



Our ref: DOC20/412723
Senders ref: LEP 005/14

Colleen Haron
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Hawkesbury City Council
PO BOX 146
WINDSOR NSW 2756

Dear Ms Haron,

Subject: Planning Proposal to amend *Hawkesbury Local Environmental Plan 2012* to permit subdivision of 2 Inverary Drive, Kurmond

Thank you for your letter received 26 May 2020, requesting input from Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment on the planning proposal which seeks to amend the Lot Size of *Hawkesbury Local Environmental Plan (HLEP) 2012* to permit the subdivision of 2 Inverary Drive, Kurmond into 36 lots having minimum lot sizes of 2,000m² and 2ha.

EES has reviewed the supporting documentation, detailed comments on Biodiversity are provided in **Attachment 1**, with the key issues for biodiversity summarised below, and comments on flooding are also provided below.

Biodiversity

In summary, EES considers that the Flora and Fauna Assessment Report (FFAR) prepared by Envirotech dated 2016 is inadequate and invalid and the condition of the vegetation on site has been underestimated.

Consequently, EES considers that given the presence of critically endangered ecological communities (CEEC)s, that greater effort is warranted to protect the CEECs on site from loss and degradation over time. EES considers a lower lot yield is warranted with larger lots where vegetation is currently occurring and with appropriate controls to provide ongoing protection.

Based on the issues summarised above, EES recommends that a detailed Flora and Fauna assessment be completed (by a qualified ecologist) for this vegetation before HLEP 2012 is amended. This will ensure that potential impacts of future development on terrestrial biodiversity are identified early. This assessment can then guide subdivision to ensure impacts on threatened species and communities are minimised. The proposed minimum lots sizes will impact upon remnant vegetation which may include mature, hollow-bearing trees, which may provide habitat for threatened and other native species.

Flooding

EES has reviewed the reports submitted and have no comments with regards to flooding.

Should you have any queries regarding this matter, please contact Bronwyn Smith, Senior Conservation Planning Officer on 9873 8604 or Bronwyn.smith@environment.nsw.gov.au

Yours sincerely



18/06/20

Susan Harrison
Senior Team Leader Planning
Greater Sydney Branch
Climate Change and Sustainability

ATTACHMENT 1 - Planning Proposal to amend *Hawkesbury Local Environmental Plan 2012* to permit subdivision of 2 Inverary Drive, Kurmond.

EES has reviewed the Flora and Fauna Assessment Report (FFAR) prepared by Envirotech dated 2016 and considers that the report is inadequate for the reasons outlined below:

- the FFAR is dated. Surveys for the report were undertaken 5-6 years ago. It is difficult to make planning decisions based on data that is out of date
- the date of the FFAR means that it does not consider relevant legislation, as it pre-dates the *Biodiversity Conservation Act 2016*
- the report states that aside from the vegetation in the riparian area, the remainder of the vegetation on site is degraded, as only canopy species are present. However, the quadrat data (Appendix 2) demonstrates that this is not the case. In Quadrat 1, nine native grass or shrub species were recorded, and in Quadrat 3, 13 native grass or shrub species were recorded. Therefore, EES considers that the conclusion that the vegetation on site is degraded, is not substantiated
- EES considers the survey effort is inadequate, particularly regarding threatened fauna. For example, no surveys for threatened microbats or Cumberland Land Snail were undertaken. The FFAR admits that surveys were limited (section 3.5)
- Quadrat 1 is in an area that has previously been mapped as Cumberland Plain Woodland (CPW). Section 3.2.2 of the report concludes from the results of Quadrat 1 that the vegetation at the quadrat best matches Shale/Sandstone Transition Forest (SSTF) and not CPW, as there were six SSTF species but only four CPW species. However, EES considers there are an inadequate number of species present to make that determination with any certainty. Other factors, such as the soil type and landscape position, should have been considered as part of the decision as to whether the vegetation at the quadrat best matches CPW or SSTF. EES considers the conclusion that there is no CPW on site is not convincing.
- Section 4.2 of the report states that five threatened flora species have been recorded within a 10 km radius of the site, however according to the BioNet database, there are records of 25 species recorded in that area. Most of the records of these species are earlier than 2016, which suggests an inadequate review of data has been undertaken. Consequently, the assessment of the likelihood of occurrence of threatened flora species is also inadequate, as it has considered only five species not 25.
- Similarly, section 4.3 of the report states that 25 threatened fauna species listed under the TSC Act have been recorded within a 10 km radius of the site, however EES has records of 73 species recorded in that area. As above, this means the likelihood of occurrence of threatened fauna species is also inadequate
- A poor assessment has also been carried out in the SEPP 44 assessment. Figure 7 of this assessment states that there were six records of koalas within 10 km of the site. However, there are 185 records of koalas within 10 km according to BioNet.
- The assessment of significance for SSTF states that “the composition of the ecological community onsite will only be modified in that some trees to the east of the retained Riparian vegetation that will be retained may be removed”. EES considers that most of the mapped critically endangered ecological community (CEEC) on site outside the riparian area is likely to be removed or become very degraded over time through development, therefore the conclusion that the CEEC will only be modified as a result of the proposal, is an inaccurate assessment of the level of impact.
- The assessment of significance for microbats concludes that there will not be a significant impact, because trees with hollows will be retained and bat boxes will be installed. However, there is no certainty that these measures will be implemented. There is no discussion of bat boxes in the recommendations section of the report, and the recommendations only suggest 'selective retention of hollow bearing trees at the expense of younger trees lacking hollows', not that all hollow bearing trees should be retained.
- The FFAR includes a map of developable land and the riparian zone that is to be retained (Appendix 1). It is noted that the northern boundary of the riparian zone on this figure is not

a straight line. It is also noted that the configuration of the riparian zone in the concept subdivision layout (Figure 15 in the Planning Proposal V6 document) is different to the configuration in Appendix 1 of the FFAR.

- EES notes that, as stated in the Planning Proposal V6 document, most of the site contains native vegetation mapped as significant on Council vegetation mapping. EES also notes that a large proportion of the site includes vegetation mapped on the [Biodiversity Values Map](#).