

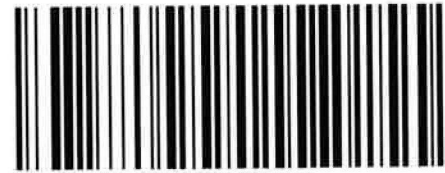


clarence
VALLEY COUNCIL

18 December 2012

Reference: Boundary Road Planning
Proposal
Contact: David Morrison

The Regional Manager
Department Planning and Infrastructure
Locked Bag 9022
GRAFTON NSW 2460



PGF001679

Dear Steve

**Planning Proposal -
Lot 51 DP 1171431, Lot 3604 DP 834592, Lot 361 DP 751388
Boundary Road, Gulmarrad**

Your Ref : PP_CLARE_004_00(12/16131)

Received
18 DEC 2012
12/19418
North Coast

I refer to the Gateway Determination dated 7 November 2012, and to the Department's accompanying advice of the same date, in regard to the above mentioned draft planning proposal to rezone land at Boundary Road, Gulmarrad, for low density residential and conservation purposes.

I advise that Council requests a review of the Gateway Determination that the planning proposal should not proceed, under Section 56 of the Environmental Planning and Assessment Act, 1979. A completed application form as required by the Guidelines is attached.

The Department's advice of 7 November 2012 identified additional information requirements in order to justify further consideration of the draft planning proposal to justify a departure from the Mid North Coast Regional Strategy 2009 (MNCRS) and the Maclean Urban Catchment Local Growth Management Strategy 2011. In regard to these matters, I advise as follows :

1. Preliminary investigations with the Office of Environment and Heritage and the NSW Rural Fire Service and provide evidence of their requirements

The Rural Fire Service (RFS) was consulted as part of consideration of an integrated Development Application SUB2011/0049. This development application has been deferred by Council pending completion of this planning proposal as it was Council's view that the development application was not permissible under current zonings. A bushfire risk management plan prepared in support of the development application and considered by the RFS is attached. The RFS's comments, by way of an authority under Section 100B of the Rural Fires Act 1997 is also attached. On this basis, the planning proposal is considered to be satisfactory from a bushfire risk management aspect.

The Office Environment and Heritage (OEH) offered preliminary advice by letter dated 18 April 2012 (copy attached). This advice was not sought by Council as it pre-empted the consultation requirements that would be established by a Gateway determination. This OEH advice essentially addresses the draft planning proposal's relationship to the MNCRS but does not provide advice on the proposed biodiversity or ecological merit of the draft planning proposal. Council has now sought OEH's specific advice in this regard however at this time that advice is still awaited. It is pointed out however, that Council's request to OEH for that additional advice was delayed in order to allow them to consider additional relevant information from the applicant to address the Department's other information requests (as detailed in points 2 and 3 below). Council's request for a Gateway review has been submitted in advance of the OEH advice in order to meet the 40 day deadline for submission. In this light, it is requested that the Department accept this additional OEH advice after the 40 days in order that the review be considered with all the available information. Based on discussions with the OEH, it is anticipated the their advice will be forthcoming in the next week.

2. Framework for the land exchange

As indicated in the Council report of 17 July 2012 (previously forwarded), the draft planning proposal as originally submitted requested that Council take ownership of about 17.5 hectares by dedication of land proposed to be zoned E2 Environmental Conservation. In resolving to support the draft planning proposal, Council required that it be amended in a manner to incorporate management of this land independent of Council's ownership. The draft planning proposal as submitted to the Gateway identified a range of suitable mechanisms (such as voluntary planning agreement, voluntary conservation agreement, restrictions on title) and suggested that these mechanisms could be further determined through the post-Gateway consultation and at development application stage.

In response to the Department's request for additional clarity in this regard, the applicant's have provided the attached response (dated December 2012). Section 1.2.2 of the applicant's additional advice summarises the intended land tenure arrangements. It proposes the establishment of an owners' management association created through restrictions and positive covenants on the land title under Section 88B of the Conveyancing Act. This arrangement will require owners to be a member of the association, collect levies from owners for the on-going land management of the "conserved areas" and impose restrictions on any uses inconsistent with the conservation objectives for the land.

In principle, such an arrangement can be legally created. Council is of the view that further refinement of the precise land management outcomes and owner arrangements is not appropriate at this stage in advance of a Gateway Determination to allow the planning proposal to proceed to exhibition. Should a Gateway determination allow the planning proposal to proceed to exhibition, further refinement and clarity could then be developed.

3. Future use and controls on residue Lot 51

The additional submission from the applicant (attached) at 2.1 identifies the intended future use for the residue of proposed Lot 51, being the residue of Lot 361 DP 751388. This lot fronts Boundary Road and is the site of an approved child care centre. (Note : this should not be confused with the adjoining *existing* Lot 51 DP 1171431). It is intended that the residue of proposed Lot 51 that is not intended to be zoned R5 or E2 is intended to remain under its current RU2 zone. This is consistent with the zoning of adjoining land. The applicant's intention is that this residue be combined in ownership with the approved child care centre. This will facilitate on-going management of the residue.

4. Compliance with relevant State Environmental Planning Policies (SEPPs)

Comments on consistency with relevant SEPPs are contained in the applicant's draft planning proposal as submitted to the Gateway (refer to Section 5.3 of the draft planning proposal). It is understood that in particular, the applicant's draft planning proposal inadequately addresses the Rural SEPP and therefore associated Section 117 Directions. A more detailed assessment against the rural planning principles as required to be addressed by the Rural SEPP follows as a schedule to this letter. Reference should also be made to Section 5.3 of the submitted draft planning proposal.

In summary, in endorsing the draft planning proposal for referral to the Gateway, Council effectively acknowledged an inconsistency with the MNCRS and the LGMS (both of which are called up by the Rural SEPP and Section 117 Directions). However Council is of the view that the intent to establish this biodiversity corridor has considerable merit, is consistent with other aspects of the LGMS and Council's Biodiversity Management Plan, and hence any inconsistency is justifiable. In doing so, Council seeks to balance a range of competing strategic planning directions.

The following documentation is attached :

- A Copy of all the documentation forwarded to the Gateway, which includes a copy of the draft Planning Proposal
- B Gateway Determination Review Application Form
- C Copy of Gateway determination and advice
- D Applicant's further submission in response to the Gateway determination
- E Copy of advice from OEH dated 18/4/2012
- F Copy of the applicants' political gifts and donations declaration

I expect to forward to you the following additional documentation, which has been requested but not yet received, in the next few days :

- (i) Additional advice from OEH
- (ii) A revised political gifts and donations declaration – one of the land owners has changed since the planning proposal application was lodged

I trust that the above and attached information is sufficient to allow the Department to review the Gateway determination. Should you require further information please do not hesitate to contact me on 66 430 204.

Yours faithfully

A handwritten signature in black ink, appearing to read "David Morrison". The signature is fluid and cursive, with a prominent "D" and "M".

David Morrison
Manager Strategic & Economic Planning

SCHEDULE SEPP (RURAL LANDS) 2008 COMPLIANCE

Clause 7 Rural Planning Principles

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas	Only a small portion of the site at the north east corner of proposed Lot 51 is mapped as significant farmland by the North Coast Farmland Mapping Project 2008. The site is not currently utilised for agricultural activities. Much of the site is subject to significant drainage constraints (as identified by the drainage corridors in the "Gulmarrad DCP"), or is degraded from past extractive industry activities. As such, the site is not considered to have significant agricultural potential. The draft planning proposal is not considered to be inconsistent.
(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and trends, demands, and issues in the agricultural area, region or State.	Refer to (a) above. Much of the land is constrained by drainage and existing significant vegetation. The residue of Lot 51, not so constrained and not intended to be rezoned for large lot residential subdivision, is intended to retain its current RU2 zone. The draft planning proposal is therefore not considered to be inconsistent.
© recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development	Refer to comment (b) above. The draft planning proposal is not considered to be inconsistent.
(d) in planning for rural lands, to balance the social, economic and environmental interests of the community	The draft planning proposal will not alter the zoning of the small portion of the site mapped as significant farmland. On the other hand, the draft planning proposal intends to secure a biodiversity corridor identified in the Council's Biodiversity Management Plan and relevant local growth management strategy into an environmental protection zone (E2) and to create a management structure with the future landholders to manage that land. It also intends to provide additional large lot residential land in an area with existing road services and which is flood free. On this basis, the draft planning proposal is considered to provide a good balance between these matters which enhances environmental attributes in the long term without compromising any existing agricultural use. The draft planning proposal is therefore not considered to be consistent.
(e) the identification and protection of natural resources, having regard to biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land	The draft planning proposal intends to secure a biodiversity corridor identified in strategic documents (the LGMS and Council's Biodiversity Management Plan). This is considered to enhance the biodiversity attributes of the site. Clearing associated with proposed large lot residential development would need to be assessed through normal approval requirements. Large lot residential is not proposed to be rezoned by this draft planning proposal on land identified by

	Council's DCP as having drainage constraints. The draft planning proposal is considered to be consistent.
(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities	The draft planning proposal proposes large lot residential development consistent with land immediately adjoining. The draft planning proposal is considered to be consistent.
(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing	Appropriate services with normal extensions are available to the adjoining land, currently zoned R5 and developed for large lot residential development. The LGMS did not identify any significant servicing constraints. The draft planning proposal is considered to be consistent.
(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General	Both the MNCRS and Maclean Urban Catchment LGMS apply. Both strategies contain a number of direct or indirect land use planning directions. The draft planning proposal is considered to be consistent or not inconsistent with many of these, such as the provision of dwelling opportunities in a manner that can be efficiently serviced and is flood free. Further, the draft planning proposal seeks to secure a biodiversity corridor to the east of Gulmarrad as identified in the LGMS. In endorsing the LGMS, the Director –General (by letter dated 4 November 2011) indicated that he “<i>would encourage Council, through its local planning, to make every effort to maintain and enhance the area's remaining vegetation, particularly along the corridor recognised in the Strategy.</i>” The draft planning proposal seeks to implement and is consistent with this intended outcome. Notwithstanding, the MNCRS recommends “<i>no new rural residential development will be permitted within the Coastal Area, other than development already zoned or in an approved current or future local growth management strategy</i>” (page 20). The LGMS (Section 3.1, page 9) recommends “<i>not proposing any further rural residential zoning and by (sic) encouraging the conversion of some undeveloped rural residential land at Gulmarrad to residential and associated village services</i>”. The draft planning proposal is inconsistent with these latter two provisions. However, Council is of the view that this inconsistency is warranted in the circumstances given the achievement of the other biodiversity outcomes encouraged by both the LGMS and the MNCRS, in particular the opportunity that the draft planning proposal provides to create a long term management of the identified biodiversity corridor. In particular, the draft planning proposal seeks to implement the corridor that the Director-General has encouraged Council to pursue when endorsing the LGMS. The draft planning proposal is considered to be justifiably inconsistent.

Clause 8 Rural Subdivision Principles

(a) the minimisation of rural land fragmentation	The draft planning proposal intends in part to rezone land from RU2 to R5, thereby increasing fragmentation of rural land. Notwithstanding, the draft planning proposal seeks to balance this against the securing of a biodiversity corridor in an appropriate zoning. Much of the land intended to be managed in this way is currently zoned for rural residential development. The land proposed to be rezoned to R5, whilst currently zoned RU2, has negligible rural activity taking place. Whilst nominally inconsistent, the draft planning proposal is considered to be justifiably inconsistent.
(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses	There is negligible rural use on the subject or adjoining land. No conflict is anticipated. The draft planning proposal is not considered to be inconsistent.
(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands	The subject land has very low key or negligible rural activity and much of the site is heavily constrained by drainage. The future supply of rural residential land is addressed by the Maclean LGMS (refer to comment at cl 7(h)). Lot sizes proposed are consistent with adjoining rural residential development. The draft planning proposal is not considered to be inconsistent.
(d) the consideration of the natural and physical constraints and opportunities of land	The draft planning proposal directly addresses existing drainage constraints as well as the opportunity to establish a biodiversity corridor consistent with the LGMS. The draft planning proposal is considered to be consistent.
(e) ensuring that planning for dwelling opportunities takes into account of those constraints.	Refer to comments above. The draft planning proposal is considered to be consistent.

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 8741 5175
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager
Clarence Valley Council
Locked Bag 23
Grafton NSW 2460

Your Ref: SUB2011/0049
Our Ref: D11/1669
DA11091479843 MS

ATTENTION: Carmen Landers

25 October 2011

Dear Sir/Madam

Integrated Development for 361//751388 & 3604//834592 61//1083577 Boundary Road Gulmarrad 2463

I refer to your letter dated 7 September 2011 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

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:

1. A 10 metre asset protection zone (APZ) is to be provided from the northern boundary of proposed Lot(s) 41 - 44 and from the western boundary of Lot(s) 47 of the development. These lots require the provision of this APZ to be maintained as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

DOC #	807802
DOC LOC.	MS 11/0049
G	25 OCT 2011
C. Landers	
CLARENCE VALLEY COUNCIL	

2. At the issue of the subdivision certificate and in perpetuity, asset protection zones (APZ) shall be provided as detailed on plan Ref# 11033 prepared by Bushfire Safe (Aust). APZs associated with the development shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

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:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

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:

5. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

6. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' may be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' may be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Michelle Streater on 8741 5175.

Yours sincerely



Nika Fomin

Team Leader Development Assessment

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 and search under 'Planning for Bush Fire Protection, 2006'.

BUSHFIRE RISK MANAGEMENT PLAN

RURAL RESIDENTIAL SUBDIVISION

**PART LOT 361 ON DP751388, PART LOT
3604 ON DP 834592 AND PART LOT 61 ON DP
1083577**

**BOUNDARY AND ARMSTRONG ROADS,
GULMARRAD**

**PREPARED BY
BUSHFIRESAFE
(AUST) PTY LTD**

JULY, 2011

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EXECUTIVE SUMMARY

Bushfiresafe (Aust) P/L has been engaged by Mr Campbell to undertake a complete Bushfire Hazard Assessment for the proposed rural residential subdivision of Part Lot 361 on DP 751388, Part Lot 3604 on DP 834592 and Part Lot 61 on DP 1083577 between Boundary and Armstrong Roads, Gulmarrad. The assessment was conducted in accordance with section 91A of the Environmental Planning & Assessment Act (1979) and section 100B of the Rural Fires Act (1997), and followed the guidelines recommended in the Planning for Bushfire Protection manual (RFS, 2006).

Property Description

The subject property is located to the north of Boundary Road at the limit of the Gulmarrad settlement area, approximately 5km east of Macleay. The majority of the property is open forest, paperbark forest and grazing land. A large disused gravel quarry is located on a sandstone ridge in the central west of the subject lands; this quarry site shall be the focus of the proposed redevelopment. Another large disused quarry is located to the northeast of the development site at the boundary of Lot 361. The property has previously been utilised for livestock grazing, native timber harvesting and small-scale road base quarry operations; numerous tracks cross the land. No dwelling house has been constructed on this property. The land is generally flat, rising gently towards the western boundary.

The western and northern limits of the development are defined by swampy, low lying ground in association with a significant drainage channel. This channel collects surface runoff from a number of tributaries that flow through the Gulmarrad settlement and continues towards Lake Woolaweyeh. Forested rural properties surround the subject land to the north and east with developed residential properties to the south and west. The subject land is partly within Zone 1(b) General Rural and Zone 1(r) Rural Residential of the Macleay Shire Council LEP (Macleay Shire Council, 2001).

The development proposal seeks to subdivide existing rural land surrounding a disused road-base quarry for rural residential opportunities. The development covers several parcels of adjoining land and shall be developed under agreement between the parties. The concept plan includes a perimeter road along the eastern boundary with a secondary access to Armstrong Road to the northwest across the drainage channel via an unstable culvert that shall be upgraded. Created allotments shall occupy the area of the disused quarry operation serviced by an internal roads and cul-de-sac. A number of allotments shall be constructed along the northern side of Boundary Road to the southeast corner of Lot 361.

Vegetation

This Bushfire Risk Assessment was conducted through an on-site inspection undertaken on the 31st May, 2011 using the methodology set out in the Planning for Bushfire Protection manual (RFS, 2006). The on-site assessment included traversing the subject property and all lands within 140 metres from the proposed subdivision. This field survey identified areas of Forest vegetation to the north and east of the proposed development site as the dominant bushfire prone vegetation.

Asset Protection Zones

Based on the assessment of the vegetation communities and slopes present on and adjacent to the subject property, and in accordance with Appendix 2 Table A2.5, Planning for Bushfire Protection (RFS 2006), this bushfire risk assessment recommends that Asset Protection Zone be maintained to the north and east of the proposed residential allotments. There is no identified bushfire prone vegetation present within 100m to the south and west.

Aspect	Width of APZ (m)	IPA (m)	OPA (m)	Compliance with PBP	Comments
N	30	30	0	Yes	Existing veg to be cleared
S	0	0	0	Yes	Existing residential allotments
E	30	30	0	Yes	Include managed veg. along stormwater channel
W	0	0	0	Yes	Not bushfire prone vegetation

Bushfire Attack Level

The bushfire assessment identified that the allotments backing onto the Drainage Reserve or retained vegetation shall be assessed as **BAL-29**, as outlined in Table A1 Determination of Bushfire Attack Level (BAL) FDI 80 (1090K) in Australian Standard 3959-2009 Construction of buildings in bushfire-prone areas and the Planning for Bushfire Protection manual (RFS, 2006) with the following site attributes:

- The subject land is in the FDI 80 region
- Forest vegetation occurs as bushfire prone vegetation to the north, east and west;
- The terrain influencing bushfire behaviour within the forest was assessed as 0-<5° down slope.
- The separation of 30m from the vegetation to the designated building envelopes shall be maintained to the standard of an Inner Protection Area.

The bushfire assessment identified that the internal allotments shall be assessed as **BAL-12.5**, as outlined in Table A1 Determination of Bushfire Attack Level (BAL) FDI 80 (1090K) in Australian Standard 3959-2009 Construction of buildings in bushfire-prone areas and the Planning for Bushfire Protection manual (RFS, 2006) with the following site attributes:

- The subject land is in the FDI 80 region
- Forest vegetation occurs as bushfire prone vegetation to the north, east and west;
- The terrain influencing bushfire behaviour within the forest was assessed as 0-<5° down slope.
- The separation of 50<100m from the vegetation to the designated building envelopes can be achieved due to the surrounding allotments and the road reserve.

Services

Reticulated water is available to the development and will be supplied to each allotment through the town mains system in accordance with local water authority, council development control plans (DCPs) or any other policies and procedures. Electrical transmission lines should be underground; where overhead electrical transmission lines are installed; lines should be installed with short pole spacing, unless crossing gullies, gorges or riparian areas. No part of a tree should be closer to a power line than the distance set by the appropriate authority. Regular inspection of lines is required to ensure they are not fouled by branches.

Access

The allotments along the southern boundary of Lot 361 shall have access from boundary road which has two-way trafficable bitumen surface; the access to the proposed allotments within the western portion of the proposed subdivision shall be via a bitumen perimeter road which intersects with Boundary Road. The proposed access shall comply with all requirements for access as outlined in section 4.1.3(1) of the Planning for Bushfire Protection (2006) manual (RFS, 2006).

Fire Trails

The concept plan for the development includes utilising the existing haul road through the quarry operation as a perimeter road/fire trail separating the allotments along the eastern margin of the development area from the forest vegetation to the east. This fire trail shall be continued for the northern allotments to the crossing over the drainage channel and then intersect with Armstrong road to the north as shown on Attachment 1. The second proposed fire trail shall be located along the northern boundary for the allotments fronting Boundary Road connections between the fire trail and Boundary road shall be made of intervals less than 200m apart; a third fire trail shall be located along the northern boundaries of the northern allotments and shall intersect with the cul de sac of the perimeter road and the Armstrong road fire trail.

The fire trails must comply with the requirements outlined in the Planning for Bushfire Protection manual (RFS, 2006).

Construction Standards

The bushfire risk management assessment undertaken in relation to the proposed residential subdivision concluded that the construction standard in accordance with AS 3959 (2009) Construction of Buildings in Bushfire Prone Areas (Standards Australia, 2009) will be assessed and nominated as part of the individual development application prepared for the construction of any dwelling on proposed allotments.

CONCLUSIONS

The proposed development will comply with the minimum requirements for:

- 1) Asset Protection Zones detailed in Table A2.5 (Minimum Specifications for Asset Protection Zones (APZ) for Residential and Rural Residential Subdivision Purposes (for class 1 & 2 buildings) in FDI 80 Fire Areas);
- 2) Access in accordance with section 4.1.3-1 (Access) in the manual for Planning for Bushfire Protection (RFS, 2006).
- 3) Water and electricity supply in accordance with section 4.1.3-Services in the manual for Planning for Bushfire Protection (RFS, 2006).

GLOSSARY

APZ	Asset Protection Zone
BCA	Building Code of Australia
BFRMP	Bushfire Risk Management Plan
DTS	Deemed-to-satisfy
CVCBPL	Clarence Valley Council Bushfire Prone Lands map
IPA	Inner Protection Area
LGA	Local Government Area
OPA	Outer Protection Area
PBP	Planning for Bushfire Protection manual
RFS	Rural Fire Service of New South Wales
SFPP	Special Fire Protection Purpose
TOBAN	Total Fire Ban

BUSH FIRE RISK MANAGEMENT PLAN

1.0 SCOPE OF THE PLAN

The Bushfire Risk Management Plan (BFRMP) is a strategic document which identifies: the level of bush fire risk for human habitation; strategies which will be implemented to manage the bush fire risk identified; and those persons responsible for implementing and maintaining this Bushfire Risk Management Plan.

1.1 Area

This Plan covers the proposed subdivision of rural and rural residential land between Boundary and Armstrong Roads, Gulmarrad, within Clarence Valley Council Local Government Area.

1.2 Period of Operation

Once approved by the Local Authority and the NSW Rural Fire Service this Plan will have a period of operation of the life of the development.

1.3 Aim and objectives of the Plan

The aim of this Plan is to provide for the mitigation of bush fires for the protection of life and property for the habitants, visitors and emergency personnel in bush fire situations. Secondly, the Plan aims to reduce the treat to ecological and environmental assets. To achieve this aim, the Bushfire Risk Management Plan must address a number of specific objectives.

- i. Identify the area most at risk from bush fire attack;
- ii. Reduce the risk of bush fire damage to life and property;
- iii. Ensure that the developer/owner/occupier understands their bush fire management responsibilities;
- iv. Reduce the impact of bush fire on the development;
- v. Develop sustainable Asset Protection Zones (APZ) for the proposed Park extension

1.4 Bushfire Risk Management Strategies

This Plan contains a number of strategies, which are directed at addressing the risk to the residential development from bushfire emergencies. This is achieved through addressing and managing fuel loads, separation distances from the assessed dominant bushfire vegetation, and recommending appropriate bushfire building standards.

1.5 Implementation

Implementation of the strategies in this Plan is the responsibility of the developer and shall be undertaken as part of the development infrastructure. The ongoing maintenance of the strategies in this Plan shall be the responsibility of the owner/manager of the individual owners to the limit of their property boundaries. Finally, the local authority or their delegated authority, for the life of the development, shall monitor this Plan.

2.0 LEGISLATIVE BUSHFIRE HAZARD MANAGEMENT RESPONSIBILITIES

2.1 Clarence Valley Council

The Clarence Valley Council has responsibility, under Section 66 of the Rural Fires Act, to issue a notice in writing requiring an owner / occupier of any land within the LGA to carry out bushfire hazard reduction works on that land. Section 100E of the Rural Fires Act requires the council to issue bushfire hazard reduction certificates for hazard reduction to be undertaken on private lands.

2.2 New South Wales Rural Fire Service

The NSW Rural Fire Service (RFS) has the responsibility for undertaking fire suppression activities, hazard management activities and other functions relative to emergency management, within its areas of operation. Section 73 of the Rural Fires Act (1997) enables the Commissioner to carry out bush fire hazard reduction works on any land as required by a bush fire risk management plan if the work has not been carried out satisfactorily. Incurred costs can be recovered as a debt owed to the Crown.

2.3 NSW Fire Brigade

The NSW Fire Brigade has the responsibility for undertaking fire suppression activities, and other functions relative to emergency management, within its area of operation. Through mutual aid agreements, the NSW Fire Brigade can provide assistance to the NSW Rural Fire Service, particularly for structural fire operations within the NSW Rural Fire Brigade Districts. Furthermore, Hazmat operations within New South Wales are the responsibility of the NSW Fire Brigade.

2.4 Clarence Valley Council Bush Fire Management Committee

The Clarence Valley Council Bushfire Management Committee has the responsibility for planning for co-ordinated fire fighting activities / hazard management activities on a local government level. It is not an operational organisation, a fire fighting organisation or a funding source for fire management activities. The Bush Fire Management Committee is supported by the following provisions of the Rural Fires Act (1997).

Section 50 of the Act requires the Bush Fire Co-ordinating Committee to constitute a Bush Fire Management Committee for the whole of the area of any local Council area for which a rural fire district is constituted.

Section 51(1A) requires a Bush Fire Management Committee to report to the Bush Fire Coordinating Committee on the implementation of the requirements of the Bushfire Risk Management Plan.

Section 52 requires each Bush Fire Management Committee to prepare a draft bush fire management plan for their local areas which includes a plan of operations and a bush fire risk management plan.

Section 54 of the Act specifies that a draft bush fire risk management plan is to 'set out schemes for the reduction of bush fire hazards in the rural fire district or other part of the State'. A draft bush fire risk management plan may also restrict or prohibit the use of fire or other fire hazard reduction activities in all or specified circumstances or places to which the plan applies.

2.5 Private Land Owners / Occupiers

The Rural Fires Act, 1997 provides several legislative opportunities to require land owners and occupiers to manage hazardous fuels. These are listed below:

Section 63(2) states that 'it is the duty of the owner or occupier of land to take the notified steps (if any) and any other practicable steps to prevent the occurrence of fires on, and to minimise the danger of the spread of fires on or from that land'. In this section; 'notified steps' means any steps that:

- (a) a bushfire risk management plan (or the Co-ordinating Committee) advises a person to take;
- (b) are included in a bush fire risk management plan that applies to that land.

Section 87 allows the removal of hazards in the bush fire danger period by the provision of a permit system. The permits are valid for 21 days, excluding total fire ban (TOBAN) days. Section 10 permits are not required to adhere to Part V provisions of the Environmental Planning & Assessment Act (1979) (EP&A Act) in any assessment of impact, except for public authorities. An owner/occupier of private land must obtain from the NSW Rural Fire Service, a bushfire hazard reduction certificate before undertaking hazard reduction works on that land (see Section 100E of the Rural Fires Act (1997)).

3.0 INTRODUCTION

Development applications on bush fire prone land must be accompanied by a bush fire assessment report that demonstrates compliance with the aim and objectives of the Planning for Bushfire Protection (PBP) guidelines. In particular, the following matters must be addressed:

- a) A statement that the site is bush fire prone land, where applicable;
- b) The location, extent and vegetation formation of any bushland on or within 100m of the site;
- c) The slope and aspect of the site and of any bush fire prone land within 100m of the site, which may determine the likely path of any bush fire;
- d) Any features on or adjoining the site that may mitigate the impact of a high intensity bush fire on the proposed development; and

- e) A statement of the likely environmental impact of any proposed bush fire protection measures.

3.1 Background

Bushfiresafe (Aust) P/L has been engaged by Mr Campbell to undertake a complete Bushfire Hazard Assessment for the proposed rural residential subdivision of Part Lot 361 on DP 751388, Part Lot 3604 on DP 834592 and Part Lot 61 on DP 1083577 between Boundary and Armstrong Roads, Gulmarrad. The assessment was conducted in accordance with section 91A of the Environmental Planning & Assessment Act (1979) and section 100B of the Rural Fires Act (1997), and followed the guidelines recommended in the Planning for Bushfire Protection manual (RFS, 2006).

The assessment has involved the following activities:

- i. Verifying of terrain attributes in relation to the assessed bushfire vegetation.
- ii. Identification of the appropriate bushfire protection for any identified environmental assets.
- iii. Determination of the location of adequate water supplies for fire fighting purposes.
- iv. Identifying the capacity of public roads to handle increased volumes of traffic in a bushfire situation.
- v. Identification of adequacies for implementation of fire trails which link to Public roads in the vicinity.
- vi. Identification of adequacy of arrangements for access and egress from the development for the purposes of an emergency response.
- vii. Identification of construction standards to be used for building elements in the development.
- viii. Identification of adequacy of bushfire maintenance plans and fire emergency procedures for the development.
- ix. Identification of additional bushfire protection measures.

3.2 Description of property

The subject property is located to the north of Boundary Road at the limit of the Gulmarrad settlement area, approximately 5km east of Maclean. The majority of the property is open forest, paperbark and grazing land. A large disused gravel quarry is located on a sandstone ridge in the central west of the subject lands; this quarry site shall be the focus of the proposed redevelopment. Another large disuse quarry is located to the northeast of the development site at the boundary of Lot 361. The property has previously been utilised for livestock grazing, native timber harvesting and small-scale road base quarry operations; numerous tracks cross the land. No dwelling house has been constructed on this property. The land is generally flat, rising gently towards the western boundary.

The western and northern limits of the development are defined by swampy, low lying ground in association with a significant drainage channel. This channel collects surface runoff from a number of tributaries that flow through the Gulmarrad settlement and continues towards Lake Woolaweyeh and has been excavated to drain the low lying properties. Forested rural properties surround the subject land to the north and east with developed residential properties to the south and west. The subject land is within Zone 1(b) General Rural and Zone 1(r) Rural Residential in the Maclean Shire Council LEP (Maclean Shire Council, 2001).

The development proposal seeks to subdivide existing rural land surrounding a disused road-base quarry for rural residential opportunities. The development covers several parcels of adjoining land and shall be developed under agreement between the parties. The concept plan includes a perimeter road along the eastern boundary with a secondary access to Armstrong Road to the northwest across the drainage channel via an unstable culvert that shall be upgraded. Created allotments shall occupy the area of the disused quarry operation serviced by an internal roads and cul-de-sac. A number of allotments shall be constructed along the northern side of Boundary Road to the southeast corner of Lot 361 (Attachment 1).

3.3 NSW Rural Fire District BFRMP

The Clarence Valley Council's Bushfire Management Options are to:

- (a) **Reduce the hazard** - encourages the development of asset protection zones along the settlement area - bushland interface.
- (b) **Reduce vulnerability** - maintain development and building controls and standards appropriate to the level of hazard.

4.0 VEGETATION CLASSIFICATION

The vegetation of the subject property and adjacent properties up to 140m (where practicable) from the proposed and existing building envelope were assessed during a site visit on the 31st May, 2011. The vegetation communities present were identified and classified into formations as described in Keith (2004).

Appendix A2.3 of Planning for Bushfire Protection (PBP) manual (RFS, 2006) outlined the methodology for determining the predominant bushfire prone vegetation to the distance of at least 140 metres in all directions from the proposed development of this site. Vegetation was classified using Table A2.1 of Planning for Bushfire Protection manual (RFS, 2006), which classified vegetation types into the following groups:

- | | |
|--|----------------------------|
| (a) Forests [wet & dry sclerophyll forests]; | (f) Freshwater Heaths; |
| (b) Woodlands; | (g) Short Heaths; |
| (c) Plantations – being pine plantations not native plantations; | (h) Alpine Complex; |
| (d) Forested Wetlands; | (i) Semi – arid Woodlands; |
| (e) Tall Heaths; | (j) Arid Woodlands; and |
| | (k) Rainforests. |

The location of all vegetation communities recorded during the site inspection within the assessment area is illustrated on Attachment 1

4.1 Vegetation communities present on the Property

The following vegetation communities are present over the subject property.

Community 1 Open Forest: The entire property for a distance of 140m from the proposed subdivision location is described as tall open forest. Spotted Gum (*Corymbia variegata*), Pink Bloodwood (*C. intermedia*) and Grey Ironbark (*Eucalyptus siderphloia*) occur on the elevated areas with Broad-leaved Paperbark (*Melaleuca quinquenervia*) and Swamp Box (*Lophostemon suavenolens*) dominating in the low lying areas to the north (Figure 1). The proposed development location shows evidence of regrowth with many immature trees occurring in previously cleared areas.

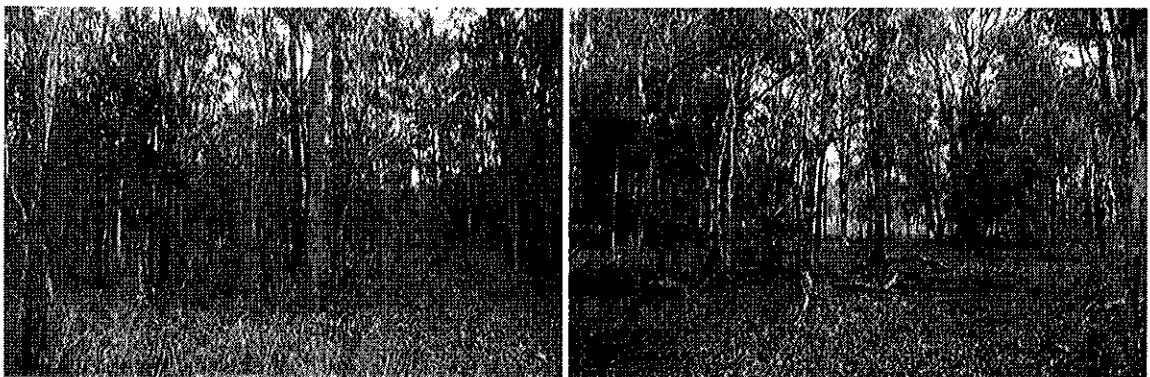


Figure 1 Left: Spotted Gum open forest with grassy understorey; Right: regrowth of Paperbark trees is occurring since the land was cleared for livestock grazing (Photographs, S. Cotter).

Community 2: Paperbark Forest: This community dominated by several species of Paperbark (*Melaleuca quinquenervia*, *M. nodosa*, *M. sieberi*, *M. alternifolia*) occur on the low lying land adjacent to the sandstone ridge upon which the quarry operations were sited (Figure 2). This vegetation follows the overland drainage channel to the west of the development area and continues to the east.

- (a) Forests [wet & dry sclerophyll forests];
- (b) Woodlands;
- (c) Plantations – being pine plantations not native plantations;
- (d) Forested Wetlands;
- (e) Tall Heaths;

- (f) Freshwater Heaths;
- (g) Short Heaths;
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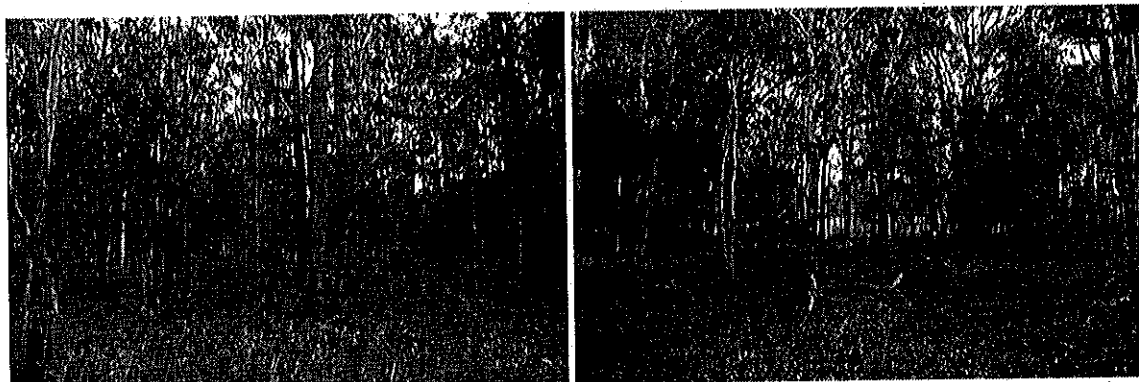


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Figure 2: Paperbark vegetation within the eastern portion of the land adjacent to the sandstone ridge (Photograph, S. Cotter).

Community 3 Regrowth Woodland: The disused quarry operations are presently regenerating into low woodland dominated by wattle and paperbark species (*Acacia* and *Melaleuca* spp.); a portion of this vegetation shall be removed for the development of the proposed allotments (Figure 3).

Community 4 Grazing land: The majority of Lot 3604 that shall be developed has been cleared and is actively managed as grazing land (native and introduced grasses, *Lomandra* and Blady Grass) and includes a number of clumps of trees retained for shade) (Figure 4).

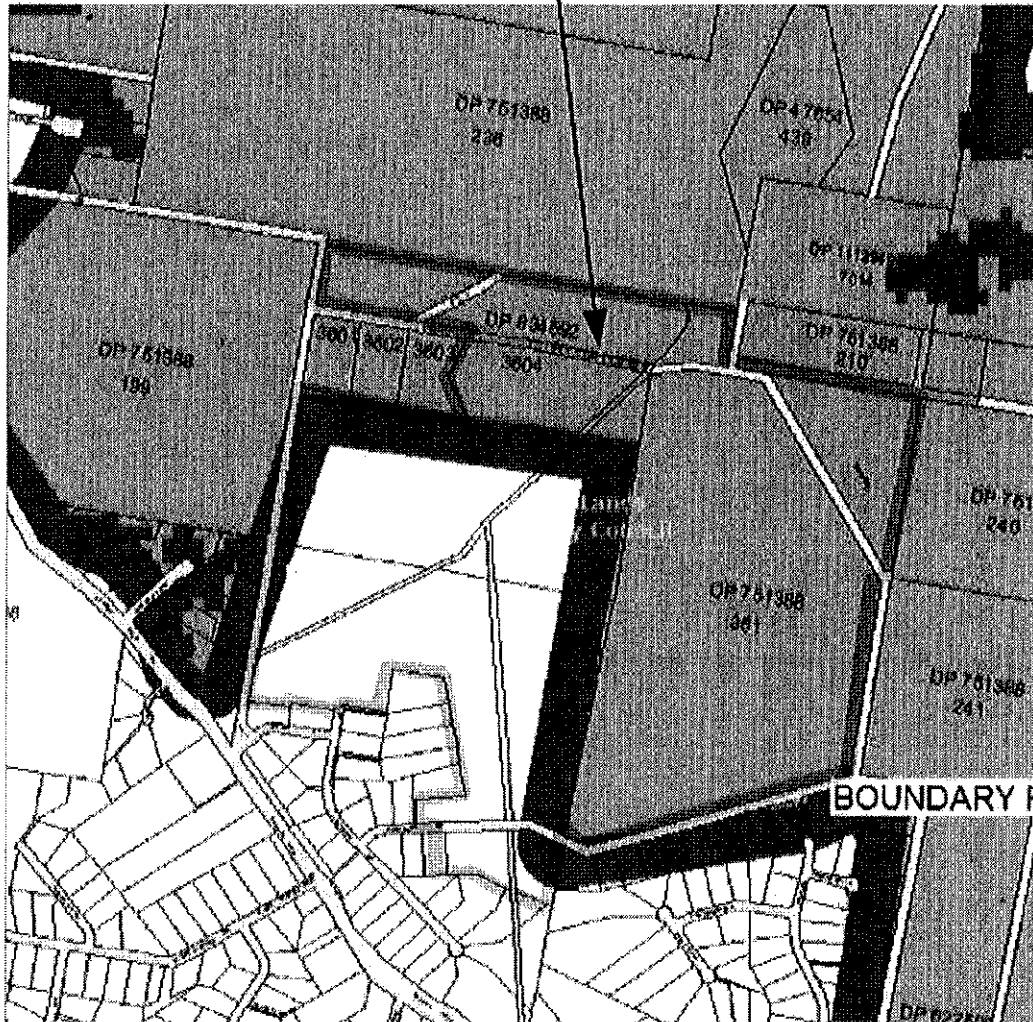
4.2 Vegetation within 140m from the subject land boundary

Open forest continues on the properties adjoining to the north and east. Residential areas with maintained lawns and gardens occur to the south; land zoned for rural residential and existing residential areas occur to the west. The stormwater drainage channel along the eastern boundary of Lot 361 is maintained by Council as low closed grassland (Figure 5).

4.3 Assessed Bushfire Vegetation in Relation to the Development

According to the Clarence Valley Council Bushfire Prone Lands (CVCBPL) map (Clarence Valley Council, 2008); the entire area of portion 361 and the northern section of portion 360 is assessed as containing Category 1 bushfire prone land with the buffer area impacting on portion 359. A bushfire risk assessment is required for any development of this property. It

SUBJECT SITE



Prepared By: Bushfiresafe (Aust) P/L (02) 66451088



Figure 2: Paperbark vegetation within the eastern portion of the land adjacent to the sandstone ridge (Photograph, S. Cotter).

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According to the Clarence Valley Council Bushfire Prone Lands (CVCBPL) map (Clarence Valley Council, 2008); the entire area of portion 361 and the northern section of portion 360 is assessed as containing Category 1 bushfire prone land with the buffer area impacting on portion 359. A bushfire risk assessment is required for any development of this property. It

was assessed from the on-site inspection that the forest vegetation to the north and east is bushfire prone vegetation.

SUBJECT SITE

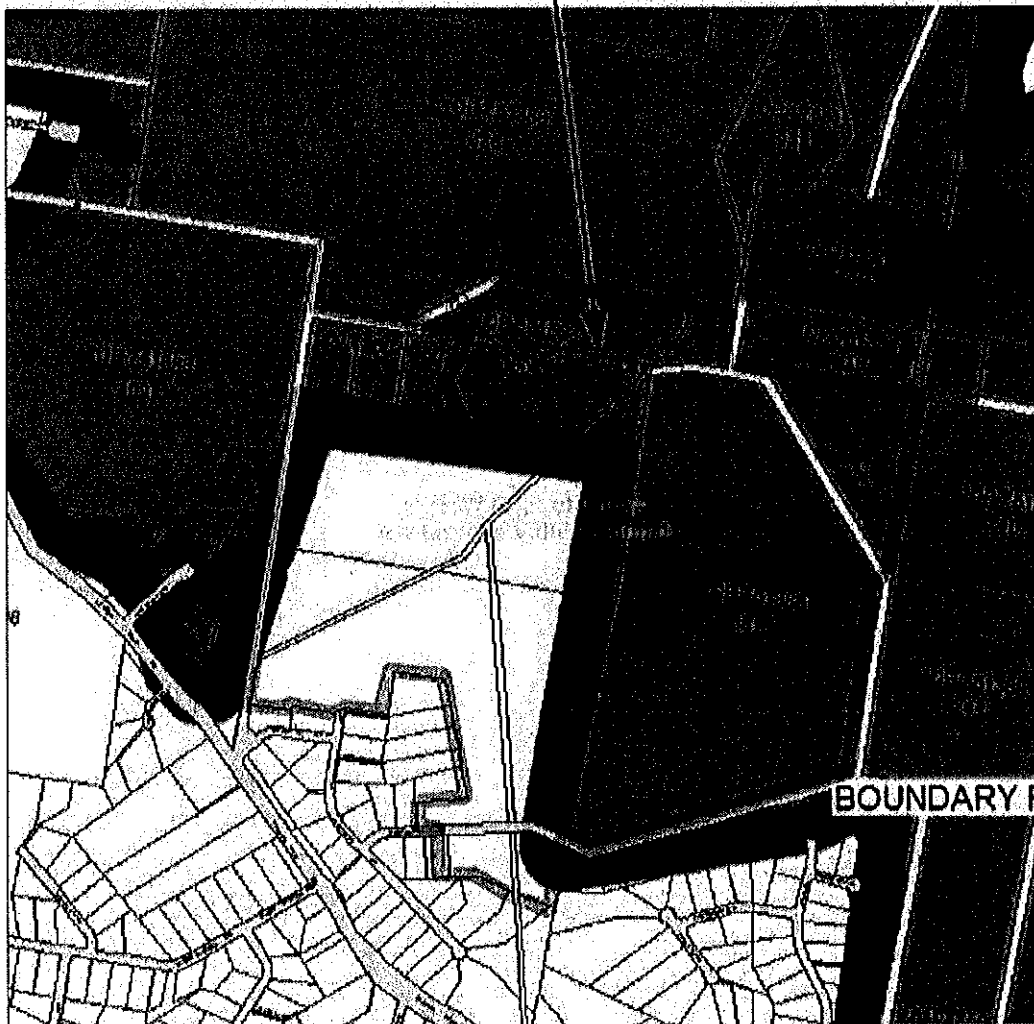


Figure 3: Clarence Valley Council Bushfire Prone Land Map illustrating bushfire prone vegetation and buffer in relation to the proposed development..



Figure 4: haul road through the disused road-base quarry operation showing excavated pits surrounded by regrowth woodland vegetation (Photograph, S. Cotter).

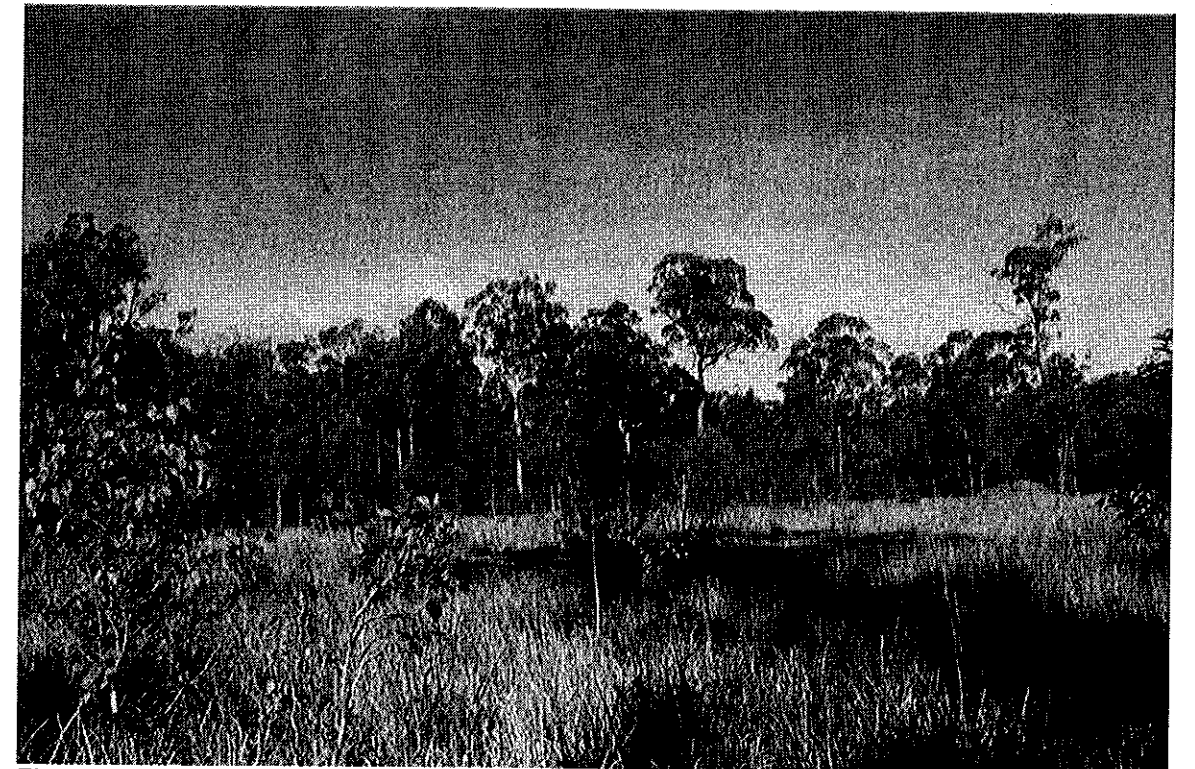


Figure 5: Cleared grazing land occurring through that part of Lot 3604 that is subject to the rural residential development (Photograph, S. Cotter).

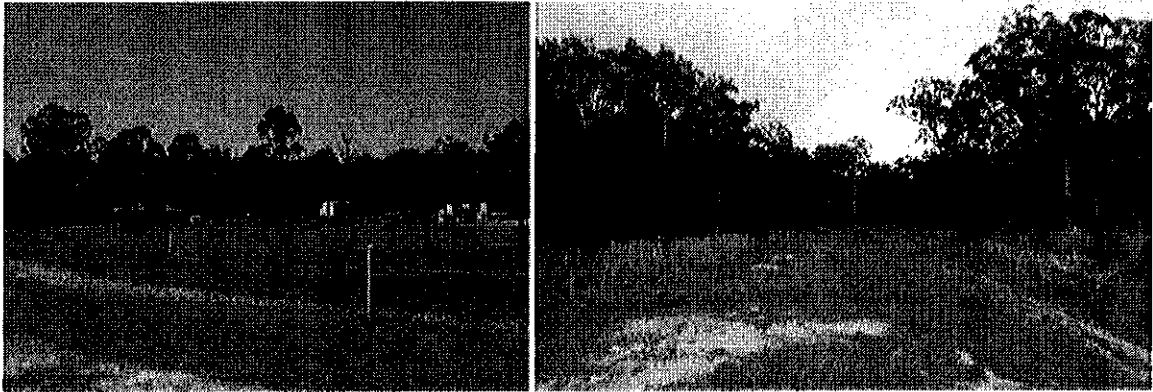


Figure 6 Left: view of managed gardens of residential properties to the south; Right: view to north along stormwater drainage channel showing managed grassland with open forest vegetation to left (subject property) and right (Photographs, S. Cotter).

5.0 LANDFORM ASSESSMENT

Inspection of published topographic maps and an on-site assessment using a clinometer verified the following land forms were present over the subject land. The subject property is generally flat, rising gently to the west and east away from the stormwater drainage channel.

5.1 Assessed Dominant Slope in relation to identified bushfire prone vegetation

Appendix 2 of Planning for Bushfire Protection (RFS, 2006) recommends that slopes should be assessed, over a distance of at least 100m from a development site and that the dominant gradient of the land should be determined on the basis of which will most significantly influence the fire behaviour at the site.

Table 1 summarises the slope assessments for each vegetation community observed over the subject land. This information will be used as the basis for determining those aspects of the proposed development that may require provisions for, and implementation of appropriate Asset Protection Zones.

Table 1: Site Assessment Summary – vegetation communities

Vegetation	Aspect	Classification (PBP)	Slope	Comments
On-Site				
Forest	north	Forest	0-5° down	Bushfire prone veg.
Forest	east	Forest	0-5° down	Bushfire prone veg.
Off-site				
Forest	east	Forest	Upslope	Bushfire prone veg.
Gardens	south	Not classified	Upslope	Not bushfire prone veg.

6.0 BUSHFIRE ASSESSMENT FOR PROPOSED DEVELOPMENT

6.1 Asset Protection Zones

Based on the assessment of the vegetation communities and slopes present on and adjacent to the subject property, and in accordance with Appendix 2 Table A2.5, *Planning for Bushfire*



Figure 4: haul road through the disused road-base quarry operation showing excavated pits surrounded by regrowth woodland vegetation (Photograph, S. Cotter).

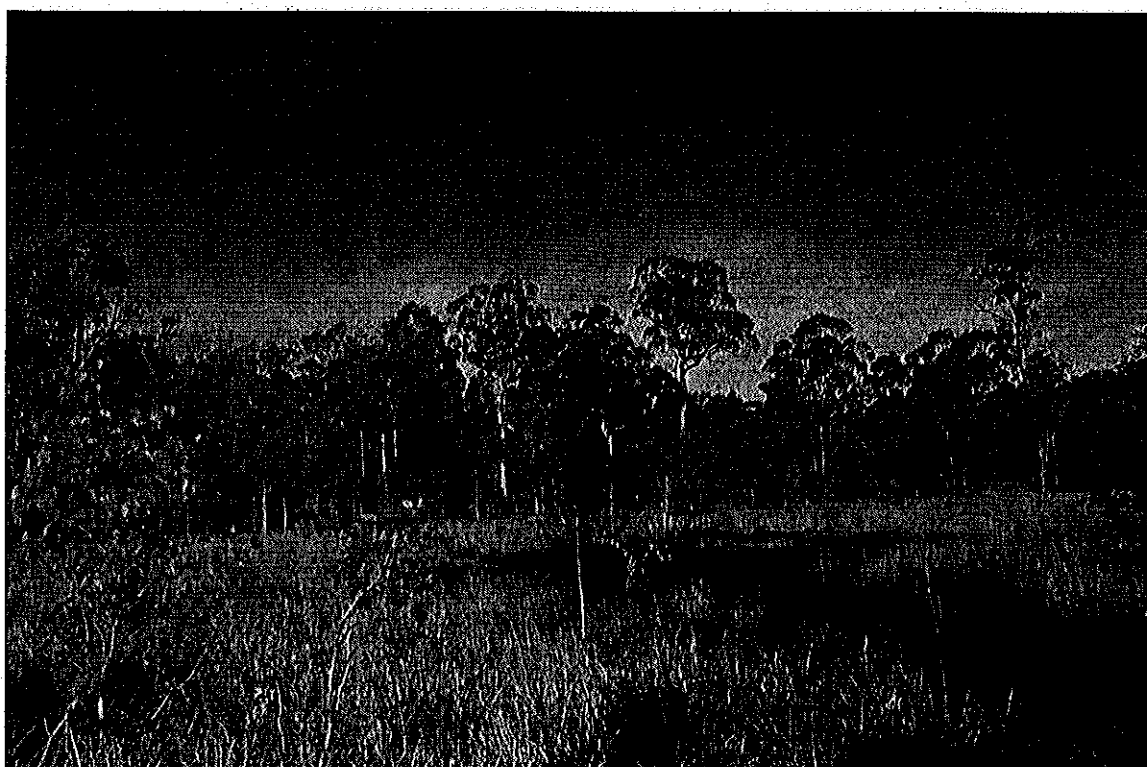


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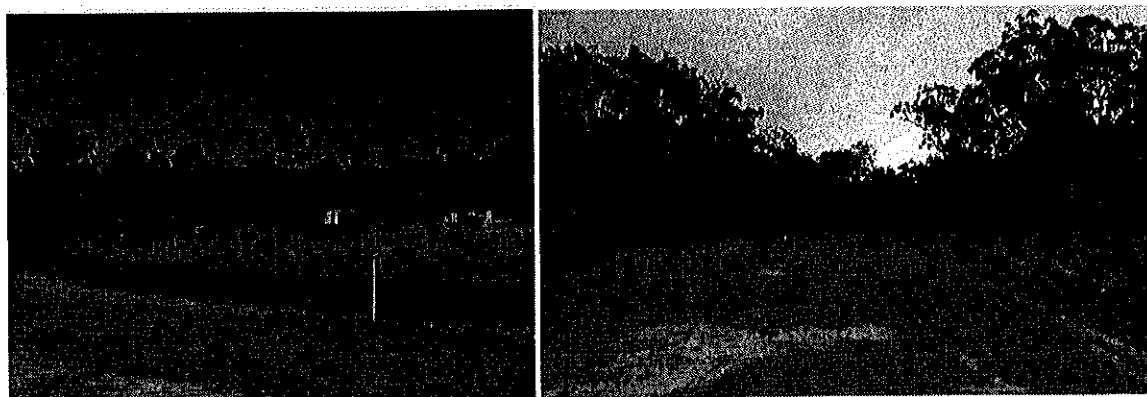


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Forest	east	Forest	Upslope	Bushfire prone veg.
Gardens	south	Not classified	Upslope	Not bushfire prone veg.

6.0 BUSHFIRE ASSESSMENT FOR PROPOSED DEVELOPMENT

6.1 Asset Protection Zones

Based on the assessment of the vegetation communities and slopes present on and adjacent to the subject property, and in accordance with Appendix 2 Table A2.5, *Planning for Bushfire*

Protection (RFS 2006), this bushfire risk assessment recommends that Asset Protection Zone be maintained to the north and east of the proposed residential allotments. There is no bushfire prone vegetation present within 100m to the south and west. Vegetation will need to be cleared to obtain this APZ. The recommended APZ are listed in Table 2 below.

Table 2 Asset Protection Zones for the proposed school extension

Aspect	Width of APZ (m)	IPA (m)	OPA (m)	Compliance with PBP	Comments
N	30	30	0	Yes	Existing veg to be cleared
S	0	0	0	Yes	Existing residential allotments
E	30	30	0	Yes	Include managed veg. along stormwater channel
W	0	0	0	Yes	Not bushfire prone vegetation

The Asset Protection Zone for all aspects of the development shall be measured from the gutter or fascia (if a gutterless roof is used) of an existing, or proposed dwelling, to the foliage drip line, and shall be implemented and maintained to the specifications as outlined below.

Inner Protection Area (IPA) shall be maintained in such a manner that:

- there is minimal fire fuel at ground level that could be set alight by bushfire (e.g. long grass, tree branches etc.);
- vegetation does not provide a path for the transfer of fire to the development;
- trees are a minimum of 5 metres away from any building, measured from the edge of the foliage to the roof line or any open balconies;
- bark chips and the like are not present within 5 metres of any building;
- any trees present have a minimum canopy separation of 2 metres; and
- any trees present are not species that retain dead material or deposit excessive amounts of ground fuel in a short time

Attachment 1 shows the designated Asset Protection Zones for the proposed development.

6.2 Assessed Bushfire Attack Level

An assessment of the bushfire attack level applicable to the proposed development was carried out using the methodology detailed in Appendix 3 of Planning for Bushfire Protection (RFS, 2006) and Appendix B of AS 3959-2009. This bushfire risk management assessment concluded the following bushfire attack levels for the proposed development.

The bushfire assessment identified that the allotments backing onto the Drainage Reserve or retained vegetation shall be assessed as **BAL-29**, as outlined in Table A1 Determination of Bushfire Attack Level (BAL) FDI 80 (1090K) in Australian Standard 3959-2009 *Construction of*

buildings in bushfire-prone areas and the Planning for Bushfire Protection manual (RFS, 2006) with the following site attributes:

- The subject land is in the FDI 80 region
- Forest vegetation occurs as bushfire prone vegetation to the north and east;
- The terrain influencing bushfire behaviour within the forest was assessed as 0-<5° down slope.
- The separation of 30m (APZ) from the vegetation to the designated building envelopes shall be maintained to the standard of an Inner Protection Area.

The bushfire assessment identified that the internal allotments shall be assessed as **BAL-12.5**, as outlined in Table A1 Determination of Bushfire Attack Level (BAL) FDI 80 (1090K) in Australian Standard 3959-2009 *Construction of buildings in bushfire-prone areas* and the Planning for Bushfire Protection manual (RFS, 2006) with the following site attributes:

- The subject land is in the FDI 80 region
- Forest vegetation occurs as bushfire prone vegetation to the north and east;
- The terrain influencing bushfire behaviour within the forest was assessed as 0-<5° down slope.
- The separation of 50<100m from the vegetation to the designated building envelopes can be achieved due to the surrounding allotments and the road reserve.

6.3 Electricity Supply

Electrical transmission lines should be underground; where overhead electrical transmission lines are installed; lines should be installed with short pole spacing, unless crossing gullies, gorges or riparian areas. No part of a tree should be closer to a power line than the distance set by the appropriate authority. Regular inspection of lines is required to ensure they are not fouled by branches.

6.4 Adequacy of Water Supply

Reticulated water is available to the development and will be supplied to the development through the town mains system in accordance with local water authority, council development control plans (DCPs) or any other policies and procedures.

- a) External fire hydrants will be installed and located in accordance with Australian Standard 2419-1, the hydrants shall be installed so as a clear unobstructed path to each designated building envelope, and
- b) The fire hydrants shall be installed at a maximum distance of 80m from the furthest extremity of the building/s, and
- c) The location of fire hydrants shall be delineated by blue pavement markers in the centre of the road, and

- d) All delivery water lines shall be installed underground to a minimum depth of three hundred millimetres (300mm), with all points above ground using metal pipes or raisers with a minimum internal diameter of nineteen millimetres (19mm).

6.5 Public Road Capacity to Handle Increased Volumes of Traffic in a Bushfire Emergency

The public road (Boundary Road) in the vicinity of the subject property is adequate to handle increased volumes of traffic in a bushfire emergency. This road;

- has bitumen surfaces;
- is two-way, allowing traffic to pass in opposite directions; and
- has the capacity to carry fully loaded fire fighting vehicles

6.6 Adequacy of Access and Egress in Bushfire Situations

The allotments along the southern boundary of Lot 361 shall have access from boundary road which has two-way trafficable bitumen surface; the access to the proposed allotments within the western portion of the proposed subdivision shall be via a bitumen perimeter road which intersects with Boundary Road. The proposed access shall comply with all requirements for access as outlined in section 4.1.3(1) of the Planning for Bushfire Protection (2006) manual (RFS, 2006).

6.7 Fire Trails

The concept plan for the development includes utilising the existing haul road through the quarry operation as a perimeter road/fire trail separating the allotments along the eastern margin of the development area from the forest vegetation to the east. This fire trail shall be continued for the northern allotments to the crossing over the drainage channel and then intersect with Armstrong road to the north as shown on Attachment 1. The second proposed fire trail shall be located along the northern boundary for the allotments fronting Boundary Road connections between the fire trail and Boundary road shall be made of intervals less than 200m apart; a third fire trail shall be located along the northern boundaries of the northern allotments and shall intersect with the cul de sac of the perimeter road and the Armstrong road fire trail.

The fire trails must comply with the requirements outlined in the Planning for Bushfire Protection manual (RFS, 2006) including:

- a) Minimum carriage way of 4m with an additional 1m wide strip either side of the trail maintained in a reduced fuel state;
- b) Minimum vertical clearance of 4m to any overhanging obstructions;
- c) The trail has a maximum grade of 15° if sealed and not more than 10° if unsealed;

- d) The crossfall of the trail is not more than 10°;
- e) The trail has the capacity for passing by including passing bays every 200m. These passing bays are 20m long and 3m wide making a minimum trafficable width of 7m at the passing bay;
- f) Reversing bays for fire tankers are provided using the access to properties that are 6m wide and 8m deep to any gates and with a inner minimum turning radius of 6m and outer minimum turning radius of 12m;
- g) The fire trail is accessible to firefighters and maintained in a serviceable condition by the owner of the land;
- h) Appropriate drainage and erosion controls are provided;
- i) The Fire trail system is connected to the property access road and or through road system at frequent intervals of 200m or less;
- j) Fire trails do not traverse a wetland or other land potentially subject to inundation.

7.0 BUSHFIRE CONSTRUCTION STANDARD

The bushfire risk management assessment undertaken in relation to the proposed residential subdivision concluded that the construction standard in accordance with AS 3959 (2009) *Construction of Buildings in Bushfire Prone Areas* (Standards Australia, 2009) will be assessed and nominated as part of the individual development application prepared for the construction of any dwelling on proposed allotments.

8.0 LANDSCAPING AND PROPERTY MAINTENANCE – BUSHFIRE PROVISIONS

According to the PBP manual, the principles of landscaping for bush fire protection are to: prevent flame impingement on the dwelling; provide a defendable space for property protection; reduce fire spread; deflect and filter embers; provide shelter from radiant heat; and reduce wind speed. Careful consideration of the species selection, their location relative to their flammability, and on-going maintenance to readily remove flammable fuels (leaf litter, twigs and debris) is critical to providing for bushfire protection (RFS, 2006). Any landscaping along a margin of the creek line should reflect these requirements. It would be expected that the on-going property maintenance would ensure that the APZs incorporating any garden or landscaping will function as a suitable protection barrier from bushfire.

9.0 EXTENT OF COMPLIANCE AND/OR DEVIATION FROM SPECIFICATIONS

The proposed development will comply with the minimum requirements for:

1. Asset Protection Zones detailed in Table A2.5 (Minimum Specifications for Asset Protection Zones (APZ) for Residential and Rural Residential Subdivision Purposes (for class 1 & 2 buildings) in FDI 80 Fire Areas);

2. Access in accordance with section 4.1.3-2 (Property Access) in the manual for Planning for Bushfire Protection (RFS, 2006).
3. Water and Electricity Supply in accordance with section 4.1.3-Services in the manual for Planning for Bushfire Protection (RFS, 2006).

REFERENCES

Australian Standard, 2009. Australian Standard Construction of Buildings in Bushfire-prone Areas. Standards Australia, Sydney.

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NSW RFS, 2006. *Planning for Bushfire Protection, New South Wales Rural Fire Service*. NSW, Sydney.

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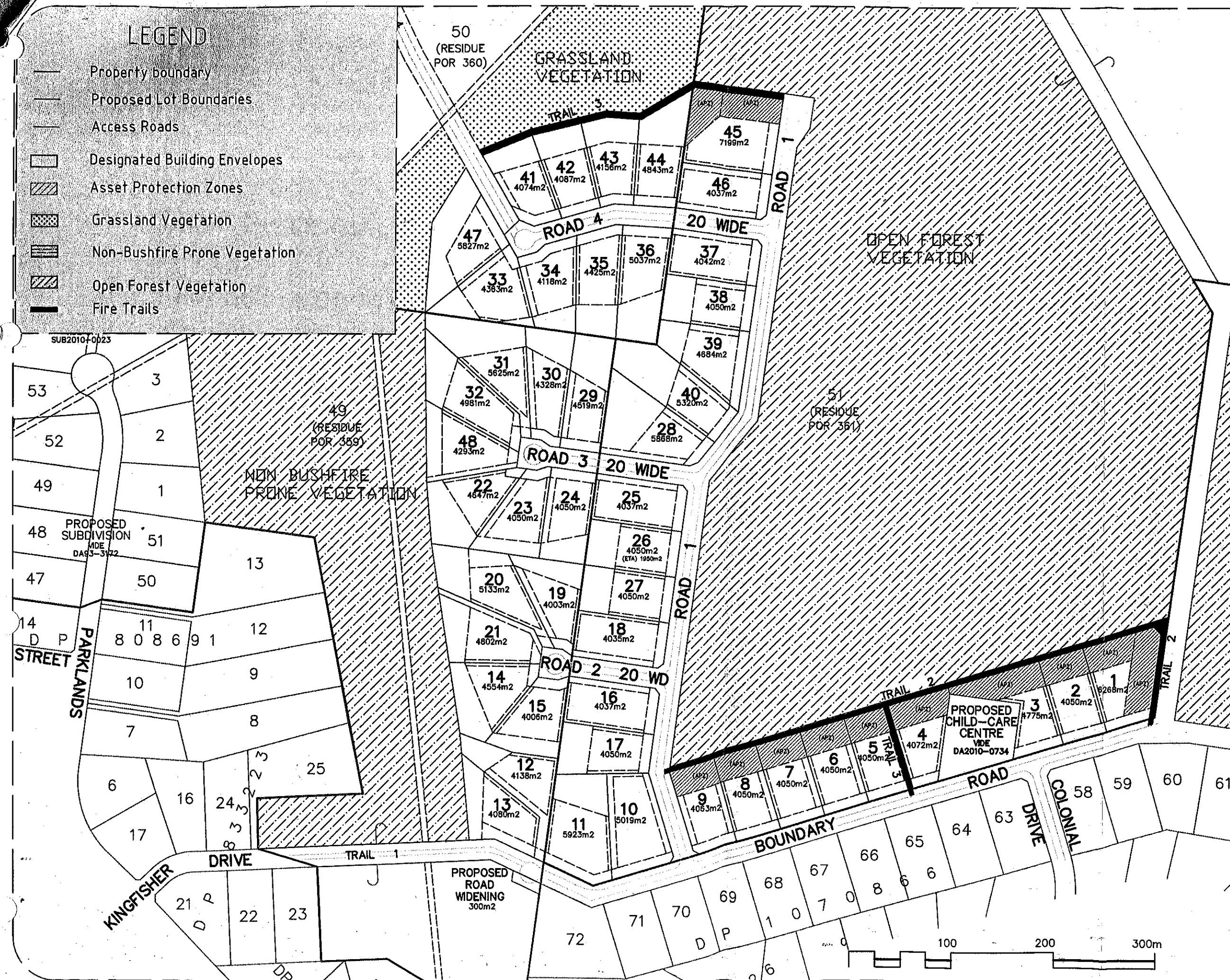
COMMERCIAL IN CONFIDENCE

BushfireSafe (Aust) Pty Ltd, its agents or employees, expressly disclaim any liability for representations, expressed or implied, contained in, or omissions from, this report or any of the written or oral communications transmitted to the client or any third party. Acceptance of this document denotes the acceptance of the terms.

All information in this document is provided in strict commercial confidence. It shall not be disclosed to any third party without the express written consent of Bushfiresafe (Aust) Pty Ltd.

LEGEND

- Property boundary
- - - Proposed Lot Boundaries
- Access Roads
- ▭ Designated Building Envelopes
- ▨ Asset Protection Zones
- ▤ Grassland Vegetation
- ▥ Non-Bushfire Prone Vegetation
- ▧ Open Forest Vegetation
- Fire Trails



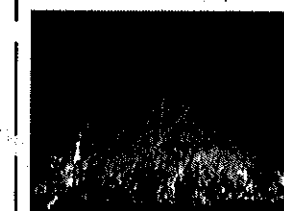
General Notes

This drawing was prepared by Bushfiresafe (Aust) P/L to demonstrate the vegetation communities present and should not be used for any other purpose.

ATTACHMENT 1

VEGETATION COMMUNITIES / ASSET PROTECTION ZONES

Bushfiresafe (Aust)
20 McLachlan Street
Maclean NSW 2463
Ph: 02) 66451088
Fax: 02) 66451099



CLIENT:
Mr W Campbell

Project
Bushfire Assessment
Rural Residential Subdivision
Boundary Rd,
Gulmarrad

Date: _____
Scale: _____
Ref# 11033

RESPONSE TO GATEWAY QUERIES

Planning Proposal for the rezoning of

Lot 51 in DP 1171431,

Lot 3604 in DP 834592, and

Lot 361 in DP 751388

at Boundary Road, Gulmarrad

prepared for:

Gulmarrad Pty Ltd, Bevan Noel Farlow, and

Warren Alan Campbell & Sara Jane Campbell

December 2012

1. Explain under what framework the land exchange would occur

The Panel wanted to see further environmental justification for the proposal and more consultation with OEH regarding the merits of the proposal to retain the corridor where proposed and develop the land to the east. They also wanted more detail/certainty about how the land would be managed, who would own it, etc.

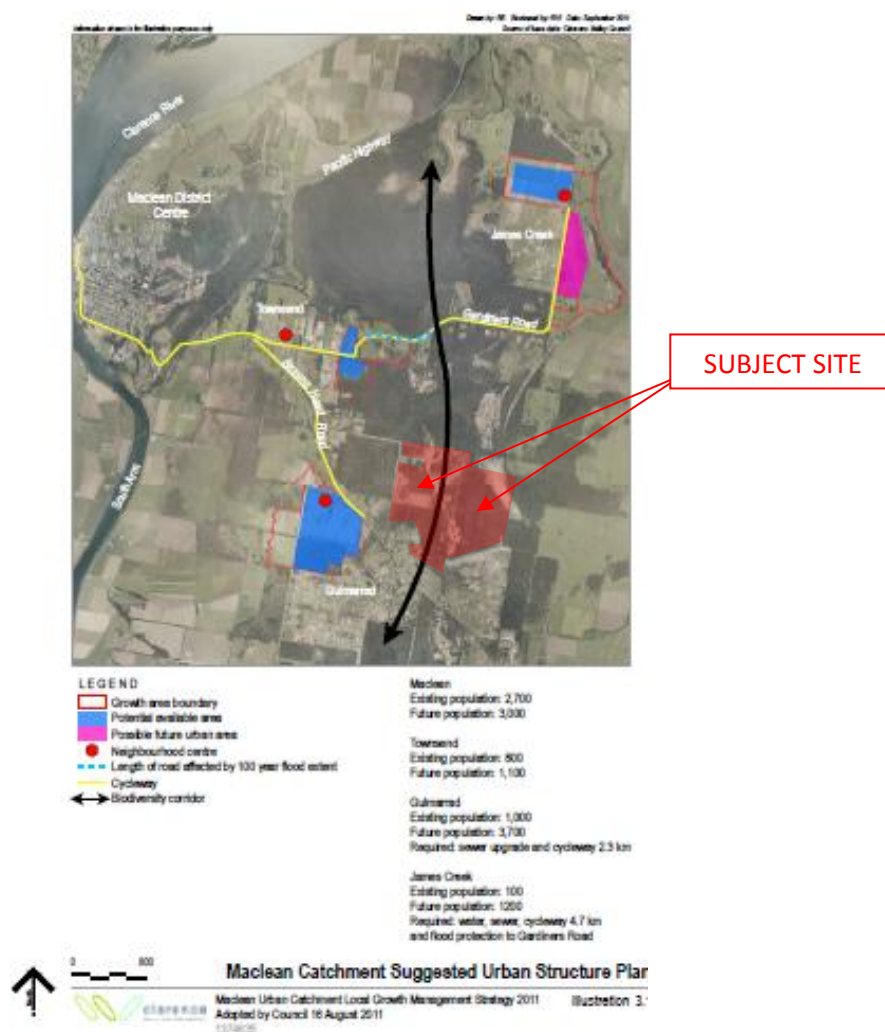
1.1 Background

The Director-General (NSW Planning & Infrastructure) corresponded the following to Clarence Valley Council on 4/11/11 regarding approval of the *Maclean Urban Catchment Growth Management Strategy* (MLGMS - see paragraph 4 of Attachment 1): -

*“The new Strategy identifies a biodiversity corridor running north-south through the area, linking patches of remaining native vegetation. I would encourage Council, through its local planning, to make every effort to maintain and enhance the area’s remaining vegetation, **particularly along the corridor recognised in the Strategy.**”*

The corridor recognised by the MLGMS is shown in Figure 1.

Figure 1: Structure Plan from MLGMS p.13



The corridor is also recognised as “significant” and “high priority” by Council’s *Biodiversity Strategy 2010* (CVCBS), as shown in Figure 2.

Figure 2: Conserve & Repair Priority Areas from CVCBS p.21

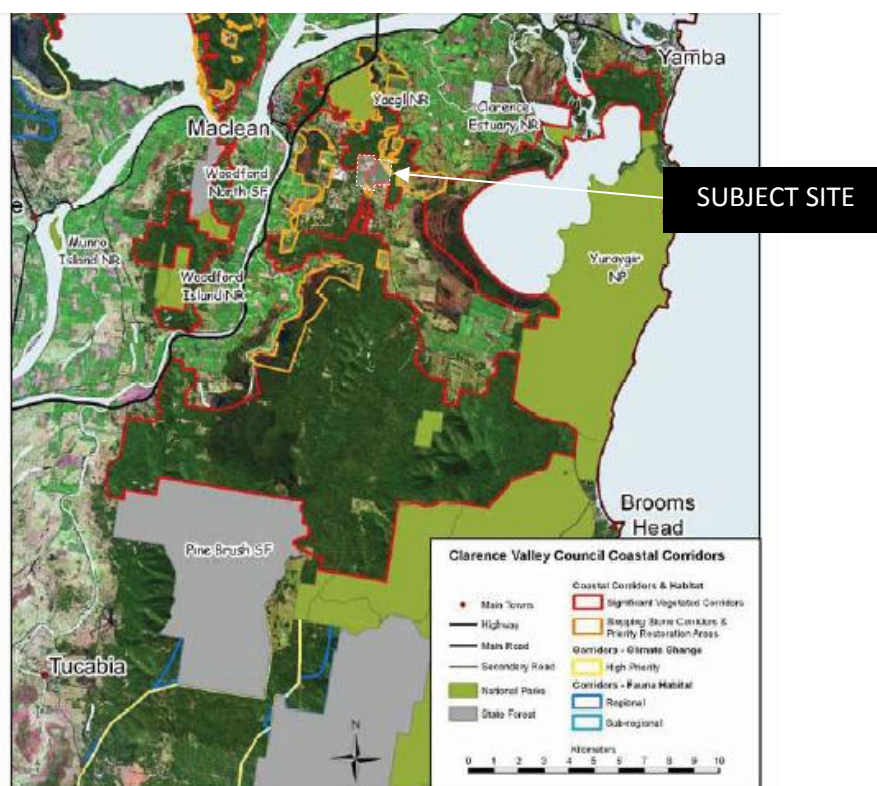


Figure 2: Clarence Valley Council Coastal Corridors & Northern Rivers Biodiversity Management Plan Conserve and Repair Priority Areas

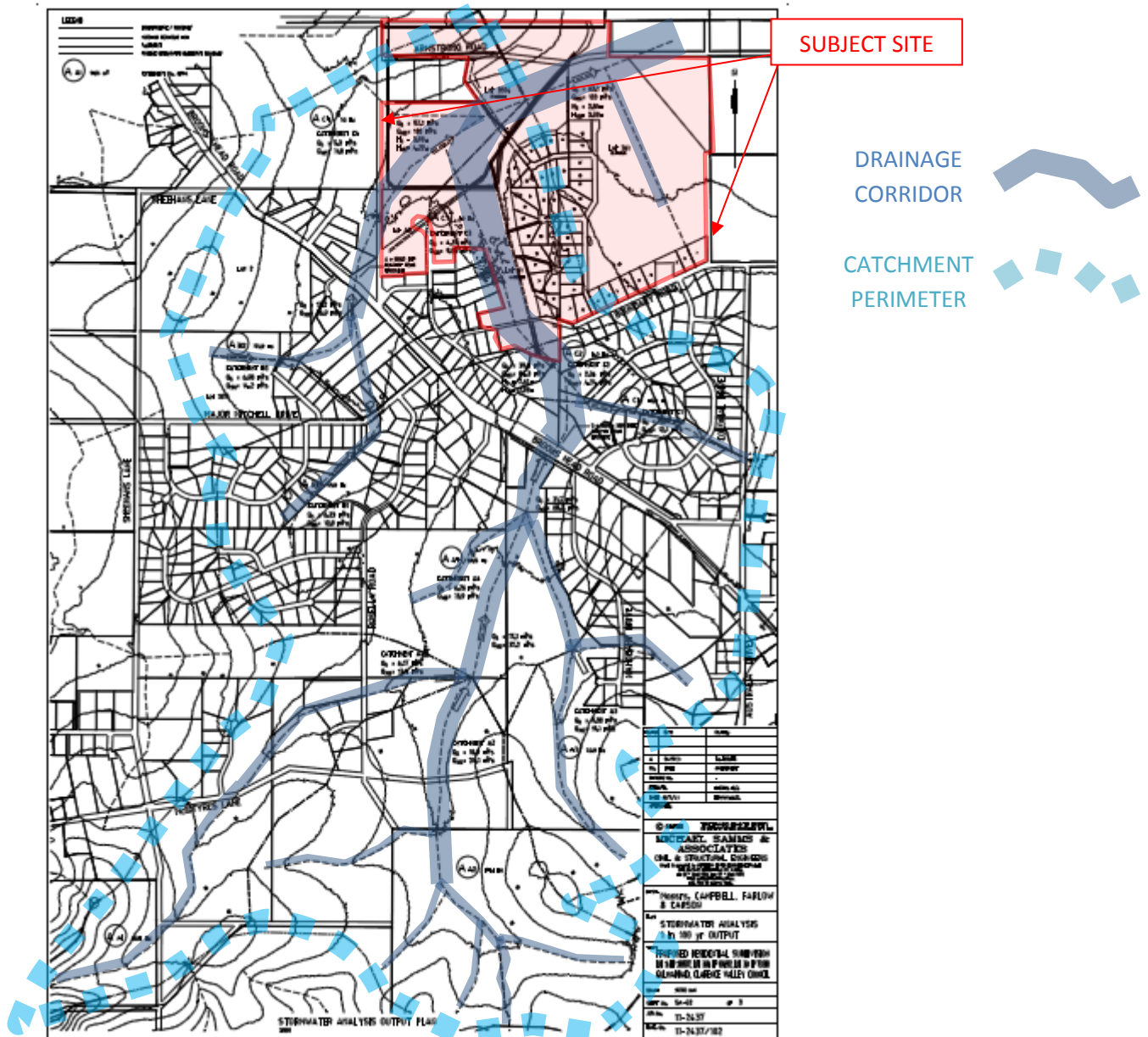
The corridor is also recognised as a “regional corridor” by the *Mid North Coast Regional Strategy 2009* (MNCRS), as shown in Figure 3.

Figure 3: Conserve & Repair Priority Areas from CVCBS p.21



Ecological and stormwater management (see Figure 4) investigations disclose the corridor to be “associated with a significant drainage channel. This channel collects surface runoff from a number of tributaries that flow through the Gulmarrad settlement and continues towards Lake Wooleweyah and has been excavated to drain the low lying properties prior to development.” (BushfireSafe (Aust) Pty Ltd Environmental Services, July 2011, p2).

Figure 4: Drainage Corridor from Stormwater Management Investigation – Appendix 1.2



1.2 The Proposal

The planning proposal proposes rezoning this corridor from “R5 Low Density Residential” and “RU2 Rural Landscape” to “E2 Environmental Conservation” under the *Clarence Valley LEP 2011* (CVLEP – see Figure 12 of the Planning Proposal) to facilitate its management for conservation and enhancement of the environment.

1.2.1 Management

Corridor management initiatives will include, but not be limited to: -

- installing and maintaining perimeter stock-proof fencing;
- revegetation of denuded areas with selective species where required, and otherwise with indigenous species;
- re-aligning and/or re-shaping of man-made channels and/or installation of groynes to manage stormwater run-off rates and improve the water quality of runoff discharge;
- expand the capacity and function of the pond formed at the north-eastern corner of the site from previous quarry operations; and
- involving Landcare groups in its management. To this end, both the “Maclean Landcare Group” and “Gulmarrad Public School”, which are the locality’s active Landcare groups, have expressed a keen interest because of the site’s proximity to the community’s residents and to the school.

A long-term plan of management devised for the corridor, with input from appropriately qualified hydrological and ecological specialists, will be devised at the Development Application stage.

1.2.2 Ownership

The corridor is intended to remain in ownership independent of Council, so that it would be owned by the respective owners of proposed Lots 49, 50 & 51. Options for its ongoing conservation and enhancement include: -

- (a) formalising a voluntary conservation agreement on the respective titles;
- (b) formalising a voluntary planning agreement on the respective titles; or
- (c) establishing restrictions on the use of land and positive covenant(s) created by 88B instrument on the titles of each of proposed Lots 1 to 51 inclusive.

Option (c) is preferred by the applicant, and would involve: -

- (i) establishing and empowering the “Boundary Road Wildlife Corridor Management Association Incorporated” to manage the corridor, or to utilise a maintenance provider (e.g. “Maclean Landcare Group” or “Gulmarrad Public School”), and to collect levies from landowners in the estate (i.e. proposed Lots 1 – 48) for its ongoing management (by positive covenant);
- (ii) enforcing each landowner in the estate (i.e. proposed Lots 1 – 48) to be a member of the association (by restriction); and

-
- (iii) restricting the owners of the corridor (i.e. proposed Lots 49, 50 & 51) from any use inconsistent with conservation and enhancement initiatives established by the plan of management.

2. Provide a clearer explanation about the future use and controls for residue Lot 51

The Panel felt the proposal was not sufficiently explanatory regarding the future intent for the residue lot 51. Will it be protected from future development? Will it remain as rural or in an environmental protection zoning? What buffer provisions will apply between the proposed development and the residue lot 51?

2.1 Future intent for residue of Lot 51

The residue of proposed Lot 51 (i.e. exclusive of the corridor) is intended to remain zoned “RU2 Rural Landscape” under the CVLEP, so that it is consistent with the current zoning applying to adjoining Lot 241 in DP 751388.

The residue of proposed Lot 51 is not constrained by flooding, and in the medium to long term will be combined in ownership with the “child-care centre” site on Boundary Road for rural-lifestyle use.

No intensive agricultural use is intended, so that no buffer provisions are warranted except for bushfire hazard management (see Figure 5).

Figure 5: Proposed Subdivision footprint



ATTACHMENT 1: Correspondence – D-G (NSW Planning & Infrastructure) to CVC dated 4/11/11



Planning &
Infrastructure

COPY

Office of the Director General

Mr Scott Greensill
General Manager
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

11/18898

Dear Mr Greensill

I refer to your letter of 4 October 2011 submitting the final copy of Council's Maclean Urban Catchment Growth Management Strategy for my approval.

I am pleased to advise that I have approved the Strategy. It now replaces/updates the approved Clarence Valley Settlement Strategy (1999) to the extent of any inconsistency in the Maclean area. Council is now encouraged to proceed with planning proposals that are consistent with the new Strategy.

X I note that Council proposes to review the Strategy after five years. At such time, any remaining unconstrained land mapped within the Mid North Coast Regional Strategy's growth area boundary will be available for assessment for inclusion in future land releases. This may be considered earlier if demand for additional land dictates.

X The new Strategy identifies a biodiversity corridor running north-south through the area, linking patches of remaining native vegetation. I would encourage Council, through its local planning, to make every effort to maintain and enhance the area's remaining vegetation, particularly along the corridor recognised in the Strategy.

Should you have any further enquiries about this matter, I have arranged for Mr Greg Yeates of the Department's Northern Region to assist you. Greg may be contacted on telephone number (02) 6641 6608.

Yours sincerely


Sam Haddad
Director General

4/11/2011



Office of
Environment
& Heritage

Your reference: Emails dated 17/12/12 and 19/12/12
Our reference: DOC12/53032
Contact: Nicky Owner (02) 6659 8254

Mr Scott Greensill
General Manager
Clarence Valley Council
Locked Bag 23
Grafton NSW 2460

Attention: Mr David Morrison

Dear Mr Greensill

Re: Response to Gateway Determination - Planning Proposal – Lot 51 in DP 1171431, Lot 3604 in DP 834592 and Lot 361 in DP 751388, Boundary Road Gulmarrad

Thank you for the invitation to provide further comment on the above Planning Proposal and Gateway Determination that was refused by the Department of Planning and Infrastructure (DP&I) on 7 November 2012. The Office of Environment and Heritage (OEH) has undertaken a review of the documents provided by Clarence Valley Council in emails dated 17 December 2012 and 19 December 2012, including the *Response to Gateway Queries, Flora and Fauna Assessment and Revised Planning Proposal*, with a view to providing comments on biodiversity, flooding and Aboriginal cultural heritage matters. Detailed OEH comments regarding these matters are provided in Attachment 1.

As Council is aware, OEH has previously reviewed the draft Planning Proposal, and more recently, has reviewed Revision A of the Planning Proposal dated March 2012. OEH remains of the view that the proposed rezoning is inconsistent with the Mid North Coast Regional Strategy (MNCRS).

OEH is unable to undertake a full review of biodiversity, flooding or Aboriginal cultural heritage for the Planning Proposal as the documents provided by Council do not contain the necessary and adequate detailed studies on these matters. OEH therefore requests that the proponent provides reports documenting detailed biodiversity, flooding and Aboriginal cultural heritage studies of the entire planning area in support of the Planning Proposal. Once these reports are provided, OEH would then be able to comment on the merits or otherwise of the Planning Proposal regarding these matters. A meeting between Council, the proponent, DP&I and OEH could assist the proponent to clarify the information required to progress the proposal.

Should you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact Nicky Owner, Conservation Planning Officer either by telephone on 66598254 or e-mail at nicky.owner@environment.nsw.gov.au. Please note that Nicky works part time, Monday to Wednesday.

Yours sincerely

19 December 2012

DIMITRI YOUNG
Regional Coordinator – North East
Office of Environment and Heritage

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Attachment 1 – Detailed OEH Comments – Planning Proposal - Boundary Road Gulmarrad

Mid North Coast Regional Strategy

OEH understands that the Planning Proposal is being made to facilitate a total of approximately 48 rural residential allotments. To allow this future development to proceed, the planning area requires the rezoning of approximately 12.6 hectares of RU(1) Rural to RU(5) Rural Living. It is further understood that in addition to the residential component of the rezoning, the Planning Proposal also includes the creation of a “proposed conservation corridor” to be zoned E2 Environmental Management.

According to the Mid North Coast Regional Strategy (MNCRS), proposed development sites that occur outside identified growth areas can only be considered for rezoning if they can satisfy the “Sustainability Criteria”, which are included as Appendix 1 of the MNCRS. However, the MNCRS goes on to say that for sites that occur east of the final alignment of the Pacific Highway (such as the subject site), the application of the “Sustainability Criteria” is excluded. OEH understands that the subject site does not form part of an identified growth area and since it is located east of the Pacific Highway the “Sustainability Criteria” cannot be applied.

Furthermore, the MNCRS explains that in order to limit urban growth along the coast and ensure efficiencies in land utilisation and infrastructure provision, no further rezoning for rural residential development, other than land in a current or future approved local growth management strategy (or rural residential release strategy) will be permitted to the east of the Pacific Highway (i.e. the Coastal Area). OEH also understands that the proposed rezoning site is not included in any such strategy and therefore, is not eligible to be rezoned for rural residential purposes.

Biodiversity

The Planning Proposal indicates that a flora and fauna assessment has been conducted over the planning area, and a flora and fauna assessment report was provided to OEH by Council in email dated 19 December 2012. OEH notes that this report was prepared in support of a development application over part of the planning area and does not provide information for the entire planning area. Nevertheless, OEH has reviewed this report and provides the following comments.

The methods used to survey flora and fauna, including threatened species, appear inadequate. A map of survey points and transects was not provided. Flora surveys were undertaken over two days in May/June when many threatened flora species are undetectable and there were no targeted surveys for threatened flora.

There were limited fauna surveys conducted with the report relying largely on desktop information and the identification of faunal signs. The amphibian survey was undertaken in winter when these species are relatively inactive and there were no targeted surveys for terrestrial mammals or bats.

Four threatened species were recorded on the site – Rufous Bettong (“observed throughout most of the development area west and north of the sandstone ridge”), Squirrel Glider, Grey-headed Flying-fox, Masked Owl. The report also discusses a previous fauna survey carried out on the site in which the threatened Black-chinned Honeyeater and Powerful Owl were recorded – the date or author of this previous survey is not stated.

The report provides a vegetation map of the area surveyed and identifies two floodplain vegetation communities. Although the report contends that these communities are not endangered ecological communities, OEH requires further justification and clarification for this matter, with particular reference to the determinations of the NSW Scientific Committee for such communities, as they clearly appear to be components of the endangered ecological communities *Swamp sclerophyll forest* and *Swamp Oak floodplain forest*.

The Rufous Bettong occurs on site, however an adequate assessment of the likely impact of future development on this threatened species has not been provided. The planning proposal should consider the application of appropriate zones to key Rufous Bettong habitat to protect the species from the impacts of future development and facilitate the survival of the local population. The species is known to predominantly inhabit drier vegetation types that are proposed to be zoned R5 but the report has not documented the extent of habitat for this species in the planning area. OEH also considers it likely that the planning area contains Endangered Ecological Communities as well as habitat for a number of other threatened species (including the Endangered North Coast Emu population), none of which have been addressed as part of the Planning Proposal. In summary, the flora and fauna study does not provide enough information for OEH to determine the benefits or otherwise of the Planning Proposal.

Proposed Conservation Corridor

The Planning Proposal identifies a proposed conservation corridor to be zoned E2. However, a comparison by OEH of the location of this corridor with the vegetation map in the flora and fauna study suggests that parts of the floodplain vegetation in the north will be zoned R5 and floodplain vegetation on the residue of Lot 51 will retain its current RU1 zone. The vegetation map does not extend far enough to the west to enable OEH to assess the conservation values of the proposed corridor. The Planning Proposal does not justify the application of these zones to these areas and OEH contends that the E2 zone should be applied to all areas of high conservation value.

There is also limited information regarding the logic used to identify the proposed conservation area. The *Response to Gateway Queries* shows broad scale maps with an indicative corridor through the planning area. However, determining the precise location of such corridors at a property scale requires detailed ecological information that may vary the final location to capture the areas of highest conservation value. The information provided to date does not appear to have addressed this matter adequately.

It is also unclear as to the anticipated end use of the proposed conservation corridor. At an on-site meeting held in 2011, the land owner's representative, Mr John Riggall indicated that the conservation corridor was intended to be inundated with redirected surface water flows to create a system of permanent water features. The likely impact of this inundation has not been documented and is therefore unknown. In general, most terrestrial forest ecosystems cannot survive persistent inundation. Further, inundation of this corridor is likely to reduce available Emu habitat areas and this has not been considered by the planning proposal.

The Response to Gateway Queries indicates the proponent's preference for the *Conveyancing Act 1919* to be used to secure the corridor. It also suggests that drainage infrastructure will be located within the corridor. OEH is unable to support this approach and recommends the use of a Planning Agreement (PA) to secure the corridor pursuant to s93F of the *Environmental Planning and Assessment Act 1979*, once the corridor location is finalised, with all infrastructure and asset protection zones located outside of the corridor. The PA would need to specify appropriate management of the agreement area in perpetuity and funding arrangements to facilitate this management.

Flooding

The proposed inundation of parts of the conservation corridor and the resulting changes to existing hydrological regimes are likely to have consequences on flooding regimes, both up and down stream of the planning area. This is of potential significance given the proximity of proposed and existing residential areas. Furthermore, inundation of other low-lying parts of the planning area may also impact proposed residential areas. No detailed information was provided to OEH regarding flooding. In the absence of this information, OEH is unable to comment on the merits or otherwise of the proposal regarding flooding.

Aboriginal Cultural Heritage

OEH acknowledges the significance of the local environment to the local Aboriginal community and notes the existence of numerous registered Aboriginal sites in the immediate locality. These include middens, artefact scatters, culturally modified trees, camp sites and isolated finds. It is also acknowledged that the

project area contains landforms which have yielded a significant volume of evidence of Aboriginal occupation, including water courses, ridges, crests and slopes.

Accordingly, there is a possibility that currently undetected cultural material may be present within the planning area in those areas where Aboriginal objects have not been previously identified and OEH expects the applicant to develop an appropriate Aboriginal cultural heritage assessment strategy in accordance with the requirements of the *National Parks and Wildlife Act 1974* to address this possibility.

OEH also refers to Section 6.2.5 of the Planning Proposal where it is noted that the applicant refers to a site inspection of the planning proposal project area by the Yaegl Local Aboriginal Land Council. However, details of the site inspection, including the timing of the inspection and any results obtained have not been provided. This assessment should have been undertaken in accordance with the OEH's *'Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales'* (2010) by a suitably qualified cultural heritage specialist. The results of this assessment should identify the nature and extent of any impacts on Aboriginal objects or places of Aboriginal heritage significance across the planning area and if impacts are identified, clearly articulate strategies proposed to avoid/minimise these impacts developed in consultation with the local Aboriginal community.

OEH's *'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW'* (2011) outlines the requirements for an Aboriginal cultural heritage assessment report to support development and planning proposals. The guide is available at:
www.environment.nsw.gov.au/licences/investassessreport.htm.

The applicant is also reminded that the requirements of the NPW Act have been amended. Further advice regarding Aboriginal cultural heritage can be found on OEH's web-site at:
www.environment.nsw.gov.au/cultureandheritage.htm.

Conclusion

Given the inconsistencies of the Planning Proposal with the provisions of the MNCRS, the lack of adequate information and consideration of biodiversity matters, including threatened species, populations and ecological communities, the questionable impacts of the inundation of the 'conservation corridor', the lack of information regarding flooding and the inadequacy of the Aboriginal cultural heritage assessment, OEH is currently unable to comment on the merits or otherwise of the Planning Proposal.

OEH recommends that the proponent provides reports documenting detailed biodiversity, flooding and Aboriginal cultural heritage studies of the planning area in support of the Planning Proposal to enable OEH to comment on the merits or otherwise of the Planning Proposal regarding these matters. A meeting between OEH, Council, the proponent and DP&I could clarify the information required to progress the proposal.



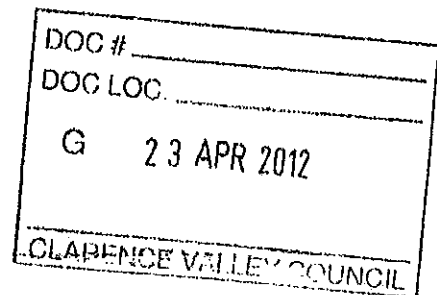
Office of
Environment
& Heritage

SCANNED

Your reference
Our reference:
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Mr Scott Greensill
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Attention: Mr David Morrison

Dear Mr Greensill

**Re: Draft Planning Proposal – Lot 61 in DP 1083577, Lot 3604 in DP834592
and Lot 361 in DP 751388, Boundary Road Gulmarrad**

I refer to the recent site inspection of the abovementioned properties that are subject to a draft Planning Proposal at Boundary Road Gulmarrad, on Wednesday 8 February 2012. Present at the site inspection were Nicky Owner, Conservation Planning Officer from the Office of Environment and Heritage (OEH), a number of officers from Clarence Valley Council, including Mr David Morrison, Manager Strategic and Economic Planning, and Mr Scott Lenton, Senior Planner, Mr Warren Campbell, the owner of Lot 361, and Mr John Riggall representing the three property owners. During the site inspection, OEH agreed to outline its concerns with the proposed rezoning in correspondence to Clarence Valley Council.

OEH understands that the draft Planning Proposal is being made to facilitate a total of 50 rural residential allotments. To allow this development to proceed, the subject site requires the rezoning of approximately 12.6 hectares of RU(1) Rural to RU(5) Rural Living.

OEH has reviewed the draft Planning Proposal, and notes the proposed rezoning is inconsistent with the Mid North Coast Regional Strategy (MNCRS). According to the MNCRS, proposed development sites that occur outside identified growth areas can only be considered for rezoning if they can satisfy the "Sustainability Criteria", which are included as Appendix 1 of the MNCRS. However, the MNCRS goes on to say that for sites that occur east of the final alignment of the Pacific Highway (such as the subject site), the application of the "Sustainability Criteria" is excluded. OEH understands that the subject site does not form part of an identified growth area and since it is located east of the Pacific Highway the "Sustainability Criteria" cannot be applied.

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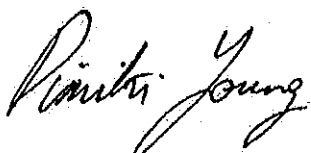
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OEH also understands that the proposed rezoning site is not included in any such strategy and therefore, is not eligible to be rezoned for rural residential purposes.

Given these inconsistencies with the provisions of the MNCRS, there is currently no scope for the draft Planning Proposal to progress to the rezoning gateway determination stage. Hence, OEH is unable to support the draft Planning Proposal.

If you require further information or clarification please contact Nicky Owner, Conservation Planning Officer either by telephone on 66598254 or e-mail at nicky.owner@environment.nsw.gov.au. Please note that Nicky works part time, Monday to Wednesday.

Yours sincerely



18 April 2012

DIMITRI YOUNG
Head - North Coast Planning Unit
Office of Environment and Heritage