

ABN 76627110407

Ref: 16-19

**NSW P&E Ref: 8\_0167 Belle O'Connor St**

**08\_0167 MOD2, Modification to Residential Subdivision - 08\_0167 MOD 2**

2 March 2017

The Director General  
NSW Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Attention: Amy Robertson

Dear Amy

**RE: Section 75W Modification of Consent – Stage 10 and 11 of MP 08\_0167  
Lot 36 DP 1214499 Belle O'Connor Street, South West Rocks.**

Reference is made to the above Part 3A Project Approval and Modification.

The purpose of this letter is to address matters raised in agency and public submissions to the proposed modification of consent.

Attached please find a table of issues and responses, Engineering Issues Statement and concept civil drawings by deGroot and Benson, Consulting Engineers.

For ease of reference, submissions received are attached to this letter.

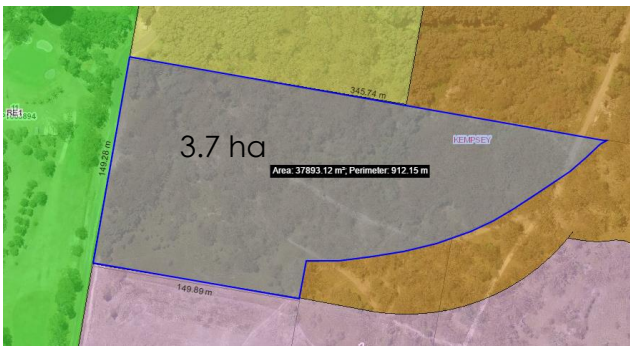
If you have any queries or require any further information in relation to this application, please contact me on 04 585 15963 or email [keiley@keileyhunter.com.au](mailto:keiley@keileyhunter.com.au).

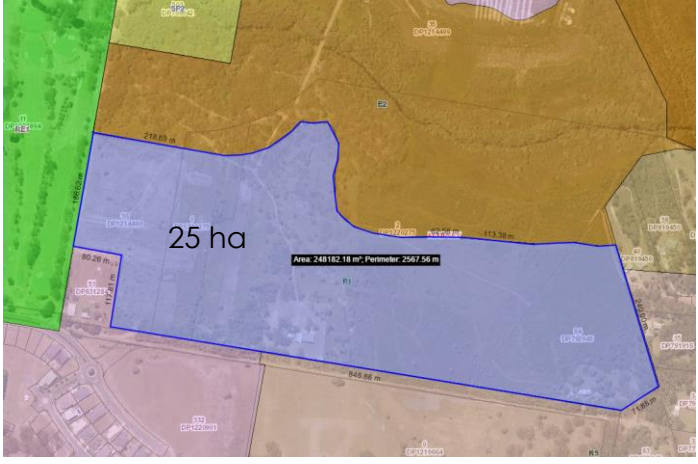
Yours faithfully



Keiley Hunter  
Urban Planner

Encl:

AGENCY SUBMISSIONS	
NSW Office of Environment and Heritage	
<b><i>The Project Approval which was given in 2011 considered the biodiversity impacts associated with the whole development at that time. The biodiversity impacts were considered acceptable subject to a range of conservation measures, including the rehabilitation and protection of certain lands (14.9 ha of conservation land).</i></b>	<p>There are no changes to the extent of biodiversity impacts arising from the development as modified.</p> <p>There are no changes to the rehabilitation and protection of 14.9 ha of E2 conservation zoned land.</p>
<b><i>Figure 18 of the Department of Planning and Environmental Director-General's Environmental Assessment Report dated May 2011 indicates that the area subject to this modification has two or three vegetation communities which have the potential to support threatened species.</i></b>	<p>As stated above.</p> <p>The DA Modification does not propose any additional elements that give rise to ecological impacts that have not already been assessed during the project approval application and the subsequent DA Modification (1).</p>
<b><i>The biodiversity impacts associated with Stages 10 and 11 should be appropriately offset as part of this modification request. This may be a proportional area of the 14.9 ha of conservation land. The OEH is willing to assist the proponent in determining an appropriate offset.</i></b>	<p>Stages 10 and 11 occupy 3.557 ha out of a total 25 ha of R1 zoned land, therefore representing approximately 15% of the Project Approval area.</p> <p>As shown in the image below, the proportion of the 14.9 ha of E2 environmental conservation zoned land applicable to Stages 10 and 11 is approximately 3.7 ha or 25%.</p> <p>It is therefore considered that the proportion of E2 zoned land available to offset residential development within Stages 10 and 11 is more than adequate.</p> 

	
<p><b><i>If all of the 14.9 ha conservation land is delayed until commencement of the other stages there will be a biodiversity loss associated with the delay in rehabilitation and protection of these areas. This delay is not supported by the OEH.</i></b></p>	<p>Approval of Stages 10 and 11 to occur independently of the earlier stages of the development will, in fact, progress the rehabilitation of 3.7 ha of the E2 zoned land in accordance with the project approval. All of the conservation land is already protected under the provisions of the E2 Environmental Conservation zone.</p>
<p><b><i>The modification report has not discussed the impacts to biodiversity or how these may be offset. Further discussion about the biodiversity impacts of the subject property needs to be discussed within the report.</i></b></p>	<p>As discussed earlier, there will be no change to biodiversity impacts arising from the proposed modification.</p> <p>The project approval considered impacts to biodiversity assuming that all of the R1 zoned land would be developed for urban purposes.</p>
<p><b><i>The OEH also notes that the bushfire Asset Protection (APZ) to the lots in the northern part of the subject land is depicted in the modification report as occurring on the neighbouring property to the north. It is unclear how an APZ restriction will be imposed on a neighbouring property. From the Director-General's EARs dated May 2011, it appears that the neighbouring property to the north is zoned as environmental protection (7(b)). An APZ would not be appropriate in such a zoning.</i></b></p>	<p>The neighbouring property to the north (Lot 36 DP1214499) is in the same ownership as the subject land.</p> <p>Lot 36 is zoned E2 Environmental Conservation adjacent to the subject land. APZs are not ordinarily located within E2 zoned land, however, in the subject case, the land is already burdened by an Easement to drain water 15 wide located along the northern boundary. This area will be managed as a drainage swale and will not be vegetated to the extent it will not meet APZ requirements. In this case, the APZ will occupy the 15 m wide easement and 6 m at the rear of proposed Lots 13 to 18. Drainage works are as shown in the extract from Road and Drainage Plan below:</p>

<p><b>The OEH recommends that:</b></p> <ol style="list-style-type: none"> <li><b>1. An appropriate biodiversity offset should be determined and secured as part of the proposed modification</b></li> <li><b>2. All bushfire APZ area to be contained within the subject property and should not impact on biodiversity values.</b></li> </ol>	<p>As stated earlier, the proportion of E2 zoned land allocated as biodiversity offset for Stages 10 and 11, is more than adequate to offset impact arising from this stage of the approved development. The DA Modification does not alter the area of land zoned E2, rather, it enables Stages 10 and 11 to proceed independently of Stages 1 to 9.</p> <p>The 15 m wide APZ on the northern boundary coincides with a drainage easement and will be managed land.</p> <p>The proposed residential development of 3.557 ha of land (Lot 36) is offset by 3.7 ha of E2 zoned land (part of Lot 36). This is considered to be well in excess of biodiversity requirements. 2,250 m<sup>2</sup> of E2 zoned is already constrained by the existing easement and would not have been re-forested under the existing approval or the modified approval.</p> <p>The writer has discussed this with Mr Kirster Waern of OEH who understands that the area, proportion and management of E2 zoned land will not alter as a result of the DA Modification.</p>
<p><b>NSW Transport – Roads and Maritime Services</b></p>	
<p><b>The proposed increase in the total number of allotments will generate a subsequent increase in daily and peak hour traffic movements that has not been addressed in the application. The Consent Authority should consult with Council, as the relevant Road Authority, to ensure that proposed amendments to the future road</b></p>	<p>The approved layout comprises 28 low density lots and one medium density lot of 14,740 m<sup>2</sup>.</p> <p>Future residential development within the medium density lot may have yielded around 30 to 40 townhouses. This being the case, under the Project Approval, Stages 10 and 11 would have yielded around 48 dwellings.</p> <p>The proposed modified layout comprises 43 low density lots. Under the modified layout there will be no increase in daily traffic movements.</p>

<b>network remain consistent with Council's wider network strategy.</b>	
<b>The proposed layout and any new intersection should be appropriately located and designed to safely accommodate vehicle, pedestrian and bicycle movements generated by the proposed development.</b>	Access to the site is from the existing roundabout in Belle O'Conner Street. This road has been designed as the main access to the Saltwater development area and is suitably designed to accommodate vehicle, public transport, pedestrian and bicycle movements generated by the proposed development.
<b>NSW Rural Fire Service</b>	
<b>The proposed plan of subdivision....does not show the required asset protection zone or any reference to the fire trail previously approved along the northern boundary.</b>	Plan DA1 (Engineering Issues Statement) shows: <ol style="list-style-type: none"> <li>1. Fire trail adjacent to northern boundary</li> <li>2. 21 m wide APZ along northern boundary</li> <li>3. 8 m wide APZ along eastern boundary.</li> </ol>
<b>The APZ to the north is partly located on adjoining land. The applicant has not addressed Section 3.3 of PFBP 2006. In this regard the applicant must provide evidence of the adjoining owner's consent to creation of the APZ and details of who will be responsible for ongoing management of this area.</b>	As stated earlier, the adjoining land is in the same ownership. An Easement for APZ and 88B Instrument will be created over the adjoining land (Lot 35 DP121449) in compliance with Section 3.3 of PFBP 2006.
<b>The current Project Approval includes a fire trail along the northern boundary of Stages 10 and 11 which appears to have been deleted and replaced with a drainage easement. The preferred option to separate bushland from urban areas is a perimeter road.</b>	The Project Approval did not include a perimeter road between the R1 and E2 zoned land.  The interface between the two zones will be managed as previously approved by locating the APZ over the land that is now affected by a drainage reserve. The fire trail will be adjacent to the drainage reserve.
<b>The application should be amended to clearly show the location of the northern drainage easement with respect to access to the bushland interface. The extent of land that will be managed in this area should be detailed and the corresponding extent of APZ that will be required on Lots 13 to 19.</b>	Refer to DWG L36-MOD02 – DA1.
<b>The modification application has deleted APZs adjacent to Lot 51</b>	There is no requirement to provide an 8 m wide APZ along the boundary with Lot 51 DP 831284.



***DP 831284 on the basis that Lot 51 is managed. No evidence has been provided that there is a mechanism in place to ensure the ongoing management of this land. On this basis a temporary APZ should be provided adjacent to the boundary with Lot 51 DP 831284***

LOT 51 DP 831284

The land was assessed by Steve Britt of FloraFauna Consulting as 'managed land' and does not require an APZ.

The Bushfire Risk Assessment by FloraFauna Consulting was submitted with the S75M Application.

Lot 51 is zoned R1 General Residential and is maintained in a managed condition (mown with stands of ornamental vegetation) as shown in the image below:



### Kempsey Shire Council

#### ***Provision of essential services***

Concept civil and servicing plans are provided – refer to Engineering Issues Statement, de Groot and Benson, Consulting Engineers.

#### ***Traffic***

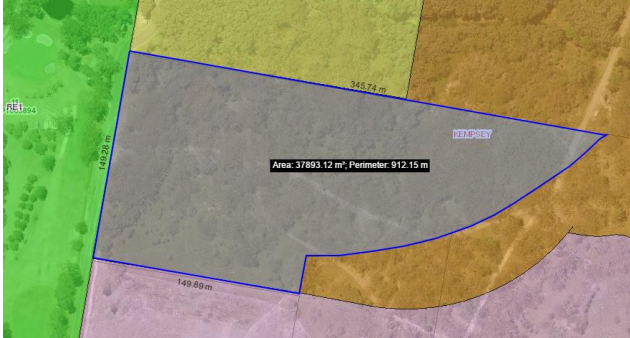
***Vehicular access – The documentation does not demonstrate how vehicular access to Lot 36 will be provided if it is to be developed independently of Stages 1-9 of the project. It would seem that the development of Lot 36 will be reliant upon Stage 1A being completed first, in particular the extension of Burrawong Drive from the Belle O'Connor roundabout. Alternatively, a portion of the extension of Burrawong Drive could be constructed in***

Development of Lot 36 under the proposed modification is not reliant on any other stages of the project approval.

It is proposed to construct the extension of Burrawong Drive from the existing roundabout to Road No.1.

The timing of the construction of that section of Burrawong Drive will depend on which Stage of the project approval commences first. In this regard, it is understood that Council has prepared a draft S94 plan for road connections in the Saltwater area including the cost to construct the Burrawong Drive extension.

<b>accordance with the project approval as part of the development of Lot 36.</b>	
<b>New intersection – An assessment of the traffic impacts associated with the new road connection to Burrawong Drive has not been provided nor is it consistent with the construction certificate plans for Stage 1A of the project that are currently being assessed by Council. For example, the location of the new road connection will impact upon (as depicted in the current plans for the Stage 1A construction certificate) utility services and the proposed culvert crossing the Burrawong Drive extension.</b>	Council advised that they could not provide copies of the CC documentation for Stage 1A to deGroot and Benson, Consulting Engineers. In any case, this level of detail would ordinarily be resolved in the Construction Certificate (CC) documentation for Stages 10 and 11 of the project.
<b>Internal road layout – The approved internal road layout avoided cul-de-sacs and dead ends were provided only where connections to future development were proposed. Modification (2) proposed to remove two road linkages between Stages 9 and 10 resulting in dead ends for two of the roads in Stage 9. The documentation submitted does not address the impact of this, in particular whether cul-de-sacs will be provided at these points and any associated reduction in lot size for adjoining lots.</b>	Tee Bee Holdings Pty Ltd, have no interest in or control over the adjoining land to the east (Lot 1 DP1220275).  Mod 2 is only concerned with Lot 36 and proposes that the land be subdivided independently of the adjoining development. The modified layout proposes a connection to the northern most road linkage within Stage 9 of the project approval. The remaining two road linkages within Stage 9 will either become dead ends or could be modified by the owner of that land to incorporate turning heads. The remaining road linkages and the lots that they service are over 140 m from bushfire hazard vegetation and do not need to be compliant with PfbP 2006.  The proposed lots surrounding the 'dead-ends' are all over 535 m <sup>2</sup> , allowing sufficient area to accommodate turning heads, should the owner of Stage 9 wish to modify the layout.  This is a matter for the owner of Lot 1 DP1220275.
<b>Stormwater Management Stormwater quality, disposal and treatment are critical issues for this project, particularly given the relatively high water table and the sensitive SEPP 14 lagoon (and associated tributaries) within close</b>	As shown in the Concept Drainage Plan, stormwater management includes bio-retention within the existing 15 m wide drainage easement located at the northern boundary of the site within Lot 35 DP 1214499. The key stormwater management design principle is ensuring no adverse impact to the receiving

<p><b>proximity to the site. The Department should be satisfied that the stormwater management system is appropriate in the context of these constraints.</b></p>	<p>environment, consistent with the requirements of the project approval.</p> <p>Stormwater management for Lot 36 is specific to that development and does not rely on any stormwater treatment within the adjoining stages of the project approval.</p> <p>Lots 35 and 36 DP 1214499 are in the same ownership. The proponent for this Modification Application has the authority to deal with Lot 36 DP 1214499.</p>
<p><b>Open Space</b> <b>The modification (2) application does not provide detail as to how the open space requirements for Lot 36 will be achieved if it is to be developed independently of the remainder of the project.</b></p>	<p>Clause 6.13 of Chapter D2 of the Kempsey DCP makes the following reference:</p> <p><i>One guideline for open space provision is <b>1.3 ha per 1000 head of population</b>. The final lot yield, population and amount of open space required for the Saltwater precinct will be dependent upon the outcome of the recommendations of the traffic and water cycle management systems assessments. (Source: ERM South West Rocks Open Space Strategy 2004)</i></p> <p>Stages 10 and 11 of the project approval occupies a lot area of 3.577 ha and will provide residential housing for approximately 90 people (43 lots x 2.1 people per household).</p> <p>On its own, Stages 10 and 11 generates the need for 1,170 m<sup>2</sup> of open space. Stages 10 and 11 has direct access to all of the environmental conservation zoned land held within Lot 35 DP 1214499. Within that land, the area shown edged blue in the image below has an area of 3.7 ha and is part of the site for which the project approval was granted.</p> <p>The area is considered to be the open space allocated to Stages 10 and 11 and is well in excess of the DCP requirements.</p> 



	<p>Additionally, Stages 10 and 11 has ready access to:</p> <ul style="list-style-type: none"> <li>- extensive off-site coastal recreation areas between South West Rocks and Trial Bay; and</li> <li>- active recreation areas at the adjoining South West Rocks Golf Club and sporting facilities.</li> </ul> <p>Overall, it is considered that there is sufficient open space to serve the needs of Stages 10 and 11 independently of any parkland provided for the adjoining stages of the development.</p>
<p><b>Lot Layout</b></p> <p><b><i>It is suggested that the proponent be asked to provide documentation demonstrating that appropriate building envelopes are available for each proposed lot having regard to constraints such as bushfire APZs and building setbacks.</i></b></p>	<p>All of the lots have an area of 500 m<sup>2</sup> or greater and will accommodate a suitable building envelope with regard to building setbacks.</p> <p>Lots 1 to 12 are affected by a temporary APZ, 8 m wide, along the eastern boundary of each lot. This APZ will impact on the ability of these lots to support a viable building envelope.</p> <p>The Department may impose a deferred consent condition to the effect that these lots cannot be released until such time as the APZ easement is extinguished</p> <p>Given that civil works have already commenced within the adjoining land to the east, it is likely that there will be no need to create the easement for APZ on the final plan of subdivision.</p>
<b>PUBLIC SUBMISSIONS</b>	
<p><b>WB and ME Walls</b></p> <p><b><i>Concerned about construction impact and order of staging.</i></b></p>	<p>The project approval requires the preparation of a Construction Environmental Management Plan (CEMP). The CEMP will include contact particulars for complaints regarding construction impacts.</p> <p>Staging of the development will be as per the project approval and any subsequent modifications.</p>
<p><b>Philip Hope</b></p> <p><b><i>Our objection is based on what we believe is environmental vandalism to wetlands which our property overlooks.</i></b></p>	<p>Environmental impacts of the proposal were assessed in the project approval and Mod 1. The subject Mod 2 does not propose any additional elements that would increase the environmental impact of the development.</p>

***Dust and noise impacts from construction.***

As stated above – refer to CEMP.