

Ms Keiley Hunter
Keiley Hunter Town Planning
115 VICTORIA STREET
COFFS HARBOUR NEW SOUTH WALES 2450

06/03/2020

Dear Ms Hunter

**North Boambee Subdivision (MP 05_0129 Mod 3)
Request for Additional Information**

I refer to your email to the Department dated 26 February 2020 in relation to landowner's consent and agency referrals for the above project.

Landowners consent is required from all owners of land to which the original approval relates (including the nine lots that have been sold to different owners). This position is supported in *Pasminco Cockle Creek Smelter Pty Ltd (subject to Deed of Company Arrangement) v Minister for Planning* [2018] LEC 130, which clarified the position on landowner consents in the *Platform Project Services* case.

In addition, please provide amended plans in response to the attached comments from the Rural Fire Service and Council, showing:

1. The extension of Eyre Road with an 8m wide carriageway in accordance with Section 4.1.3 of Planning for Bushfire Protection 2006
2. Removal of the extension of Road No. 1 to the north
3. The location of the proposed retaining walls.

You are requested to provide the information, or notification that the information will not be provided, to the Department by Friday 27 March 2020. If you are unable to provide the requested information within this timeframe, you are requested to provide, and commit to, a timeframe detailing the provision of this information.

If you have any questions, please contact Emma Butcher, who can be contacted on (02) 8289 6607 or emma.butcher@planning.nsw.gov.au.

Yours sincerely,



Brendon Roberts
Acting Director
Regional Assessments

Enclosed: Attachment 1- Council Comments

Attachment 2- RFS Comments

Attachment 1- Council Comments

COFFS HARBOUR CITY COUNCIL



Your ref: MP 05_0129 MOD 3
Our ref: (0698/09DA & 0098/20DM)

5 March 2020

NSW Department of Planning, Industry and Environment
Attention: Ms Emma Butcher
Regional Assessments
Emma.Butcher@planning.nsw.gov.au

Dear Sir/Madam,

Notification of Modification – Lakes Estate Residential Subdivision (MP 05_0129 MOD 3)

Reference is made to the notification described above.

Council has reviewed the information provided to support the proposed modification and the following comments are provided for the Department's consideration as part of the assessment:

Biodiversity:

Council has reviewed the correspondence prepared by Biodiversity and Conservation dated 17 February 2020 and concur with the comments provided. In addition to this, the following comments are provided in relation to the retention of the large Tallowood tree:

- Part of the argument, provided in the ecological assessment, of minimal impact relies on retaining the large hollow bearing Tallowood tree with a DBH of 136cm, containing five hollows of which at least two are greater than 100cm. If this tree is required to be removed then an additional 20 replacement trees are required (in addition to replacement hollows).

It is noted that no assessment by an arborist has been provided, as to the viability of the tree, and the following statement contained in section 6.1 of the ecological assessment:

"The location of this tree on site however should allow for its retention subject to NSW Planning in consultation with Coffs Harbour City Council allowing a reduced kerb to boundary distance from 4.25 metres to 2.5 metres in proximity to the tree and appropriate protection/mitigation measures"

is not considered to provide certainty in relation to the retention of the tree.

There also does not appear to be any details as to the Tree Protection Zone and Structural Root Zone in relation to earthworks, and the recommendation in section 10 regarding an exclusion zone will not work, where the plans show the road within this area.

Locked Bag 155, Coffs Harbour 2450 (Customer Service Centre: 2 Castle Street, Coffs Harbour)
Tel: (02) 6648 4000 Email: coffs.council@chcc.nsw.gov.au
Website: www.coffsharbour.nsw.gov.au
ABN 79 126 214 487

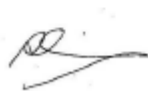
It is recommended that any development consent issued be conditioned to require that an arborist report and tree protection plan be submitted and approved prior to the issue of a Subdivision Works Certificate. A condition should also require that the construction plans be amended based on any advice received from the arborist to ensure the ongoing survival of this Tallowood tree.

Engineering:

- It is noted that the proposed road width does not comply with Planning for Bushfire Protection 2006, which requires a minimum width of 8 metres, as specified in Section 4.1.3. It is recommended that this matter be raised with the NSW Rural Fire Service and that the applicant be asked to amend their plans to demonstrate compliance with this requirement.
- The submitted plans show Road no.1 being extended to the north. Council does not support this, given that this extension does not service an approved residential area to the north and that this extension creates an intersection, which may not comply with required sight distances and grades. It is requested that the applicant be asked to remove this northern extension of Road no.1.
- Lot 7 does not appear to have 100% coverage, as required by the sewer code. It is recommended that any development consent issued be conditioned to recognise this (i.e. a condition should set minimum floor height for fixtures).
- Sheet 4 of the submitted plans shows retaining walls at the boundary. It is unclear, however, whether these walls are proposed to be located on private property or the road reserve. In this regard, Council will not agree to retaining structures being located within the road reserve. It is requested that the applicant be asked to clarify (on plan) where the proposed structures sit.

For further information, please contact Renah Givney on 6648 4647.

Yours faithfully



Renah Givney
Development Assessment Officer – Senior

Attachment 1- RFS Comments



NSW RURAL FIRE SERVICE



The Director General
Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

Your Ref: MP 05_0129 Mod 3
Our Ref: DA-2009-07893-S4.55-1

ATTENTION: Emma Butcher

6 March 2020

Dear Ms Butcher,

Development Application; Section 4.55 (1A) Modification of Consent MP 05_0129 to Stage 3A, Lot 10 DP 1240161, The Lakes Estate Residential Subdivision, North Boambee Valley, Coffs Harbour City Council Local Government Area.

I refer to your letter, dated 23/1/20 seeking comments and recommended conditions of approval from the NSW Rural Fire Service for the above project. The RFS has reviewed the documents provided, in relation to the proposed development, and provides the following comments.

The proposed modification seeks to:

- amend the layout of Stage 3A to replace 5 large lots with 10 smaller lots (additional 5 lots)
- replace the fire trail along the boundary of stage 3A with a public road
- remove 7 additional trees.

A modified overall subdivision plan has not been provided with the Stage 3A modification plan and therefore the following comments are specific to the Stage 3A (10 lot development) and therefore the recommendations will need to be considered in concert with previous comments provided under other MP 05_0129 proposals.

1. The following comments are based on the plan; prepared by Newnham Karl Weir titled "Proposed Subdivision Lot 10 DP 1240161 Road, Drainage Works, Water Supply & Sewerage" and dated 14/10/19.

Postal address

Records
NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
Planning and Environment Services (North)
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

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



Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of a subdivision certificate, all Stage 3A lots (Proposed lots 1 - 10) must be managed as an inner protection area (IPA). The IPA must comprise:
 - Minimal fine fuel at ground level;
 - Grass mowed or grazed;
 - Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
 - Trees and shrubs located far enough from buildings so that they will not ignite the building;
 - Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
 - Minimal plant species that keep dead material or drop large quantities of ground fuel;
 - Tree canopy cover not more than 15%;
 - Tree canopies not located within 2 metres of the building;
 - Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
 - Lower limbs of trees removed up to a height of 2 metres above the ground.
3. At the issue of a subdivision certificate, a suitable mechanism, such as an instrument pursuant to section 88 of the 'Conveyancing Act 1919', must be in place over proposed lots 1 - 9 to ensure future dwellings are not erected within the required APZ. The APZ is shown on the drawing; prepared by Building Code & Bushfire Hazard Solutions P/L titled "The Lakes Estate Stage 3A (ii) Bushfire APZ Overlay", dated 28/10/19 and found as an attachment to their Bush Fire Assessment Report of 28/10/19.
The name of authority empowered to release, vary or modify any instrument shall be Coffs Harbour City Council.

Access

The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with the requirements of section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

5. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Advice

- These comments are provided with regard to the proposed modifications to Stage 3A only. All other previous comments, for the larger overall staged development, contained within MP 05_0129, are also to be addressed/considered.

For any queries, regarding this correspondence, please contact Bradford Sellings on 6691 0400.

Yours sincerely,



Paul Creenaune

Acting Team Leader – Development, Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.