

Our Ref : 4130/2 Part 64; 4130/24
Contact : Roger Nethercote
Telephone : 4732 7713

30 November 2004

Mr Robert Bruce
Director
Heritage Inventory and Referrals Section
Department of Environment and Heritage
GPO Box 787
CANBERRA ACT 2601

Dear Robert,

Request for Emergency National Heritage Listing of Western Precinct for the former ADI site, St Marys

I refer to the request by the Hon Jackie Kelly MP for an emergency national heritage listing of the Western Precinct of the former ADI site, St Marys and your focal request for preliminary comments. We note that, in particular, you seek comments on the heritage values of the area, any known threats to the claimed heritage values and on any other matters raised in the application.

Notwithstanding the procedural timeframes applicable to the Commonwealth Government's assessment process for this matter, Council wishes to point out that there is insufficient time for a proper examination of this matter. Also, Council has not had the opportunity to formally resolve a position. However, in accordance with your request, the following preliminary comments as a first response to this matter are provided. I wish to acknowledge your agreement to our request for an extension of one day.

Historical perspective - Council's position

Council's original position was to support the preservation of the full ADI site and this was strenuously pursued over a number of years. Council began lobbying for the whole of the ADI site as a Regional Park in August 1997 after the interim listing of the site on the Register of the National Estate. Council sought funding from the National Heritage Trust for the AHC listed bushlands and funding from the Federation Fund for the remainder of the site. Council, however, received little support from either Commonwealth or State Government and failed to obtain funds for either project. Council also made representations to the Commonwealth Government's Senate Estimate Committee hearings regarding the disposal of Defence sites. We urged that the Commonwealth Government take a more responsible position towards the determination of natural heritage values within Western Sydney open space lands prior to the disposal of these Defence properties. We highlighted the conservation values of these Defence land holdings and argued for the Commonwealth Government to set in train management plan processes to secure these values prior to and after the sale of Comland.

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In June 1997 the Australian Heritage Commission (AHC) made an interim listing of 1100 hectares of the ADI Site on the Register of the National Estate. The AHC, following receipt of a number of submissions relating to the interim listing, engaged Ian Perkins to provide an independent assessment of the vegetation within the disputed areas of the ADI Site, particularly in the north-west sector. The study identified areas of high and moderate quality remnant Cumberland Plain Woodland and recommended a revised boundary to the interim National Estate listed area. It is noted that the Perkins study did not identify any significant value in that portion of the Western Precinct now excluded from the Regional Park, which is the subject of the application by Jackie Kelly MP. At this time, Council engaged the services of an independent biodiversity consultant, Michael Doherty (CSIRO), to prepare a review of biodiversity values on the ADI Site. This report also acknowledged the significant biodiversity values in the north-western portion of the ADI site, in the area identified by Ian Perkins.

The final listing of the ADI Site by the AHC emerged in February 1999. That included a total of 830 hectares, of which 178 hectares was outside the proposed Regional Park zone and 652 hectares was in the zone. The Western Precinct, the subject of Ms Kelly's submissions, has remained identified as being suitable for urban development. Subsequently the St Marys Development Agreement (the Deed) was negotiated and developed with the State Government and the Joint Venture Partners.

Despite the representations from Council, the Commonwealth Government then advised that it was intent upon achieving a development opportunity for the ADI Site. As a result of this decision by the Commonwealth Government, Council adopted the position from February 2000 that the optimum conservation outcome should be pursued which at least matched those lands finally listed by the AHC on the Register of the National Estate. The decision by the Commonwealth Government in October 2001 to protect all of the RNE listed woodlands essentially set the current planning framework which has now been accepted by all three levels of government.

In October 2001, the Commonwealth Government announced that it would commission and extensive review of Commonwealth Open Spaces in Western Sydney to assess their conservation values. The purpose of this review was to ensure that future development of such land is compatible with good conservation practise. In December 2002, Council was advised by the Minister for the Environment and Heritage, the Hon Dr David Kemp MP, that the review of conservation values in Western Sydney will not cover the ADI Site given that the land uses had already been given extensive consideration in the planning investigations to date. Consequently, it has been understood that the Commonwealth Government considers the conservation values of the ADI Site have already been adequately dealt with.

More recently, it is understood the sale of Comland to Delfin Land Lease by the Commonwealth Government was predicated on the position already reached in the formulation of the Deed between the developers, the Commonwealth Government and the State Government. Clearly, this transaction has also been based on the opportunities presented by the urban development zonings outlined in the Regional Environmental Plan (REP 30) prepared by the State Government.

The request for emergency listing of the Western Precinct on the Register of the National Estate by Jackie Kelly MP is inconsistent with the decision by the Commonwealth Government for the sale of Cornland and their endorsement of the Deed with Delfin Lend Lease and the State Government. The thrust of the request is also inconsistent with the extensive environmental examinations undertaken by both State and Commonwealth Governments in arriving at a common agreement on the extent of the bushland areas to be conserved and those parts of the site considered to be of national significance as nominated in the listing on the Register of the National Estate. In addition, this request is also inconsistent with the existing planning framework for the ADI site which has been developed over many years and is now in the process of being implemented.

The St Marys Macrofauna Management Plan (MFMP) is the Plan of Management endorsed by the Director General of the State Department of Environment and Conservation for the former ADI site. The purpose of the MFMP is to provide a plan for the humane management of the eastern grey kangaroos, red kangaroos and emus on the site as the site develops. The plan provides for a staged removal of kangaroos initially from the Eastern precinct and later from other precincts and for fencing requirements for the movement of the kangaroos. There is nothing in the Plan which requires the movement of kangaroos into the Western Precinct in the short term. It is noted that, subject to Ministerial and Council approval, the tentative timetable for the development of the Western Precinct would see the lodgement of a Precinct Plan in 2007 and the lodgement of first Development Applications in 2008. This does not suggest a need for any urgency in the consideration of the request by Ms Kelly.

Delfin Lend Lease has advised that licenses were issued by DEC in early November for the movement of kangaroos from the 'first development area' to the northern portion of the Eastern Precinct. No licenses have yet been granted for the movement of kangaroos into the Western Precinct. In addition, one of the conditions imposed upon the MFMP by the DEC, requires kangaroo density to be maintained below 2.5 kangaroos per hectare within the Regional Park for the life of the Plan and the MFMP provides a staged process and fencing requirements for the movement of kangaroos. Therefore there appears to be little basis for an emergency listing at the present time and little merit in the application due to the absence of significant natural values within the Western Precinct.

Heritage Values of the Western Precinct

As indicated in the historical perspective provided above, and in regard to natural heritage values, there have been a series of decisions by the Commonwealth Government which nominated a portion of the Western Precinct as worthy of preservation and the remainder as suitable for development. The recommendations of the Peckins Report, the final listing of only a portion of the Western Precinct by the AHC on the RNE and the decision by the Commonwealth Government to preserve only a portion of Western Precinct, (as set out in the Deed), all represent a statement that the areas with high and moderate biodiversity values have already been preserved and are not present within the "remainder" of the Western Precinct the subject of this application.

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With regard to cultural heritage values, it is acknowledged that there are 5 listed non-Aboriginal heritage items in REP 30 within the proposed Western Precinct. Council at this stage does not have the necessary information regarding the details and significance of those items to make a considered judgement regarding their merits. However we would expect that these items could be satisfactorily recognized and conserved in the future planning processes.

Known Threats

The decisions now taken by Government reflect the view that there are not any significant natural heritage values in the Western Precinct, other than in those areas now to be included within the Regional Park. We do not consider that there are any known immediate or imminent threats to this land.

The abovementioned non-aboriginal heritage items are protected by clause 25(2) of REP 30 which states that the "development is not to adversely affect the heritage significance of items of environmental heritage and their settings." The application does not appear to establish that there would be any threats to these items.

Other Matters

In your deliberations, it is also relevant to be aware that any decision to list the Western Precinct on the National Heritage List could lead to a complete re-examination of the financial arrangements for the development of the ADI site if the consequence is that this listing would preclude development. It would require a re-write of the Deed for the ADI site which would result in a significant re-negotiation of the funds to be allocated to arterial roadworks, upfront funding of the Regional Park, provision of human services infrastructure and provision of sports facilities on the Regional Open Space land. This would inevitably result in the provision of a lower level of services and facilities to the existing and future citizens of the City of Perth.

Conclusion

Given the suite of decisions made by the Commonwealth Government on this matter and in our view the lack of merit in the request for listing of the Western Precinct on the National Heritage List, we find it difficult to support the application for the proposed listing of this land.

Council would appreciate the opportunity to provide a more detailed response to this matter at a later stage if required.

Yours faithfully,

Roger Nethercote
Environmental Planning Manager

cc. Arthur Ilias, Delfin Land Lease Ltd