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23rd August 2018

The General Manager
Penrith City Council
PO Box 60
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Attention Town Planning

Section 960-02 DA 15/0907
54 Tyrone Place Erskine Park

In keeping with correspondence between Councils Planner Lauren Van Etten, ourselves and Office of Strategic Planning -The Department of Planning, we seek amendments to the above development application to allow:

1. Amend conditions 13 to confirm the Development Approval is satisfied once the planting (excluding the maintenance and reporting) under the VMP is complete.
2. The adjustment of boundaries between lots proposed lots 201 and 202 of the above consent consistent with the attached surveyors plans and Deed of Subdivision.

Explanation

1. Amend Clause 13.
Clause 13 states all recommendations and Activities contained in the VMP are to be undertaken prior to the issue of a Subdivision Certificate. As maintenance and reporting is included in the VMP The Department of Planning believed this wording prohibits the subdivision being registered which is clearly not intended or acceptable. Please amend to allow a Subdivision Certificate to issue once a letter from a suitably qualified bush regenerator confirms the planting as determined under the VMP has been completed (this has now actually occurred). Further, the Department of Planning have agreed as per the attached Deed to accept a lump sum payment and take over the 2yr maintenance responsibility.
Council have already accepted this principle as per the attached email attached dated 17th October 2017.
Condition 13 is satisfied as per attached correspondence from Jamberoo Native Nursery and Factor3.

Statement of Environmental Effect Cont.....

Clause 13 and clause 14 remain in place to require the maintenance of the VMP works which is now The Departments responsibility. Refer to clause 3.3 of the VMP Deed.

3.3 Minister's obligations

On and from the date of this deed, the Minister must comply with the ongoing maintenance obligations imposed on TCAL under the Vegetation Management Plan being:

- (a) the six monthly progress reporting requirements imposed by section 3.12 of the Vegetation Management Plan; and
- (b) the maintenance, monitoring and reporting requirements imposed by section 4.7 of the Vegetation Management Plan.

The subdivision is registerable but condition 4 of the consent states the adjoining land fill activities may need to be completed prior to the dedication of the lot to the Department. There are no environmental effects in allowing the subdivision to proceed now even though the Department has made it clear they will not accept the dedication of the subdivided lot until the land fill dam is remediated, this clause needs to be amended to allow the subdivision to proceed now. This is agreed in the Deed of Agreement clause 3.1

3. Subdivision

3.1 Subdivision

- (a) TCAL must, as soon as reasonably practicable after receiving all required Approvals, register the Plan at NSWLRS.

and consent to register has been given under 3.2.

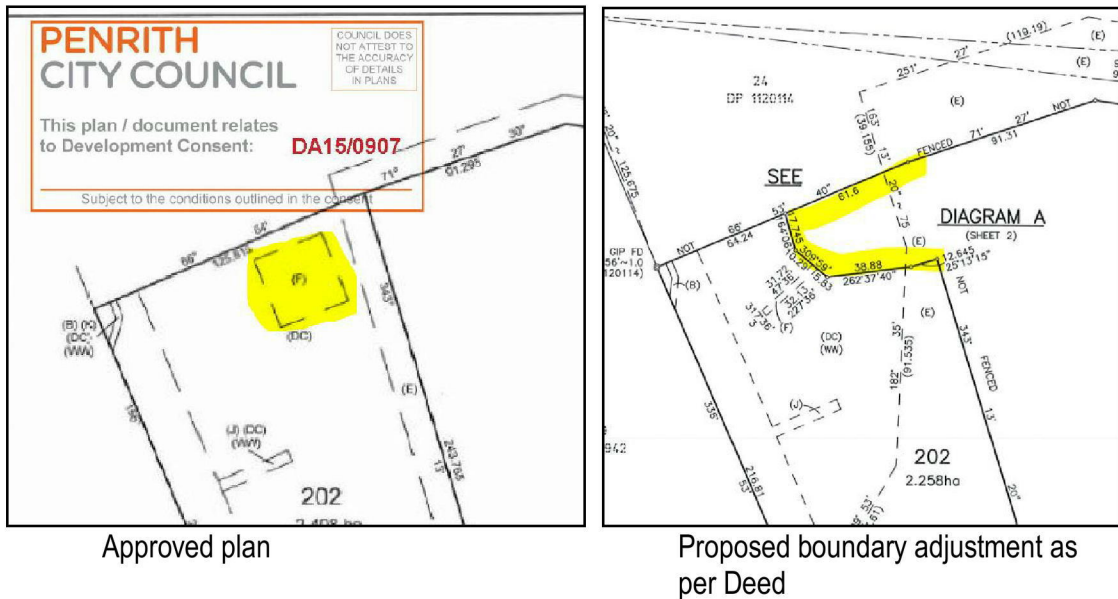
3.2 Minister's Consent

- (a) For the purpose of the Deed of Consent, the Planning Agreement and the Caveat, the Minister consents to the registration of the Plan on title to the Land.
- (b) The Minister, at TCAL's reasonable cost, must:
 - (1) do everything necessary to consent to the registration of the Plan at NSWLRS; and
 - (2) promptly provide and execute all consents necessary to effect registration of the Plan at NSWLRS including without limitation providing a letter of consent addressed to NSWLRS as caveator consenting to the registration of the Plan.

2. Boundary adjustment

Council has been advised and kept in the communications loop with the Office of Strategic Planning -Department of Planning and are aware that the Department were not keen on having the originally approved Bio Detention Basin as an easement once the land is dedicated to them - Easement F on the approved plan. Council are aware of this discussion as per email attached dated 10th November 2017.

The Department has agreed in the attached Deed of Agreement to adjust the boundary to go around the Bio Detention Basin, incorporating that land within lot 201 increasing the size of lot 201 to 4.239ha and reducing the size of lot 202 to 2.358ha.



Given this is only a line on paper change and the Civil / Hydraulics of the consent remain the same and the land is still available to fauna there is no physical impact or environmental effect.

We conclude there is no negative impact in Council approving these modifications.

The writer will be on extended leave from the 1st September to the 31st October. Please copy all correspondence to Mr Nic Lumsden of Charter Hall who will be able to liaise with the relevant parties

Yours faithfully
Tubb & Associates Pty Limited

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