



5/11/2021

Focoze Pty Ltd  
C/- PDA Planning  
Attn: Tony Fish  
tfish@pdaplanning.com.au

Dear Tony,

## Ecological Assessment Pathway for Caters Creek Subdivision Modification

As requested, we provide advice relating to the subdivision modification at Bucketts Way Tinonee and the ecological assessment requirements.

### 1. BACKGROUND INFORMATION

The subdivision was approved under the major projects pathway in 2009. A subdivision modification application has been recently lodged. The modification includes changes to the approved subdivision layout including changes to the Lot and road layout.

Biodiversity Australia prepared an ecological assessment in September 2020 to carry out updated surveys for the Koala and address the potential impacts of the development on threatened species that had been listed since the project was approved. An additional ecological report was prepared by Wolfpeak in March 2021 to carry out significance assessments for species not assessed in the Biodiversity Australia report.

One of the purposes of the ecological assessment was to confirm that the modified project would not be subject to the Biodiversity Offset Scheme. This has been clarified in reference to the relevant legislation.

### 2. BIODIVERSITY ASSESSMENT PATHWAY FOR MODIFIED PROJECTS

The NSW Biodiversity Conservation Act 2016 and Biodiversity Conservation Regulation 2017 came into force in August 2017 and replaced the Threatened Species Conservation Act 1995. Associated with these acts is the Biodiversity Conservation (savings and transitional) Regulation 2017.

Projects that were approved under the former legislation and are subject to a modification are not subject to the Biodiversity Offset Scheme and require preparation of a BDAR if the modified project will not increase the impact on biodiversity values. This is stated in Clause 30A of the savings and transitional regulation as follows:

*“a biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification (or determining the environmental assessment requirements for the application) is satisfied that the modification will not increase the impact on biodiversity values”.*

Advice from the Biodiversity Conservation Division stated that eight Biodiversity values needed to be assessed to determine if there will be an increased impact:

1. Vegetation abundance
2. Habitat suitability
3. Habitat connectivity
4. Flight path integrity
5. Vegetation integrity
6. Threatened species abundance
7. Threatened species movements
8. Water sustainability

An assessment comparing the approved development and modified development against the eight values is provided in Section 3 to confirm that the modified development will not increase the impact on biodiversity values.

The Biodiversity Assessment Method Stage 2 Operations Manual (Section 1.3) also states the following:

*Modifications to a development consent that was approved before the BC Act commenced (or is a pending or interim planning application), may require a BDAR to address any additional impacts on biodiversity values. The BDAR only needs to address the newly proposed impacts. The BDAR must still describe any measures already taken to avoid, minimise or offset biodiversity impacts for the original development.*

The project planners and engineers have confirmed that there will be no additional impacts resulting from the subdivision modification, and the total amount of vegetation removal and thinning that is required will be less than the original approved development. The modified subdivision will require the complete removal of 0.22ha of native vegetation and thinning of 2.81ha giving a total of 3.03ha. This is much less than the 4.36ha that is proposed to be cleared for the approved subdivision. No new or different areas of vegetation will require removal under the modification and impacts will generally be within the previously assessed footprint.

As such, there are no additional impacts that would require assessment via preparation of a BDAR. Species that have been listed since the project was approved in 2009 were assessed via a test of significance in the Biodiversity Australia and Wolfpeak reports which found that it would not result in a significant impact.

### **3. CLAUSE 30A ASSESSMENT**

Clause 30A (2)(c) of the Biodiversity Conservation (savings and transitional) Regulation 2017 states that “a biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification (or determining the environmental assessment requirements for the application) is satisfied that the modification will not increase the

impact on biodiversity values” The relevant biodiversity values are discussed individually in the following table and consider the impact of the approved subdivision compared to the proposed modification.

*Table 1: Clause 30A assessment*

| Biodiversity Value           | Approved Subdivision                                                                                                         | Modified Subdivision                                                                                                                   | Assessment                                                                                                                           |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <b>Vegetation Abundance</b>  | Approved to remove 4.36 ha of vegetation.                                                                                    | Proposed to remove 3.03ha (0.22ha of 100% removal and 2.81ha of thinning).                                                             | Modification will remove 1.33ha less than the approved subdivision resulting in greater vegetation abundance.                        |
| <b>Habitat Suitability</b>   | Contains habitat suitable for several threatened species such as the Koala, Brushtailed Phascogale and Glossy Black Cockatoo | Similar footprint, hence contains habitat for the same species.                                                                        | Habitat suitability for threatened species is the same as the approved subdivision as it will impact the same (but less) vegetation. |
| <b>Habitat Connectivity</b>  | Approved subdivision layout does not allow for fauna and habitat connectivity through the site along the drainage line       | Modified subdivision will create a habitat corridor through the southeast of the site which will lead to greater habitat connectivity. | Modified proposal will provide greater habitat connectivity for fauna.                                                               |
| <b>Flight path integrity</b> | Not considered to be located in a flight path for avian species                                                              | Not considered to be located in a flight path for avian species.                                                                       | Not applicable.                                                                                                                      |
| <b>Vegetation integrity</b>  | Vegetation in footprint generally has low vegetation integrity due to past and ongoing disturbances.                         | Vegetation integrity in the modified subdivision footprint is the same as the approved footprint.                                      | No change                                                                                                                            |

|                                     |                                                                                                                                                                                                               |                                                                                                                                                                                     |                                                                                                                                                                               |
|-------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Threatened species abundance</b> | 11 threatened fauna species were recorded on the site during field surveys.                                                                                                                                   | No additional threatened species would be likely to occur in modified subdivision footprint.                                                                                        | Modification will provide for greater threatened species abundance as less vegetation removal will be required and it will create better habitat connectivity.                |
| <b>Threatened species movements</b> | Site is located in agricultural land with pockets of vegetation and nearby stands of forest. Movement of threatened species such as Koalas and Gliders across the site is currently limited by cleared areas. | Modified footprint is located in the same area and has the same limitations to fauna movement at present. Modified layout provides better outcome for threatened species movements. | The layout of the modification will create a habitat corridor in the southeast of the site which will enhance the potential for threatened species movements across the site. |
| <b>Water sustainability</b>         | Unlikely to substantially impact water sustainability.                                                                                                                                                        | Unlikely to substantially impact water sustainability.                                                                                                                              | No change                                                                                                                                                                     |

## 4. CONCLUSION

The above assessment has demonstrated that the proposed subdivision modification will have less impact on biodiversity than the approved development. As such, it does not require entry into the Biodiversity Offset Scheme and preparation of a BDAR as no greater or additional impact will result. Recorded and potentially occurring threatened species that were not listed during the previous ecological report have been assessed and the modification would not result in a significant impact. The suite of mitigation measures including creation of reserves and vegetation enhancement in currently disturbed areas will provide a benefit to the local flora and fauna and provide greater protection.

Should you have any queries or require further information please do not hesitate to contact me on 0477611677 or at [wsteggall@wolfpeak.com.au](mailto:wsteggall@wolfpeak.com.au).

Yours sincerely,



Will Steggall  
Senior Ecologist