



Our ref: DOC20/939387

Your ref: PP38/2013

Mr Bruce Ronan

Strategic Planner
Local Planning and Policy
Central Coast Council
P.O. Box 21 Gosford NSW 2250
Bruce.Ronan@centralcoast.nsw.gov.au

Dear Mr Ronan

Request for comment re planning proposal for land at Glenworth Valley and Calga

Thank you for your email of the 11 November 2020 asking for comment in accordance with Sections 3.34(2)(d) and 3.25 of the *Environmental Planning and Assessment Act 1979* as well as BCD's assessment of the consistency of the planning proposal with Section 9.1 Ministerial Directions.

BCD have reviewed the planning proposal, the Gateway Determination, Council's Report (27/4/20), Attachments 1 to 6 to the Report, Council's resolution, the Bushfire Assessment and the Preliminary Site Investigation Reports.

Biodiversity and Conservation Division's (BCD) recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Karen Thumm, Senior Conservation Planning Officer, on 4927 3153 or via email at rog.hcc@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Cox'.

19 January 2021

STEVEN COX
Senior Team Leader Planning
Hunter Central Coast Branch
Biodiversity and Conservation Division

Enclosure: Attachments A and B

BCD's recommendations

Planning proposal for land at Glenworth Valley and Calga

Biodiversity

1. BCD seeks clarification of the areas where additional permitted uses will be allowed, in order to eliminate any potential inconsistency with Section 9.1 Ministerial Direction 2.1.
2. BCD recommends that Council clarifies if the planning proposal is restricted to permitting the existing land uses only or if it also allows future development in new areas consistent with those land uses.
3. BCD recommends that Council clarify how the biodiversity offset site for the Calga quarry within the planning proposal area will be affected by the planning proposal.
4. BCD recommends that the planning proposal consider potential additional impacts on the environment caused by an intensification of light and noise pollution from increased visitation.
5. NPWS recommend that the proponent discuss the location of their horse trails with NPWS and confirm with NPWS what steps are being taken to avoid horses entering Popran National Park.
6. BCD is satisfied that information regarding the size of proposed new buildings has been provided.

Flooding and flood risk

8. BCD recommends that flood mapping for Popran Creek be provided to the Department for review against the proposed uses.
9. BCD recommends any proposed use on land mapped as coastal wetlands and proximity to coastal wetlands under the State Environmental Planning Policy (Coastal Management) 2016 needs to consider and be assessed against clauses 10 and 11 of the State Environmental Planning Policy (Coastal Management) 2016.

BCD's detailed comments

Planning proposal for land at Glenworth Valley and Calga

Biodiversity

1. Inconsistency with Section 9.1 Ministerial Direction 2.1 Environmental Protection Zones should be justified

Although this planning proposal does not change the E2 (Environmental Protection) zone to a zone which has a lower level of environmental protection, it aims to allow additional permitted uses within the E2 zone. It therefore “reduces the environmental protection standards that apply to the land (including by modifying development standards that apply to the land)”.

The proposal to allow additional permitted land uses is justified in the planning proposal to a large extent, as it states that there will only be these additional permitted uses in areas which are already impacted and have these uses already. As no ‘split-zones’ will be used to designate the areas where additional permitted uses will be allowed, BCD seeks clarification of how Council intends to define the extent of these areas. Linking, for example, the Additional Permitted Use map to the planning proposal to limit the areas which can be used for the additional permitted uses may be a suitable mechanism.

Recommendation 1

BCD seeks clarification of the areas where additional permitted uses will be allowed, in order to eliminate any potential inconsistency with Section 9.1 Ministerial Direction 2.1.

2. The planning proposal is not clear about the potential for future impacts

The planning proposal states repeatedly that there will be no impacts on areas which are not already cleared and outlines the extent of development anticipated in the cleared areas. However, this is contradicted by another statement (Section C, 7 on page 32) saying that, if required, “any further development applications for uses within an existing vegetated area can be assessed at that time and environmental conditions linked to the specific activity to ensure environmental values are not adversely affected”. If new development is planned in areas which are not already cleared, a new planning proposal should be prepared.

Recommendation 2

BCD recommends that Council clarifies if the planning proposal is restricted to permitting the existing land uses only or if it also allows future development in new areas consistent with those land uses.

3. Clarification of the status of the offset site for the Calga quarry within the planning proposal

A 41-hectare biodiversity offset site for the Calga quarry project (DA94-4-2004) is included in the subject area of the planning proposal. BCD was involved in the decisions leading to the provision of offsets for the Calga Quarry in 2014. The approval for the quarry includes a map showing the biodiversity offset site to be within the area included in the planning proposal.

Recommendation 3

BCD recommends that Council clarify how the biodiversity offset site for the Calga quarry within the planning proposal area will be affected by the planning proposal.

4. Indirect impacts have not been considered

The planning proposal does not consider the potential additional impacts on the environment caused by an intensification of light and noise pollution caused by an increase in visitation.

Recommendation 4

BCD recommends that the planning proposal consider potential additional impacts on the environment caused by an intensification of light and noise pollution from increased visitation.

5. NPWS requests that horse riding should not be permitted on Lot 76 DP755253, Lot 24 DP755221 and Lot 102 DP1139060

NPWS is experiencing horse riding incursions on park trails, including a horse-riding trail that extends into the park along Popran Creek (from Lot 76 DP755253, Lot 24 DP755221 and Lot 102 DP1139060). Horses are causing erosion of the walking trails. NPWS does not know whether the horse riders using this trail are part of guided tours or people who agist their horses at Glenworth Valley. Horse riders are gaining access onto the Popran Creek Pipeline trail in the National Park through these two lots. The planning proposal should clarify where there are existing horse-riding trails in Glenworth Valley, so that it is clear where horse riding is permitted.

Horse riding in Popran National Park is only permitted on trails listed in the Plan of Management for this activity. The trails entering Popran National Park from these lots are not described and are unofficial trails likely to have been created by horse riders. The trails created by horse riding on Popran National Park serve no management purpose. They are not fire trails or accessible by vehicles and pose an erosion and pollution risk during large rainfall events.

Recommendation 5

NPWS recommend that the proponent discuss the location of their horse trails with NPWS and confirm with NPWS what steps are being taken to avoid horses entering Popran National Park.

6. BCD notes that the size of the footprint of new buildings has been provided

BCD recommended in its earlier advice of 2014 that more detail of development footprints should be provided by the proponent. BCD notes that the size of additional buildings has been provided for this version of the planning proposal.

Recommendation 6

BCD is satisfied that information regarding the size of proposed new buildings has been provided.

Flooding and flood risk

7. Popran Creek flood mapping has not been provided

Council's Planning Proposal report references flood mapping for Popran Creek. However, this mapping has not been provided to the Department for review.

Recommendation 7

BCD recommends that flood mapping for Popran Creek be provided to the Department for review against the proposed uses.

8. The planning proposal does not consider the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) for coastal wetlands and proximity area for coastal wetlands

BCD notes that the planning proposal refers to riparian land adjacent to waterways including Popran and Mangrove creeks. This land is mapped as coastal wetlands and proximity areas for coastal wetlands under the State Environmental Planning Policy (Coastal Management) 2016. Maps can be accessed at:

https://webmap.environment.nsw.gov.au/PlanningHtml5Viewer/?viewer=SEPP_CoastalManagement.

Proposed uses must be consistent with that which would be permissible under clauses 10 and 11 of the State Environmental Planning Policy (Coastal Management) 2018.

Particularly cl 10 (4) cl 11 (1) that state:

cl 10 (4)

“A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.”

cl 11 (1)

“Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—

(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or

(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

Recommendation 8

BCD recommends any proposed use on land mapped as coastal wetlands and proximity to coastal wetlands under the State Environmental Planning Policy (Coastal Management) 2016 needs to consider and be assessed against clauses 10 and 11 of the State Environmental Planning Policy (Coastal Management) 2016.