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Director General  
Department of Planning and  
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GPO Box 39  
SYDNEY NSW 2001

Your Ref: MP09\_0088  
Our Ref: S13/0014

23 January 2014

**ATTENTION:** Kim Johnston

Dear Sir/Madam,

**'RESPONSE TO SUBMISSIONS' - Exhibition of Environmental Assessment for Concept Plan Approval – Mixed Use Subdivision, West Culburra (MP09-0088)**

In accordance with the e-mail from Kim Johnson dated 21 January 2014, advising Martha Dotter from the Rural Fire Service (RFS) that comments pertaining to the above matter will be accepted until close of business Friday 24 January 2014, please find a response to your letter dated 10 December 2013. Your letter requested the RFS advise the Department if the enclosed document 'Response to Submissions' had addressed the issues which were raised in the RFS letter dated 4 June 2013.

The RFS advises the Department that section 7.9 'Bushfire Control and APZs' of the Response to Submissions does not adequately address those matters raised in our letter dated 4 June 2013.

The RFS notes the statement contained within the letter dated 10 December 2013 advising that:

*'The Department will now finalise the assessment of the project and the Minister for Planning and Infrastructure will determine whether to approve or refuse the project.'*

Accordingly the RFS has proceeded to finalise its assessment, utilising the information received to date, and provides the following recommended draft conditions for application to any Concept Plan Approval and associated Project Application for Stage 1.

## ACRONYMS

BFSA	= Bush Fire Safety Authority
SFPP	= Special Fire Protection Purpose, including 55+ age group housing, tourist accommodation and as defined in the <i>Rural Fire Act 1997</i> and supporting <i>Regulations 2008</i>
PBP 2006	= Planning for Bushfire Protection 2006
APZ	= Asset Protection Zone
Regulations 2008	= <i>Rural Fires Regulation 2008</i>

## Conditions of Concept Plan Approval

### GENERAL CONDITIONS

1. These conditions are for Concept Plan Approval of the land only. Future applications for subdivision and special fire protection purposes (SFPP), shall be subject to the prior issue of a separate Bush Fire Safety Authority from the RFS. Such applications will be supported by a Bushfire Assessment and shall include, but not be limited to, the following matter:

- The provision of adequate setbacks for future SFPPs from bushfire hazards located within 140m. This may restrict certain development lots for the land use purpose the subject of this approval.

**NOTE** - Figure 2-'Asset Protection Zones' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013 demonstrates development for SFPPs shall require:

- i. a minimum setback of 70m to the south of the medium density component of Stage 3 for SFPPs
  - ii. a minimum setback of 40m to the north and 70m to the east for SFPPs in Lots T1 & T2. The 40m setback is based on clearing of vegetation within foreshore strip such that no fire run exceeds 50m toward either lot (as per Draft Bush Fire Assessment prepared by Eco Logical Australia). At design stage, the RFS generally does not support clearing of ecologically significant areas to facilitate reduced APZs.
2. The land use of Lot T3 has not been assessed for any special fire protection purpose - SFPP (as defined in the *Rural Fires Act 1997* and supporting *Regulations 2008*). Lot T3 was identified for use as a "Cafe/Retail" in the submitted documentation. The RFS notes due to Lot T3s proximity to the hazard in the north, it is unlikely to satisfy SFPP requirements for APZs as per PBP 2006.
3. Stage 5 has been assessed for industrial land use only. No residential, rural residential or special fire protection purpose land use has been assessed for Stage 5. Stage 5 was identified for use as an Industrial Estate in the submitted documentation. The RFS notes that additional APZs and a secondary egress would be required for this stage to be able to satisfy the residential and/or SFPP requirements as per PBP 2006.



## **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. The construction of roads shall generally comply with Figure 3 'Perimeter Roads and Fire Trails' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013, except where modified below:
  - (a) Public and perimeter road construction shall comply with the requirements of Clause 4.1.3 (1) Public Roads of PBP 2006;
  - (b) Fire trail construction shall comply with the requirements of Clause 4.1.3 (3) Fire Trails (except for that portion of road separately specified in (d) below);
  - (c) Prior to development of Stage 2 the road identified on Figure 3 referenced above, as a "Fire Trail" (abounding the northern portion of Stage 2 to the east) shall be constructed in accordance with the standards specified in Clause 4.1.3 (3) Fire Trails of PBP 2006.
  - (d) Prior to development of Stages 2, 3 or 4, the road identified on Figure 3 referenced above, as the "Collector Road" (bordering the proposal to the south) and the road identified as a "Fire Trail" (linking the Collector Road back into Culburra Road to the south west) shall be constructed in accordance with the standards specified in Clause 4.1.3 (1) Public Access of PBP 2006;
  - (e) Prior to development of the 3.4 ha medium density component of Stage 3 the road identified on Figure 3 referenced above, as a "Perimeter Road" (generally abounding the medium density component of Stage 3 to the south and west) shall be constructed in accordance with the standards specified in Clause 4.1.3 (1) Public Roads of PBP 2006; and
  - (f) Prior to development of Stage 5 the road identified on Figure 3 referenced above, as a "Fire Trail" (generally abounding Stage 5 to the north east and east) shall be constructed in accordance with the standards specified in Clause 4.1.3 (3) Fire Trails of PBP 2006.

## **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:

5. APZs should be wholly located within the boundaries of each lot (both 'superlots' and subsequent subdivided allotments). Any APZs over land not within lot boundaries, and not located over existing roads or other existing developed, managed land (such as developed urban areas and managed recreational reserves) shall be secured through a legally binding instrument (i.e 88B instrument) which identifies the management outcomes (i.e contain an APZ management plan) and party responsible for management. The legally binding instrument of any APZs shall be created prior to the release of any subdivision certificates.

**NOTE** - Figure 2-'Asset Protection Zones' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013 demonstrate the following



APZs appear to extend over adjoining lots:

- i. the 40m/70m APZ to the north of lots T1 & T2 extend over the adjoining land to the west and into the foreshore reserve to the north (within 7(a) zoning).\*
- ii. the 25m APZ (and associated perimeter road) south of the medium density component of Stage 3 extends outside of the subject lots and within the boundary of Wollumboola catchment.
- iii. the 10m APZ north and east of Lot T3 extends into 7(a) zoning and the adjoining foreshore reserve.\*
- iv. the 25m APZ located along most of the northern residential development boundary where it adjoins the foreshore, extends beyond the 20m road (which is <20m in portions) and into the adjoining foreshore area.

\*At concept design stage the RFS generally does not support the creation of APZs within ecologically significant areas or over areas of cultural heritage significance.

6. This development site is largely vegetated and is to be developed in a number of stages. To ensure that adequate APZs are created and maintained as required for each progressive stage, an APZ Staging Plan shall be submitted with the future development of each stage.

The APZ Staging Plan shall demonstrate how the development proposed in that stage complies with the development types relevant radiant heat levels identified in PBP 2006. Where any APZs extend over adjacent land, the Staging Plan shall reflect the location of any easement/instrument including information on the APZ maintenance requirements including management responsibilities.

**NOTE** - Legally binding APZ easements/instruments may be extinguished upon commencement of subsequent stages/development if the removal of the APZ occurs where succeeding development has removed the potential hazard to the existing/proposed development, eliminating the need for the APZ.

7. Prior to any use of development approved within each stage, the APZ required as per the APZ Staging Plan referenced in condition 6 above shall be created as an APZ as outlined within section 4.1.3 and Appendix 5 of PBP 2006 and the NSW RFS document 'Standards for asset protection zones' maintained including any easements etc.

### **Water and Utilities**

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:

8. Water, electricity and gas are to comply with section 4.1.3 of PBP 2006.

### **Conditions for Project Application Approval of Stage 1**

#### **GENERAL CONDITIONS**

9. Future development of any SFPP within the Stage 1 Project Application requires the prior issue of a separate Bush Fire Safety Authority from the RFS.



**NOTE** - Figure 2-'Asset Protection Zones' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013 demonstrates development for SFPPs within Lots B1 & B2 would require a minimum setback of 70m to the south to achieve a radiant heat level not greater than 10kW/mw as per PBP 2006.

### **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:

10. Prior to the commencement of any building work associated with Stage 1 Project Application approval, the APZ as shown on Figure 2 - 'Asset Protection Zones' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013, for Stage 1 shall be maintained as an APZs as outlined within section 4.1.3 and Appendix 5 of PBP 2006 and the NSW RFS document 'Standards for asset protection zones'.

### **Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

11. Prior to the commencement of any building work approved as part of the Stage 1 Project Application approval, the road identified as a "fire trail" (abounding Stage 1 to the south and west) on Figure 3 'Perimeter Roads and Fire Trails' of the Draft Bush Fire Assessment prepared by Eco Logical Australia, dated 20 March 2013, shall be constructed in accordance with the standards specified in Clause 4.1.3 (3) Fire Trails of PBP 2006.
12. Construction of roads except for the road specified in condition 11 above shall comply with the requirements of Clause 4.1.3 (1) Public Roads of PBP 2006.

### **Water and Utilities**

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:

13. Water, electricity and gas installed as part of the Stage 1 Project Application approval shall to comply with the requirements of section 4.1.3 of PBP 2006.


### **General Advice – determining authority to note**

- The RFS notes that future development is likely to be subject to development assessment under Part 4 of the *Environmental Planning and Assessment Act 1979*. Future applications for class 1,2 & 3 buildings (as

identified by the 'Building Code of Australia') shall be subject to section 79BA of the *Environmental Planning and Assessment Act 1979*.

For any queries regarding this correspondence please contact Martha Dotter on (02) 44 720600.

Yours Sincerely,

A handwritten signature in dark ink, appearing to read 'Amanda Moylan', with a stylized flourish at the end.

Amanda Moylan

**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](http://www.rfs.nsw.gov.au) and search under '*Planning for Bush Fire Protection 2006*'.