

DEPARTMENT OF PLANNING & INFRASTRUCTURE

Development Assessment and Systems Performance

319 GRASSY HEAD ROAD, GRASSY HEAD – MODIFICATION OF DEVELOPMENT CONSENT FOR DA462-11-2003 MOD 2

PURPOSE

To determine a modification application for a minor adjustment to the approved building location at 319 Grassy Head Road (Lot 11 DP 1091149) in the Kempsey LGA to align the proposal with current bushfire regulations.

SITE LOCATION

The subject site is located approximately 30km south of Nambucca Heads. It is bounded by Spur Road to the north and Grassy Head Road to the south. Both roads are access routes to Yarrahappini National Park which is located west of the site. Refer Figures 1 & 2.

Figure 1 – Site location in relation to the coast



Figure 2 – Site location



BACKGROUND

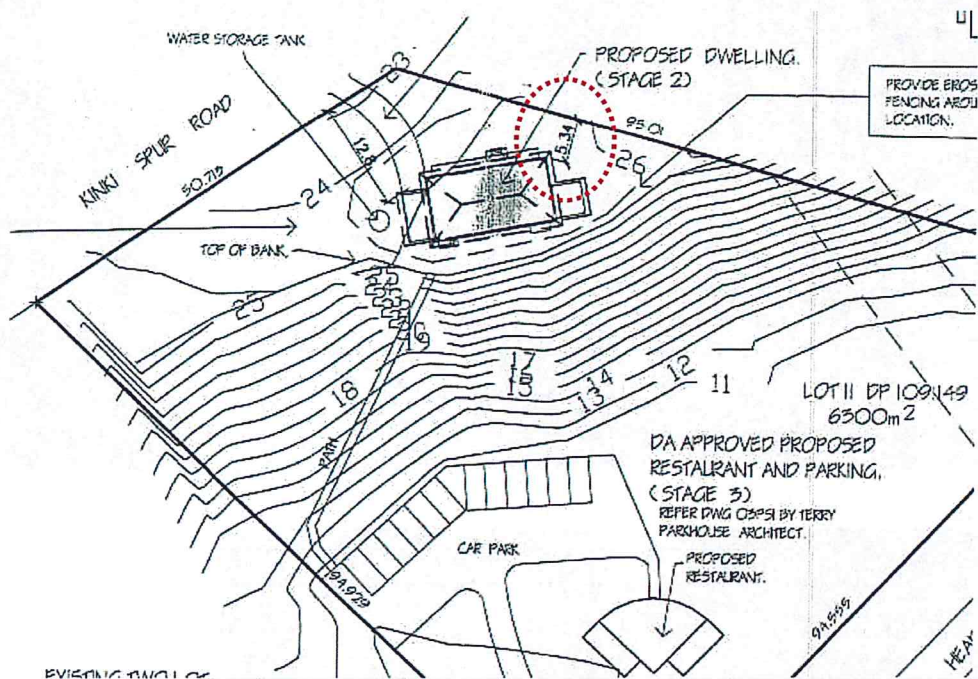
On 6 December 2004, the former Minister Assisting the former Minister for Infrastructure and Planning, granted consent for development application DA 462-11-2003 for the subdivision of Lot 1 part Lot 876 DP 584667 to create two lots, development of a restaurant and tourist information centre and development of a caretaker's residence, at 319 Grassy Head Road, Grassy Head.

The subdivision was registered in October 2005 resulting in Lots 11 and 12 in DP 1091149.

On 23 September 2009 MOD1 was approved to amend the design of the caretaker's residence on Lot 11 DP 1091149. The caretaker's residence was modified to increase its resilience to bushfire attack as specified by the NSW Rural Fire Service (RFS) – changes included a reduction to a single storey, use of fire resistant building materials such as brick exterior and tiled roof, minimisation of exposed timber, and smaller side and rear elevations to reduce exposure to the bushfire threat. The location and orientation of the dwelling did not change.

After the approval of MOD1 it was determined that the conditions imposed by the RFS could not be achieved and so consultation commenced between Kempsey Council, the RFS, the applicant and their consultants to achieve a site specific solution. The amendments subject of this application propose to align the application with the agreed solution amongst all parties. In addition, for Kempsey Council to issue a Construction Certificate they require the application to be formally modified.

Figure 3 - Extract from approved site layout plan - 5.34m setback



PROPOSED MODIFICATION

This application seeks to amend the approved plans and move the caretaker's residence a further 5.91m away from the northern boundary to achieve a total 11.25m setback. See Figure 4.

The increased setback is proposed so the DA conditions of the consent and approved plan will align with current bushfire regulations. A note is also proposed to be added to the plan indicating the BAL bushfire construction requirements for the dwelling in accordance with current AS 3959-2009.

[illegible]

In accordance with Clause 12 of Schedule 6A of the EPA Act, section 75W, in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to the modification of development consents referred to in clause 8J of the Regulation. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or refuse the modification.

In accordance with section 75X of the Act and clause 8G of the Regulation; the modification request was made available on the department's website. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received. However, the request was referred to the RFS and Kempsey Council with their responses discussed below.

On 14 September 2011 and taking effect from 1 October 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where the relevant local council has not made an objection, a political disclosure statement has not been made and there are less than 10 public submissions in the nature of objections. As no submissions from the public were received, council did not make an objection and a political disclosure statement has not been made, the Director, Metropolitan and Regional Projects North may determine the modification request under delegated authority.

KEY ISSUE

Bushfire

As mentioned above, the modification relates to moving the proposed dwelling further away from the northern boundary, adding notations to the plan and amending the conditions of consent so the application aligns with current bushfire regulations and the bushfire solution agreed for this site.

The application proposes no other changes.

Kempsey Council provided a response which is quoted below:

'Council notes that the proposed modification does not meet the Deemed-to-Satisfy provisions of the Building Code of Australia in respect to the bush fire hazard.

In this regard, it will be necessary for the DoPI in consultation with the RFS to be satisfied that the BAL ratings on the modified plans can be achieved and appropriate conditions attached.'

The RFS have not objected to the modification and have provided amended conditions of consent as detailed in Schedule 2.


In considering the proposed amendments and comments received by Council and the RFS, the DPI is satisfied the application remains substantially the same as that approved under DA 462-11-2003 and DA 462-11-2003 MOD1. The only minor change proposed on site is the location of the dwelling which will result in no additional adverse environmental impacts.

RECOMMENDATION


It is RECOMMENDED that the Director, Metropolitan and Regional Projects North:

- note the information provided in this report
- approve the modification request, subject to conditions, and
- sign the attached modifying instrument (Tag A).

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 23.11.12
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 25/11/12
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