

ITEM NO: 26

SUBJECT: LAND CLEARING AT 10 GREAT WESTERN HIGHWAY, WENTWORTH FALLS

FILE NO: F11894 - 19/126675

Delivery Program Link

Principal Activity: Using Land

Service: Land Use Management

Question Without Notice by Councillor Hoare:

At the Ordinary Meeting of the Council on 27 May 2019, the following question without notice was asked:

“In light of significant public concern expressed about the recent clearing of an area of native bushland adjacent to the Great Western Highway at the base of Boddington Hill between Bullaburra and Wentworth Falls, could an explanation be provided in relation to;

- a) the nature and extent of the clearing of native vegetation that has occurred;*
 - b) how this activity has been able to take place, nearly 30 years after a Development Application was approved in 1989;*
 - c) what is the nature of the development that is now proposed for the site; and*
 - d) does Council have any ongoing role in terms of the development?”*
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Response by Director, Development & Customer Services:

The nature and extent of the clearing of native vegetation that has occurred is contained within the private property of Lot 4 of DP 1158407 known as 10 Great Western Highway Wentworth Falls. The area of cleared vegetation is approximately 1.2-1.4 hectares in area. Vegetation that has been removed has been mulched over the surface of the cleared area.

Development Consent 8162 dated 23 November 1989 approved the establishment of a Flora and Fauna Park on the site. This includes a main building comprising Main Entry with viewing area, Bistro Building, Veterinary Building, Koala House and other animal displays, Public Amenities Building, Staff/Administration Building and ancillary structures such as a sewerage pump system, a macrophytic pond (purification lagoon), carparking area and Rural Shed for feed and machinery storage. The consent was subject to three legal proceedings, with the NSW Court of Appeal determining in 1996 per *Cariste Pty Ltd v Blue Mountains City Council* that the consent was secured from lapsing as the works had physically commenced between 12 and 19 November 1992. It is this circumstance that allows development to be continued some 30 years later.

The current development consent is for a Flora and Fauna Park only, as described above. Any other potential use of the site that is not consistent with the current development consent would require assessment of a new development application based on the permissibility of

the proposed use under *Local Environmental Plan 2015* as well as other applicable planning controls and current constraints that apply to the subject property. Such applications would be subject to standard public notification processes and consideration of any submissions. The Blue Mountains Local Planning Panel is likely to be the determining body for any development application, depending on the nature of the application.

Council's ongoing role at this time is to ensure the development of the Flora and Fauna Park proceeds in accordance with the terms of the current development consent. This is an operational matter, with the actions of staff guided by the principles and provisions of the Council's *Enforcement Policy*, as well obligations arising from applicable planning and other legislation.

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