

24 November 2020

Department of Planning, Industry & Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Attention: Lauren Saunders

MP05_0038-MOD-1, RURAL RESIDENTIAL SUBDIVISION – MODIFICATION 1, LOT: 542 DP: 1113791, LOT: 156 DP: 753202 AND LOT: 53 DP: 836998, THE BUCKETTS WAY, TINONEE

Transport for NSW (TfNSW) advises that legislation to dissolve Roads and Maritime Services and transfer its assets, rights and liabilities to TfNSW came into effect on 1 December 2019. It is intended that the new structure will enable TfNSW to deliver more integrated TfNSW services across modes and better outcomes to customers and communities across NSW.

For convenience, correspondence, advice or submissions made to or by Roads and Maritime Services prior to its dissolution, are referred to in this letter as having been made to or by 'TfNSW'.

On 11 November 2020, TfNSW accepted the referral by the Department of Planning, Industry and Environment (DPIE) through the Major Projects Portal regarding the abovementioned development application (Modification Application). Council referred the Modification Application to TfNSW for comment. This letter is a submission in response to that referral.

TfNSW understands the proposed modification application seeks to amend the approved subdivision layout and staging of the residential subdivision. The current approval, issued on 5 April 2009, consents a 133-lot rural residential subdivision developed in six (6) stages. It is understood the modification application now proposes a 126-lot rural residential subdivision in three (3) stages.

TfNSW Response & Requirements

TfNSW's primary interests are in the road network, traffic and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

Manning River Drive (MR7776) is an unclassified Regional road and The Bucketts Way and Urray Road are local roads. Council is the roads authority for both roads and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*.

TfNSW has reviewed the referred information, including the following:

- Proposed Modification Report by PDA Planning dated 15 October 2020;
- Modification Plans by McGlashan & Crisp Pty Ltd (various dates); and
- Traffic Impact Assessment (TIA) by Better Transport Futures dated 26 March 2007.

TfNSW provides the following comments to assist DPIE in making a determination:

- TfNSW notes that the TIA submitted with the modification application was prepared in 2007 due to which current (2020) traffic volume on The Bucketts Way is unknown. The TIA indicates that two-way traffic volume on The Bucketts Way was 317 vehicles/hour (AM) and 273 vehicles/hour (PM) in 2007. TfNSW recommends that DPIE consider requiring an updated TIA with current traffic volumes on The Bucketts Way.
- TfNSW notes condition 'E35 (2) – Civil Works' of the current approval (MP05_0038) requires Channelised Right-Turn (CHR) / Basic Left-turn (BAL) treatments on The Bucketts Way intersections with the proposed subdivision main entry road and Urray Road. The intersection treatments were conditioned upon consideration of previous TfNSW (then RTA) response letters dated 3 July 2008 and 13 September 2007.
- The proposed modification report however appears to nominate an Auxiliary Right-Turn (AUR) intersection treatment noting the minor reduction in the number of proposed lots. TfNSW highlights that RMS Supplement to Austroads Guide to Road Design Part 4A (RMS17.336, Version 2.1, dated 31 August 2017) does not permit the use of an AUR treatment in NSW.
- TfNSW advises that The Bucketts Way is now classified as a local road, unlike a classified Regional road at the time of previous TfNSW responses. The intersection treatments on The Bucketts Way is therefore a matter of consideration for MidCoast Council (Council).

It is recommended that Council determines the required intersection treatments in accordance with *Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings (2020)*.

Advice to DPIE

TfNSW recommends that the following matters should be considered by DPIE in determining this development:

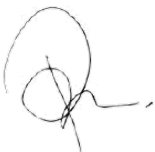
- TfNSW has no proposal that requires any part of the property.
- It should be ensured that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.
- Council should have consideration for appropriate sight line distances in accordance with Section 3 of the *Austroads Guide to Road Design Part 4A: Unsignalised and Signalised*

Intersections (2017) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the locations of proposed intersections promote safe vehicle movements.

- TfNSW recommends that Council or the developer undertake consultation in accordance with the Roads Act Part 8 for the proposed intersections and ensure relevant environmental assessment is undertaken as part of Council's assessment.
- While determining the application under Part 4 of the Environmental Planning & Assessment Act 1979, it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development, such as (inter alia) removal of trees, relocation of utilities, stormwater management, etc. This includes any works which form part of the proposal and/or any works which are deemed necessary to include as requirements in the conditions of development consent. Depending on the level of environmental assessment undertaken to date and the nature of the works, the Council may require the developer to undertake further environmental assessment for any ancillary road works.

On Council's determination of this matter, please forward a copy of the Notice of Determination to TfNSW for record and / or action purposes. Should you require further information please contact Dipen Nathwani, Development Assessment Officer, on 0418 514 166 or by emailing development.hunter@rms.nsw.gov.au.

Yours sincerely



Peter Marler
Manager Land Use Assessment
Hunter Region



Our ref: DOC20/928713-14

Your ref: MP 05_0038 MOD 1

Lauren Saunders

Senior Planner, Regional Assessments
Department of Planning, Industry and Environment
lauren.saunders@planning.nsw.gov.au

Dear Ms Saunders

Major Project modification - Tinonee Residential Subdivision

I refer to your email dated 10 November 2020 requesting comment from Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment in relation to a modification application for the Tinonee Residential Subdivision (MP 05_0038 MOD 1) located at The Bucketts Way, Taree South (Lot 542 DP 1113791, Lot 156 DP 753202 and Lot 53 DP 836998) in the Mid-Coast local government area.

BCD's recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact me, on 4927 3140 or via email at rog.hcc@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to be 'SC', with a long horizontal stroke extending to the right.

4 December 2020

STEVEN COX
Senior Team Leader Planning
Hunter Central Coast Branch
Biodiversity and Conservation Division

Enclosure: Attachments A and B

BCD's recommendations

Major Project Modification – Tinonee Residential Subdivision

1. BCD recommends that a Biodiversity Development Assessment Report (BDAR) is prepared for the modification application to ensure additional impacts have been properly assessed and any required offset credits calculated.
2. The proponent should undertake a targeted survey for *Diuris flavescens* for the proposed modification or provide an expert report in accordance with 6.5.2 of the BAM. Alternatively, the species can be assumed present on the development lands only.

BCD's detailed comments

Major Project Modification – Tinonee Residential Subdivision

Biodiversity

1. A Biodiversity Development Assessment Report (BDAR) should be prepared and submitted by the proponent

The Tinonee residential subdivision modification application includes an Ecological Assessment for Subdivision Modification, prepared by Biodiversity Australia Pty Ltd and dated September 2020.

However, the Biodiversity Assessment Method (BAM) Operational Manual Stage 2 (DPIE 2019) states that a BDAR may be required to address additional impacts on biodiversity values from a modified project. It states the BDAR must describe measures taken to avoid, minimise or offset biodiversity impacts for the original development and must address newly proposed impacts.

In the case of the Tinonee modification application, there appears to be a significant increase in the level of impact being proposed under the modification. As such, it is important that a BDAR is prepared, with surveys undertaken in accordance with the BAM, to allow BCD to assess the proposal's adequacy under the *Biodiversity Conservation Act 2016*, including any additional offsetting credit requirements.

Recommendation 1

BCD recommends that a Biodiversity Development Assessment Report (BDAR) is prepared for the modification application to ensure additional impacts have been properly assessed and any required offset credits calculated.

2. A survey for Pale Yellow Doubletail orchid (*Diuris flavescens*) should be undertaken

The Pale Yellow Doubletail (*Diuris flavescens*) is a threatened terrestrial orchid listed as endangered under the *Biodiversity Conservation Act 2016* and critically endangered under the *Environmental Protection and Biodiversity Conservation Act 1999*. It was detected on the Tinonee development site during targeted surveys in spring 2008.

The Ecological Assessment for Subdivision Modification (Biodiversity Australia Pty Ltd, Sept 2020) suggests that a targeted survey for this species has not occurred within the last five years, as required by Surveying threatened plants and their habitats – NSW survey guide for the Biodiversity Assessment Method (DPIE 2020). This survey guide states that surveys undertaken more than five years prior to the proposal lodgement date may be used to inform the assessment process but cannot be used in place of a targeted species survey. This is to ensure results are current with respect to site condition, structural attributes and species' presence.

Recommendation 2

The proponent should undertake a targeted survey for *Diuris flavescens* for the proposed modification or provide an expert report in accordance with 6.5.2 of the BAM. Alternatively, the species can be assumed present on the development lands only.



DOC20/936631-2

Lauren Saunders
Regional Assessments
Planning and Assessment Division
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124
Email: lauren.saunders@planning.nsw.gov.au

Attention: Lauren Saunders

No Comment to Planning Advice Request

Dear Ms Saunders

Thank you for the request for advice from Public Authority Consultation (MP05_0038-Mod-1), requesting input from the NSW Environment Protection Authority (EPA) on the SSD Modification to Tinonee PA – 'Amended subdivision layout' at Lot 542 DP 1113791, Lot 156 DP 753202 and Lot 53 DP 836998.

Based on the information provided, the proposal does not appear to require an environment protection licence under the *Protection of the Environment Operations Act 1997*. Furthermore, the EPA understands that the proposal is not being undertaken by or on behalf of a NSW Public Authority nor are the proposed activities other activities for which the EPA is the appropriate regulatory authority.

In view of these factors, the EPA has no comments to provide on this project and no follow-up consultation is required.

The EPA does not require any follow-up consultation and Mid North Council should be consulted as the appropriate regulatory authority for the *Protection of the Environment Operations Act 1997* in relation to the proposal.

If you have any questions about this request, please contact Jarrod Grimston on 02 9872 4720 or via email at jarrod.grimston@epa.nsw.gov.au.

Yours sincerely

Rob Hughes
Unit Head Regulatory Services
Regional North

Phone 131 555
Phone +61 2 9995 5555
(from outside NSW)

TTY 133 677
ABN 43 692 285 758

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Our ref: DOC20/941245
Your ref: SSD-10448

Lauren Saunders
Department of Planning, Industry and Environment
Email: Lauren.Saunders@planning.nsw.gov.au

Advice provided via the Major Projects Portal

Dear Ms Saunders

Advice on EIS and recommended conditions – State Significant Development – Mod to Tinonee PA, Mid-Coast LGA (MP 05_0038 MOD 1)

Thank you for your referral uploaded to the Major Projects Portal on 27 November 2020 seeking advice on the Environmental Impact Statement (EIS) report and recommended conditions for the above state significant development (SSD) proposal.

I have reviewed the Aboriginal cultural heritage section of the EIS (section 5.4) which states that the proposed modification does not increase the development footprint and that the conclusions of the Aboriginal cultural heritage assessment are still applicable. I note that the Aboriginal cultural heritage assessment report prepared by Environment Planning, Assessment and Management was completed in 2007. This report identifies that Aboriginal objects will be harmed by the proposal but was very limited in scope with regards to consultation with Aboriginal stakeholders and does not comply with current requirements.

Heritage NSW recommends that the Aboriginal cultural heritage assessment report (ACHAR) be updated as follows:

1. Consultation with Aboriginal stakeholders should be undertaken in accordance with the [Aboriginal Cultural Heritage Consultation Requirements for Proponents](#) (DECCW 2010) and the results of this process be documented in the ACHAR.
2. A site visit should be undertaken by a suitably qualified archaeologist and representatives of the registered Aboriginal parties (RAPs), as identified through the consultation process at 1, to ascertain the current condition and location of the Aboriginal sites identified in the ACHAR. The AHIMS site cards should be updated as necessary.
3. The proposed mitigation measures, including the conservation and protection of the scarred tree, should be discussed with the RAPs and an Aboriginal cultural heritage management plan agreed to for its ongoing protection.

If you have any further questions in relation to this matter, please contact me on 9995 6824 or email at sam.higgs@environment.nsw.gov.au.

Yours sincerely

Dr Samantha Higgs
Senior Team Leader, Aboriginal Cultural Heritage Regulation - North
Heritage NSW **Date:** 23 December 2020



KOALAS IN CARE Inc.

Servicing Manning, Great Lakes and Gloucester Areas

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Office: 02 6552 2183

24Hr Koala Rescue: 0439 406 770

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Web: www.koalasincare.org.au

ABN 78 337 974 646

24 November 2020

Keiran Thomas
Director,
Regional Assessments,
Planning & Assessment

Re: MP05_0038-Mod-1

Dear Keiran,

Thank you for the opportunity to comment on the above modification application.

As considerable time has passed since we made comment on the original Builddev/Illidge application we wish to advise you that KIC has considerably more understanding of koala usage & data of the surrounding landscape of this proposed subdivision.

The years of drought conditions followed by the horrendous fires 2019/2020 in the area, including the State Forest adjacent the proposed site, have undeniably had a detrimental impact on the koala population using the area. The loss of habitat/recovering habitat in this area has displaced koalas putting them in harm's way looking for food & shelter. The Bucketts Way near the Illidge property has been a site that several koalas have been reported crossing in this current Koala Breeding Season.

It is imperative that Koala Habitat in this area is protected for the ongoing future of the koalas who survived the fires.

Regards,

Paul McLeod,
President.

Providing Help for Koalas in Need

21 December 2020

Lauren Saunders
DPIE
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Lauren

Mod to Tinonee PA (MP 05_0038 MOD 1) - Amended subdivision layout (MP05_0038-Mod-1)

Council staff have considered the application to modify the application for a subdivision of Lot 542 DP1113791, Lot 156 DP753202 and Lot 53 DP836998 (MP05-0038).

We have reviewed the supporting documentation submitted as part of the modification application. We understand the modification application is proposed to:

- Respond to a Council request to restrict access to certain parts of the foreshore,
- Provide for the dedication of certain land to Council,
- Incorporate changes to the layout required by conditions of the original approval,
- Provide for a new subdivision layout, and
- Adjust roads and infrastructure to reflect the new proposed subdivision layout and meet market demands.

We have identified a number of issues and concerns in respect of biodiversity and threatened species matters associated with the proposed modification. These are summarised below:

- The proposed modification report (PDA planning 2020) suggested that discussions had occurred with MidCoast Council officers in relation to the modifications sought. We can confirm that there were extensive consultations between the Applicant and MidCoast Council officers in respect of the development over Lot 542 DP1113791. Consequently, we are generally satisfied for the approval of the modification application for the Stage 1 lands. However, the nature of the changes proposed that apply to Lot 53 DP836998 and Lot 156 DP753202 were not the subject to consultations with Council staff. We would suggest that further consultations are required to discuss issues arising from the modification that relate to these two lots.
- The original Ecological Assessment identified that an updated survey of the critically endangered Pale Yellow Doubletail was required to be undertaken in September 2020 during the flowering season. There is no evidence that this survey has been undertaken. Council staff are indeed aware of several individuals of this critically endangered species being present in the road reserve over which the access road to Stage 2 is proposed to be constructed. This survey is **critical** to informing the finalisation of the Stage 2 subdivision layout boundaries, building envelopes and conservation areas. We would respectfully ask that additional surveys are required and that additional consultations with both NSW and Australian Government

environmental agencies prior to determining any modification application for Stage 2. This requires significant re-evaluation because the proposed Stage 2 development could, in our opinion, significantly endanger *Diurus flavescens*, and needs further assessment (under the EPBC Act 1999 for instance). Additional surveys and focussed consultations would be able to define the most appropriate subdivision arrangement for Lot 156 and should frame the dedication of all conservation important land to a public authority rather than rely on private conservation instruments over several lots. This may have implications for proposed Lots 902, 903, 904, 924 and 925, in particular.

- The amended plans provide additional lots over 916 / 917 and 924. In our opinion, there is inadequate justification provided for these lots. The proposed Lot 917 appears to be divided into two separate areas. This appears impractical. The northern part of proposed Lot 917 should be deleted and incorporated into the dedicated public foreshore reserve.
- One foreshore area is proposed to be dedicated to Council as a public reserve. This is appropriate. It was agreed that the landform and ecology of this dedicated area did not suit a constructed accessway (boardwalk). To the foreshore, in Stage 2, there is legal access over the road reserve and then into the dedicated land north of proposed Lot 916 and east of proposed Lot 917. There is also a corridor for foot-based access between proposed Lots 921 and 922. There is no detail of how low-level recreation access in these corridors in Stage 2 is to be provided, regulated and managed.

Further, there appears no legal or physical access provided for the benefit of the public or public authorities to the Crown Land Lot 7008 DP96763 and the river foreshore on the proposed Lot 333 in Stage 3. This needs to be rectified for this proposed Lot.

There is no public foreshore reserve proposed to be created on in Stage 3 over certain parts of proposed Lots 332, 333 and 334 (and in the same manner in which the public foreshore reserve is provided for within the Stage 2 lands). This needs to be rectified.

- Plans of Management and Habitat and Vegetation Management Plans and initial works such as weed control undertaken as per standard practice are required to be prepared for the foreshore dedication lands. All ongoing costs can be waived. There is no requirement for management plans or initial works on proposed Lot 189, as per previous Council discussions.
- We raise the following issues associated with **Figure 8: Vegetation removal / retention plan**:
 - Proposed lot 924 is a new lot and contains vegetation previously approved and still proposed to be retained. Creation of this Lot is sub-optimal and would result in a loss of significant vegetation that was originally proposed for retention / private conservation,
 - An APZ is proposed over the road reserve to the dedicated public foreshore reserve. This is inappropriate and can be avoided by a building envelope and APZ on the proposed lot,
 - The road access to the western side of the development from Urray Rd has shifted slightly to the east and now includes a significant area of vegetation (an IPA APZ is also proposed in this area – see APZ map). Is this a mapping error or is this vegetation now proposed to be removed? If so, this vegetation has not been accounted for in the clearing calculations on page 23 and could result in a greater impact than the approved subdivision layout and thus trigger the requirement to prepare a BDAR.

- Several new threatened species have been listed since the 2007 ecological assessment. On page 33 it states that the modified development would not have a significant impact on these species. There should be a further supplementary Assessment of Significance or other relevant commentary for these species to support this statement.
- Foreshore land in proposed lots 332 and 334 should be dedicated to Council for public access purposes
- Proposed Lot 924 is not considered a suitable lot given its numerous constraints.
- Plans of Management should be prepared for all land to be dedicated to Council.

Yours sincerely

Petula Bowden
Senior Town Planner





OUT20/14037

Lauren Saunders
Planning & Assessment
NSW Department of Planning, Industry and Environment

lauren.saunders@planning.nsw.gov.au

Dear Ms Saunders

**Tinonee Residential Subdivision (MP 05_0038 MOD 1)
Modification Report**

I refer to your email of 10 November 2020 to the Department of Planning, Industry and Environment (DPIE) Water and the Natural Resources Access Regulator (NRAR) about the above matter.

The following recommendations are provided by NRAR.

Prior to Approval

- The proponent should show due consideration to the Guidelines for Controlled Activities on Waterfront Land (NRAR 2018). The proponent should detail how the project is compliant with the guideline and detail locations where the subdivision lot layout encroaches upon the outer 50% riparian zone and where appropriate offsetting is proposed, in particular for the 1st and 3rd order watercourses in the eastern section of the site.
- The proponent should detail how the Asset Protection Zones (APZ) locations are in accordance with the NRAR Guidelines for controlled activities on waterfront land. APZs are considered to be a non-riparian use and should only be located in the outer riparian zone with appropriate offsetting as per the NRAR Guidelines for Controlled Activities on Waterfront Land
https://www.industry.nsw.gov.au/_data/assets/pdf_file/0004/156865/NRAR-Guidelines-for-controlled-activities-on-waterfront-land-Riparian-corridors.pdf.
- The proponent should detail how the vegetated riparian zones for the watercourses within the subject boundary will be managed and re-established. The watercourses within the subject boundary should be established and managed in accordance with a Vegetation Management Plan (VMP) prepared showing due consideration to NRARs guidelines for VMPs -
https://www.industry.nsw.gov.au/_data/assets/pdf_file/0006/160467/licensing_approvals_controlled_activities_veg_mgt_plans.pdf. The establishment of the VRZs should be considered in the bushfire assessment.



Planning, Industry & Environment

Any further referrals to DPIE Water and NRAR can be sent by email to:
landuse.enquiries@dpi.nsw.gov.au.

Yours sincerely

Alistair Drew
Acting Senior Project Officer, Assessments
Water – Knowledge
9 December 2020

**Submission for: Mod to Tinonee PA (MP 05_0038 MOD 1) - Amended
subdivision layout**

Supports

Name Withheld

TAREE, New South Wales

Message

I am in support of the development and see that it complies with current standards. However, I feel consideration should be taken into the speed limit on The Bucketts Way as part of the traffic report. Could there be an extension of the 70km/hr speed limit for traffic heading westbound towards Tinonee due to the bend in the road near the development site. I feel this will minimise the risk of car accidents with potential car cueing to turn into the site from the westbound lane.

Traffic heading eastbound towards Taree should be able to remain at 80km/hr.



NSW RURAL FIRE SERVICE



Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Your Ref: MP 05_0038 MOD 1
Our Ref: DA-2006-00989-S4.55-1

ATTENTION: Lauren Saunders

24 December 2020

Dear Ms Saunders

**Major Projects Application
Modification – Rural Residential Subdivision
Lot 156 DP 753202 & Lots 53 & 54 DP 836998; 6920 The Bucketts Way Taree South**

I refer to your correspondence dated 10 November 2020 seeking advice regarding bush fire protection for the above Major Projects modification application in accordance with the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following advice:

The NSW RFS provided bush fire requirements to the original application, dated 24 September 2008. This advice was incorporated into the conditions of consent issued by the Department of Planning, dated 5 April 2009.

The MOD application seeks to modify the original layout by way of road design and lot layout and staging release time frame.

The NSW RFS cannot support the Modification application in its current form. The modification application and supporting documentation do not adequately justify how the proposed road layout for stage 1 will provide safe access for fire fighters, and residents, when the main singular public access road will traverse a riparian reserve corridor. It is also assumed that this riparian reserve will also be revegetated with koala vegetation species, further adding to the un-managed bush fire threat therefore a potential access constraint into the norther component of the estate.

Postal address

Records
NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

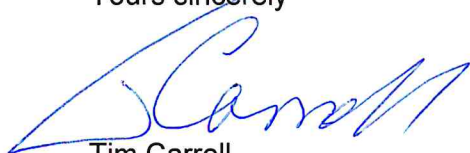
NSW Rural Fire Service
Planning and Environment Services (North)
51 Moonee Street
COFFS HARBOUR NSW 2450

T (02) 6691 0400
F (02) 6691 0499
www.rfs.nsw.gov.au
Email: pes@rfs.nsw.gov.au

The NSW RFS would require a secondary public access provision, traversing the riparian corridor, to ensure fire fighters and residents have an alternative road access (stage 1) during immediate bush fire threats to the residential estate.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely



Tim Carroll

Manager

Planning and Environment Services - North

The RFS has made getting information easier. For general information on Planning for Bush Fire Protection 2019, visit the RFS web page at www.rfs.nsw.gov.au and search under Planning for Bush Fire Protection 2019.