



Department of Planning, Housing and Infrastructure
Key Sites and Regional Assessments
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Attention: Mr Michael Doyle

Dear Mr Doyle

RE: Modification Report for the Bilambil Heights Concept Plan Modification 4 (MP08_0234 MOD 4):

Thank you for your email dated 3 April 2025 about the Concept Plan Modification (MOD) request at Bilambil Heights seeking comments from the Conservation Programs, Heritage and Regulation Group (CPHR) of the NSW Department of Climate Change, Energy, the Environment and Water. I appreciate the opportunity to again provide input into this project and apologise for the delay in responding.

CPHR has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), flooding, and coastal processes and associated hazards, and provides comment on issues affecting National Parks and Wildlife Service estate

We have previously provided comments on the preceding Concept Plan Approval (CPA) MOD 3 request. Consistent with MOD 3, the MOD 4 request seeks to rely on Section 3BA of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STO Reg) to allow the MOD request to be approved.

Our letter dated 2 April 2025 detailed why in our view the MOD 3 request cannot be approved using the STO Reg. It is CPHR's understanding the MOD 3 request remains undetermined.

We have reviewed the documents supplied and advise if the MOD 4 request is considered in isolation, it will have minimal environmental impact. However, when MOD 3 and 4 are considered collectively, it is CPHR's view the changes represent a significant departure from the existing CPA.

More broadly, given MOD 4 proposes to increase the building heights of the retirement units while removing the plans that depict the location of all infrastructure from the CPA, including buildings and roads, it is our view these changes increase the uncertainty of how a future development application for the site will comply with the existing CPA. This includes what vegetation will be removed from the site.

We note, while the Town Planning Report (TPR) prepared by RPS, dated 30 January 2025 states approval for MOD 4 is sought under the STO Reg, Section 4.1 of the TPR does not include any statutory assessment under the STO Reg, and instead the MOD is assessed against Section 4.55 of the *Environmental Planning Assessment Act 1979*.

It is CPHR's view that given the uncertainty surrounding the final form of the MOD 4 request, the proposed changes are inconsistent with Section 3BA of the STO Reg.

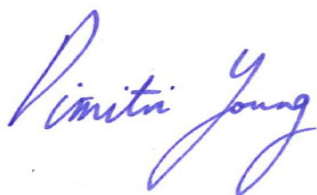
Consistent with our previous submission, CPHR recommends:

1. The Minister for Planning (or their delegate) determines the proposed amendments to the approved concept plan do not satisfy the provisions that allow for the ongoing use of section 75W of the *Environmental Planning and Assessment Act 1979*.
2. Consideration be given to listing the 'Elysian' project site on Schedule 2 - State significant development – identified sites of the State Environmental Planning Policy (Planning Systems) 2021 to enable contemporary assessment of the likely biodiversity impacts of the proposed amendments via a modification application, supported by a Biodiversity Development Assessment Report (BDAR).
3. If the project remains as a section 75W modification, then the applicant be required to address the statutory issues raised in this and the prior CPHR submission made in respect to MOD 3, prior to determination.

If our recommendations 1 and 2 above are accepted, CPHR looks forward to reviewing the BDAR.

If you have any further questions about this issue, please contact Ms Nicky Owner, Team Leader Planning North East, CPHR, on 6659 8254 or at nicky.owner@environment.nsw.gov.au.

Yours sincerely



DIMITRI YOUNG
Senior Team Leader Planning North East
Conservation Programs, Heritage and Regulation

9 May 2025