

21 December 2020

Lauren Saunders  
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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**

