



Blue Mountains Conservation Society Inc.

Planning and Development Resource Kit

Case Study: Vegetation clearing

In 2012 a bushwalker emerging from a walk along a creek in the mid-mountains area noticed extensive land clearing without any apparent sediment controls in place. Realising he must have been trespassing, the bushwalker quickly moved off the property and reported the clearing to the Blue Mountains Conservation Society. Because the land clearing was immediately adjacent to the Great Western Highway widening works, the Society referred it to the Blue Mountains City Council's Highway Water Issues Working Group (HWIWG). It was thought that the land clearing might have been related to the road works. The cleared land was close to a sensitive watercourse which is habitat for threatened species known to be negatively impacted by sediment.

An inspection of the highway works with Roads and Maritime Services (RMS) was arranged by a Society member who took up the issue and he visited the site with RMS and the road contractor's engineers. The road contractor advised that the land clearing of concern, while adjacent to works associated with the road construction, had nothing to do with the road works. This was reported to the next HWIWG meeting and the Council representative on that body then advised the Society that the matter should be registered with Council through a Customer Service Request (CSR). This was duly done.

On further investigation, the Society member found that there was a current development approval for the construction of a house on the site. The development approval documents showed the position of sediment fencing to be erected before any land clearing commenced.

A few days later, the Council officer assigned to respond to the CSR telephoned the Society member who had lodged the CSR and advised him that she had reviewed the situation and spoken to the landowner by telephone. The land owner told her that the clearing was part of the highway works. The Society member advised the Council officer of the recent inspection of the road works, which revealed that the land clearing was not related to the road works. The officer said she would arrange a visit to the property in question.

A couple of weeks later, the Society member phoned the Council to find out what progress had been made, to be told that the CSR had been closed i.e. no further action was planned. When the Society member then spoke to the Council officer who had been assigned to the CSR, she advised that she had met with the owner on the site and was impressed with the bush regeneration previously done. She offered no observation on sediment fencing. When the Society member asked about this, the Council officer replied that she saw some older fencing, but none yet for the clearing work and that she requested the owner put in fencing and send photographs to the Council.

A week later the Society member again spoke to the Council officer, enquiring if the sediment fencing had been completed and the photographs received. When she replied "no", the Society

member asked whether putting in the fencing after the stipulated time conformed to the development approval. At this point the Council officer asked if the Society member had gone onto the site, implying that this would have been illegal, to which the member replied by reminding her of the site inspection done with the RMS and the road contractor on the road works adjacent to the land clearing of concern.

After more follow-up enquiries, the Society member received a letter from the Council officer advising that the sediment fencing had now been installed to the Council's satisfaction and that Council was satisfied that the development was proceeding in accordance with the development approval. This was 10 weeks after the initial CSR was lodged. The Society was concerned with the delayed response by Council in ensuring sediment controls were installed consistent with the development approval, in direct contrast to the strict controls on sediment runoff from the highway widening works. The RMS and road contractor's care with sediment control was exemplary compared to that of the landholder's in the adjoining property.

This case study shows that even developments that have been approved are not necessarily carried out in accordance with their conditions of consent, with negative consequences for the environment. In cases of illegal land clearing no care would be taken at all.

While in this case a member of the Blue Mountains Conservation Society took up the issue after it had been reported to the Society, we urge residents to take action themselves in similar situations. This is one of the reasons we developed this 'Kit'. Full instructions on what to do in a situation of land clearing are given in [Scenario 1: Land Clearing](#).

Issues and lessons arising from this Case Study:

- **Council's delayed enforcement of conditions of Development Approval.**
The purpose of sediment fencing is to stop sediment from areas disturbed by clearing and development flowing into and silting up nearby creeks, as well as stopping the spread of weeds into surrounding bushland and National Park. The development approval for the house included a condition that the sediment fencing had to be in place before any clearing started, yet this was not enforced by the Council. The Council officer who visited the site did not set in process any 'stop work' order until this condition had been complied with. This was inconsistent with Council's own development approval.
- **Residents need to be persistent when seeking to have Council enforce conditions of development approval.**
Had the Society member not persisted with follow-up phone calls over a period of some months, Council may not have enforced compliance with the development consent in this particular case. This is of concern because conditions of approval like sediment fencing are there to protect the Blue Mountains environment from degradation caused by development.
- **The important role of community members play in ensuring environmental compliance.**
The problem only came to light due to the community member identifying the issue, and

through the Society pursuing the issue with Council. Council has only limited capacity to undertake pro-active enforcement of development conditions. Often, breaches of consent conditions or unauthorised developments only come to light through community members reporting breaches to Council.