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Mr Chris Thompson
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Dear Mr Thompson

RE: SUPPLEMENT TO OBJECTION AND SUBMISSION TO DA 233/2022 - 11 OCEAN RIDGE, WAY WAY – REVISION OF BIODIVERSITY DEVELOPMENT ASSESSMENT REPORT (BDAR) BY APPLICANT

As you are aware, the Scotts Head Community Group (SHCG) has provided a detailed and comprehensive submission to Council on the above development application.

I now write on behalf of the SHCG to provide a **supplement to that submission**; specifically to address the applicant's revisions and provision of an updated Biodiversity Development Assessment Report (BDAR). I request that Council consider this letter as part of its consideration of the SHCG submission to DA 233/2022.

Context

Based on information uploaded to Council's DA tracker, the SHCG understands that sometime on 25 August 2022 the applicant submitted an amended BDAR to Council with a cover letter requesting that the previous version be removed from all assessment documentation and replaced with the new version (Revision 03, dated 24 August 2022).

The cover letter provided by the applicant portrays this as a routine, minor adjustment of the BDAR of minimal consequence to the overall assessment or conclusions.

The SHCG argues that this is not the case; the changes are in fact substantive and significant. The following comments are provided.

Late revised version undermines public consultation process

The original BDAR was on public display with the DA documentation, from around 25 July 2022 (it was originally missing from the DA documents that commenced exhibition on 23 July) to 25 August 2022.

Accounting for the days it was not on exhibition, that means the original BDAR was available for public review and comment for 31 of the planned 37 exhibition days (84% of the elapsed exhibition period).

By the time the amended version was uploaded, a significant number of public submissions on DA 233/2022 would therefore already have been made. That will include many submissions that made comments on biodiversity matters on the basis of information contained in the original BDAR.

This may not be a major concern if the amendments to the BDAR were minor and inconsequential. However, as discussed below, the revised BDAR omits an entire appendix – being an earlier biodiversity report completed for the applicant – representing a material change to the information available for public review and comment.

Revisions to BDAR are significant

The key change to the revised BDAR is the deletion of Appendix I to the original BDAR; being a biodiversity report prepared for the applicant in March 2022.

As noted in the SHCG submission to Council on DA 233/2022, there are significant disparities between the information and recommendations of the March 2022 assessment report and the contents of the final BDAR prepared in July 2022 (and lodged with the DA). That included:

- differences in the estimates of biodiversity credits needed to offset the residual impacts of the proposal;
- recommendations about options to address the requirement to ‘avoid and minimise’ impacts to biodiversity; and
- the need to undertake targeted surveys for particular species during the appropriate seasons and times of year.

The proposal to expunge the information contained in Appendix I to the original version of the BDAR is of significant concern. That information – having been in the public arena for around 31 days – cannot simply be forgotten, nor should it be ignored.

The SHCG is of the view that the matters raised in Appendix I to the original BDAR raise serious issues about whether the potential biodiversity impacts of DA 233/2022 have been sufficiently assessed. These issues cannot simply be made to “go away” by the revised version of the BDAR now provided by the applicant; they need to be actually considered and addressed.

Recommended steps

The SHCG has serious concerns that the very late revision of the BDAR risks undermining the public consultation process for DA 233/2022 and that the significance of changes to the BDAR have been downplayed by the applicant (via the cover letter from their consultant, Focus Town Planning).

The SHCG therefore reiterates the recommendation made in its submission to DA 233/2022 that Council should either:

- obtain an **independent review of the BDAR**, including consideration of information provided in the (now deleted) Appendix I to the original BDAR; and/or
- **seek advice from the relevant NSW environment agency** about the adequacy of the BDAR.

Exhibition implications

Given the statutory requirement for DA 233/2022 to be accompanied by a BDAR, the SHCG also recommends that Council determine whether the late timing and the significant scope of changes to the revised BDAR would require:

- the exhibition period to be extended; and

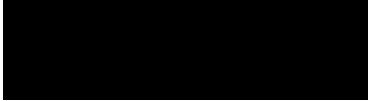
- providing an opportunity to persons that had already made a submission prior to the lodgement of the revised BDAR to add to or amend their submission.

Conclusion

Noting the risks of DA 233/2022 to biodiversity values, the SHCG considers it crucial that there must be full transparency to the community about the potential impacts of the proposal, together with fair and reasonable opportunity to provide informed comments about such impacts. The late revision to the BDAR, and the scope of changes made, does not support such transparency or opportunity.

Yours sincerely

Approved and sent via email 28 August 2022



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