

ASSESSMENT REPORT

RESIDENTIAL SUBDIVISION, BILAMBIL 05_0198 MOD 3

1. INTRODUCTION

This report is an assessment of an application seeking to modify an approved residential subdivision at Bilambil Heights, in the Tweed local government area.

The request has been lodged by DAC Planning Pty Ltd, on behalf of the property owners (WDLC Pty Ltd, ATF Dickinson Superannuation Fund, Mand R Walmsley, H Mabbutt and D Miller) (the Proponent) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date of the approval by one year.

2. SUBJECT SITE

The site is located on Walmsleys Road and Stott Street, Bilambil Heights, approximately six kilometres (km) south-west of the Tweed CBD and 3 km south of the New South Wales/Queensland border (refer **Figure 1**).



Figure 1: Regional Context (source: Google Maps)

The site is characterised by its hilltop location and steep slopes. A north-south ridgeline forms an escarpment along the highest part of the site from which the land slopes steeply to the east and west. Site elevations range from 72 metres (m) to 85 m Australian Height Datum (AHD) along the ridgeline, to approximately 54 m AHO in the western and eastern parts of the site.

The majority of the site is cleared of vegetation, however, one Endangered Ecological Community (EEC) and eight rare and/or threatened plant communities are located adjacent to the southern and western boundaries of the site. A single row of Camphor Laurel trees also runs between the eastern and western boundaries of the site (see **Figure 2**).



Figure 2: Site Location (Highlighted in Red) (Source: Residential Subdivision Bilambil, Director-General's Report)

3. APPROVAL HISTORY

On 2 August 2012, the then Planning Assessment Commission (the Commission) granted Project Approval for an 85-lot residential subdivision comprised of 77 Torrens Title lots, a six lot Community Title scheme (five residential lots and one neighbourhood property lot), one public reserve, one lot to accommodate a sewage pumping station, and associated infrastructure works. The previous modifications of the project are summarised in **Table 1**.

Table 1: Previous modifications

Modification number	Description	Date approved
Modification 1	The Director, Modification Assessments, approved Modification 1 comprising of the reconfiguration of sewerage pumping station and sewer lines and the consolidation of certain lots within the development site.	5 June 2017
Modification 2	The Director, Modification Assessments, approved Modification 2 comprising an extension to the lapse date of the approval by one year from 2 August 2017 to 2 August 2018.	12 October 2017

4. PROPOSED MODIFICATION

On 11 April 2018, the Proponent lodged a section 4.55(1A) modification request (05_0198 MOD 3) seeking approval to extend the lapse date by one year from 2 August 2018 to 2 August 2019. This extension is being sought as the Proponent has not yet commenced works due to ongoing negotiations with Tweed Shire Council regarding the issue of Construction Certificates.

5. STATUTORY CONSIDERATION

5.1 Part 3A Transition to State Significant Development

The Project Application (MP 05_0198) was approved under Part 3A of the EP&A Act. On 1 March 2018, the transitional arrangements for Part 3A approvals ended. In order to modify a Part 3A approval, it must be declared SSD by the Minister for Planning and modified under section 4.55 of the EP&A Act.

Under clause 6 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the Project Application was transitioned to SSD by an Order, which took effect by publication in the NSW Government Gazette on 6 July 2018.

The application has been lodged under section 4.55(1A) of the EP&A Act for a modification involving minimal environmental impact.

5.2 Modification of Approval

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 2: Matters for consideration

Section 4.55(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact, and	The application seeks to extend the lapse date of the approval by one year. No other changes are proposed. Therefore, the Department is satisfied the modification is of minimal environmental impact.
That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The application seeks to extend the lapse date of the approval by one year. No other changes are proposed. Therefore, the Department is satisfied the modification is substantially the same development as originally granted.
The application is notified in accordance with the regulations, and	The application was notified in accordance with EP&A Regulations. Details of the notification are provided in Section 6 of the report.

Any submissions made concerning the proposed modification have been considered.	The Department received one submission from Council. Council raised no concerns regarding the proposal.
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5.3 Approval Authority

The Minister for Planning is the approval authority for the modification request. However, the Director, Regional Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the application publicly available on the Department's website and referred it to the Tweed Shire Council (Council) for comment.

Council raised no objection to the proposed modification and further supported the allocation of additional time to enact the consent.

No **public** submissions were received.

7. ASSESSMENT

The Department notes MOD 2 approved an extension of the lapse date by one year. This modification seeks approval to extend the lapse date by one more year, from 2 August 2018 to 2 August 2019.

The Department has reviewed the original approval and subsequent modifications and is satisfied there are no circumstances which have materially changed since the approval that would result in a different determination of the application today.

As outlined in the assessment of Modification 2, the Department continues to be satisfied that:

- the strategic planning context of the site has not materially changed
- the physical context of the site has not materially changed
- no changes are proposed to the development itself.

The Department considers extending the lapse date by one more year is reasonable and it will provide the Applicant with sufficient time to satisfy its post approval requirements. The Department also notes Council supports the extended lapse date.

The Department is therefore satisfied an extension to the lapse date would not result in any change to the approved development and the development would remain substantially the same as originally approved. Consequently, it is recommended that the modification be approved subject to the recommended conditions.

8. RECOMMENDATION

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** the request can be determined under section 4.55(1A) of the EP&A Act
- **approves** the request, subject to conditions, and
- **signs** the notice of modification (**Appendix A**).

Recommended by:

 6/7/18

Joel Herbert
Planning Officer
Regional Assessments

DECISION

Approved by:

 6/7/18

Anthony Witherdin
Director
Regional Assessments
as delegate of the Minister for Planning