could confirm the presence of native vegetation and its PCT allocation, ascertain its condition, and to determine the suitability of habitats (if present) for threatened species.

Given no surveys were undertaken for the Preliminary Ecological Assessment (Fraser Ecological, 4 April 2023), the extent of the direct and indirect impacts of the planning proposal remain unclear.

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Avoid and minimise impacts

The BAM 2020 requires applicants to document the reasonable measures taken by to avoid or minimise clearing of native vegetation and threatened species habitat during proposal design. Areas providing habitat for TECs or threatened species or corridors between habitats should be avoided to comply with the avoid and mitigate requirements including those areas of poorer condition TECs which may consist only of trees with limited groundcovers and shrubs or derived native grasslands. A focus on avoidance of biodiversity values will ensure the retention of these values in the locality and measures to adequately protect and conserve them in secure ownership and management into the future must be provided.

It is likely that the current proposal could have significant impacts on local biodiversity values given the extent of engineering works covers more than 55% of the site.

It is unclear how the vegetation on the site which is proposed for retention as bushland will be managed and protected into the future. Should the planning proposal proceed it should determine the methods to actively manage and conserve native vegetation across the site to ensure the security and protection of the TECs, threatened species and threatened species habitat present on the site.

While Stage 1 of the BAM should be undertaken to support any planning proposal, it is also beneficial to the applicant to consider the potential impacts to biodiversity values and what legislative requirements will apply to future DAs should the land be rezoned. In this regard, Stage 2 of the BAM would provide further information for planning proposal design.

Given the impacts to SAI entities due to the proposed extent of the R3 zoning, the proponent would be unlikely to be able to demonstrate how the proposal has avoided and minimised impacts to biodiversity values on the site. The proposal does not sufficiently identify threatened entities, nor provide adequate protection through appropriate zoning and ongoing management of avoided land with significant biodiversity values.

Further assessment is required to provide adequate information in support of any rezoning proposal on the subject land. Further efforts to avoid areas containing biodiversity values including those areas containing SAI entities and should be the focus of environmental conservation zones with adequate corridors and linkages between them supporting the distribution of flora and fauna across their range.

Regarding the BGHF which meets the principles and criteria for SAI, it is not known whether any impacts to this TEC will constitute SAI for future DAs. Approval of the current rezoning proposal could lead to future DA's being refused given section 7.16 of the BC Act.

Conservation land use zoning

EHG supports the proposal's approach to zoning land with conservation values requiring protection to C2 Environmental Conservation. Permissible land uses within the C2 zone should be consistent with the long-term protection and conservation of those values. EHG considers that uses inconsistent with the C2 zone include but are not limited to:

- active recreation (including playgrounds, amenities, sports fields, dog exercise parks)
- water detention basins
- Asset Protection Zones
- building identification and business identification signage
- ecotourism facilities
- information and education establishments
- childcare centres

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- car parks
- batters.

Protection of conservation land

The retention of biodiversity values within development lots (including large lot residential) is not considered an appropriate way to conserve biodiversity. Instead, the PP should facilitate protection of conservation land in perpetuity through consistency with the following:

- prevent fragmentation through minimum lot size applied to conservation land which does not allow further subdivision (other than to subdivide off conservation land from development land)
- prevent impacts from development on conservation land by:
 - ensuring that active open space is provided within the development area
 - provision of buffers to conservation land within development via a perimeter road, shared cycle/pedestrian paths or open space
 - ensuring that stormwater and effluent systems do not discharge into existing or proposed conservation land.

Management of conservation land

The PP is to propose ownership and management arrangements to provide for protection of conservation land in perpetuity in one of the following ways:

- a Biodiversity Stewardship Agreement (BSA)
- conservation agreement
- public ownership of land and managed for biodiversity conservation
- a funded Vegetation Management Plan under a Voluntary Planning Agreement.

Flooding

EHG does not have any existing information relating to flood affectation of the site. EHG recommends the proponent undertake a Flood Impact Risk Assessment (FIRA) in accordance with the [Flood Risk Management \(FRM\) Manual](#).

The FIRA should include analyses of key flood characteristics, including conveyance, hazard, flood storage and flood levels based on a series of floods, for pre and post development conditions, using suitable techniques outlined in the specified version of Australian Rainfall and Runoff (ARR) for the full range of flooding up to the PMF.

The FIRA should document the flood behaviour in both the existing and developed scenarios to identify the impacts of the proposed development on the flood behaviour and on flood risk to the existing and future communities. The assessment should provide maps of the residual impacts (flood afflux) of the project on and off the site for the full range of modelled flood events. It should include key details of the final proposal including development type, density and any changing runoff characteristics as well as any proposed modifications to drainage infrastructure, floodplain landform or vegetation. Further information on the required assessment can be found in the [Flood Impact and Risk Assessment guide](#).

The FIRA should be undertaken by an appropriately certified professional engineer with good working knowledge of FRM practices and guidance in NSW. The results of the FIRA will provide the information required to inform the suitability of the proposed development proportionate with flood behaviour and the associated risks.

End of Submission