

Wollongong Local Planning Panel Assessment Report | 20 February 2024

WLPP No.	Item No. 2
DA No.	DA-2023/434
Proposal	Subdivision - boundary adjustment
Property	1 Nolan Street, BERKELEY
Applicant	MMJ Town Planning
Responsible Team	Development Assessment and Certification - City Centre Major Development Team (BH)
Development cost	NIL
Lodgement date	5 June 2023
Prior WLPP meeting	NA

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to Local Planning Panel **for Determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 clause 1(a) of the Local Planning Panels Direction of 6 September 2023, the application is for a boundary adjustment involving Council land.

Proposal

Subdivision - boundary adjustment.

Permissibility

The proposed subdivision is a permissible in accordance with Clause 2.6(1) of Wollongong Local Environmental Plan 2023.

Consultation

The application received one submission in support following notification.

Main Issues

- The proposed boundary adjustment seeks to enable the sale of Council land in accordance with a resolution of Council.
- Compliance with Rural Fire Service requirements.

RECOMMENDATION

It is recommended that the application be approved subject to the draft conditions which form Attachment 3 of this report.

1 APPLICATION OVERVIEW

1.1 EXECUTIVE SUMMARY

The following planning controls apply to the proposal:

State Environmental Planning Policies:

- SEPP (Resilience and Hazards) 2021
- State Environmental Planning Policy (Koala Habitat Protection) 2021

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan 2009

Other policies

- Wollongong City Wide Development Contributions Plan
- Wollongong Community Participation Plan 2019
- Managing Conflicts of Interest for Council Related Development

The proposal is satisfactory with regard to the applicable planning controls as discussed in the body of this report.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the following:

Boundary adjustment of the subject sites being Lot 193 DP 32303, 1 Nolan St, Berkeley and Part of Lot 192 DP 700165, Nolan Street, Berkeley as shown in Figure 1 below:

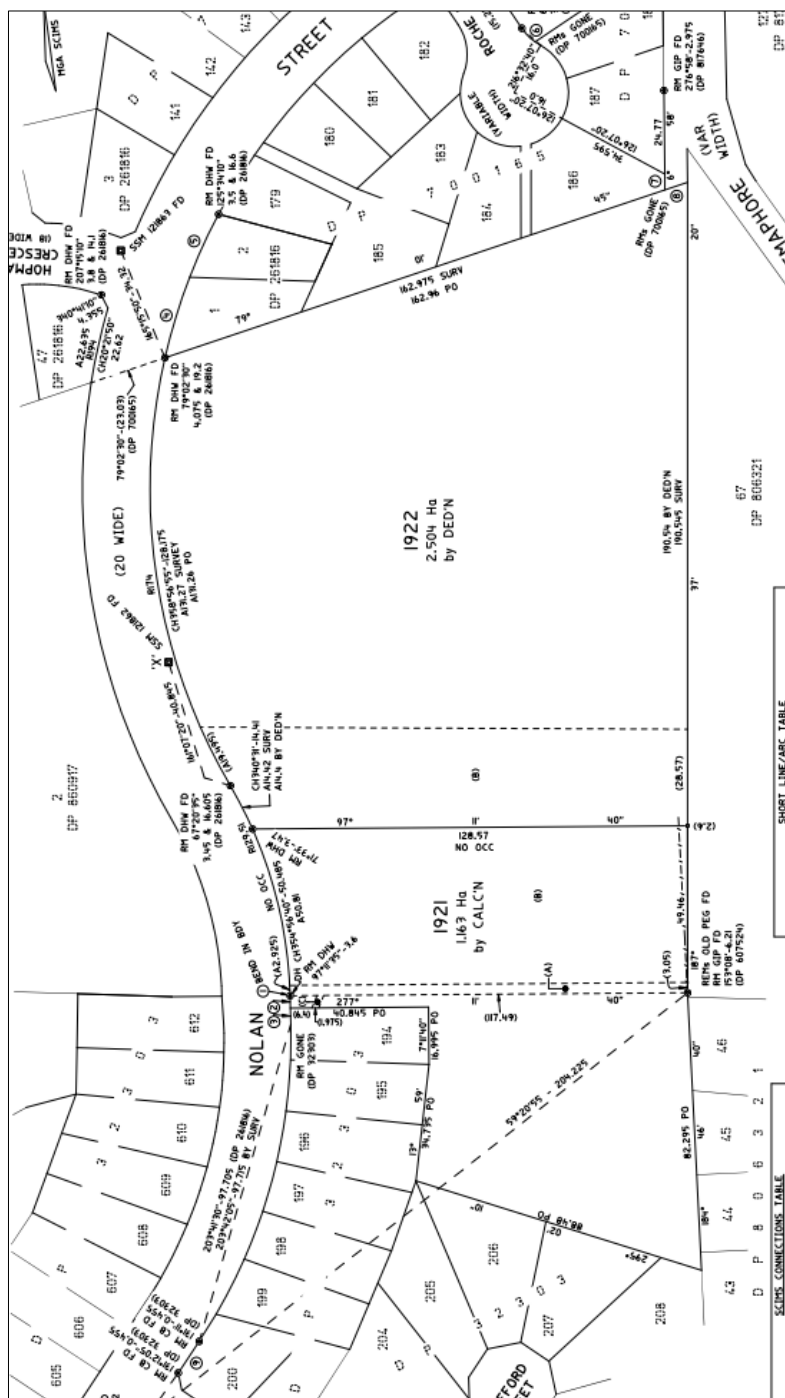


Figure 1: Plan of Proposed Subdivision (Boundary Adjustment)

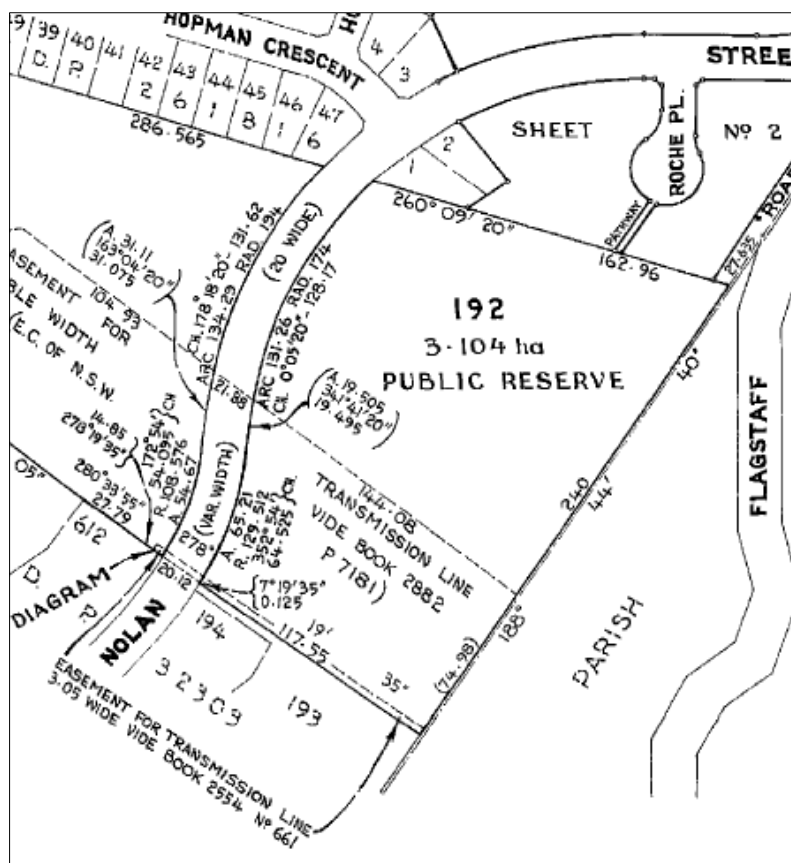


Figure 2: Existing lot configuration

The proposed boundary adjustment seeks to enable the sale land in accordance with Council's resolution (Minute No. 135 from Ordinary Meeting of Council 22 July 2013).

The boundary adjustment will result in the following change of the lot area and frontage width:

Existing lot sizes:

Lot 192 - 3.104 Ha

Lot 193 - 5634 m²

Proposed Lot sizes:

Lot 192 - 2.504 Ha

Lot 193 - 1.163 Ha

There are no physical works or site preparation proposed as part of the boundary adjustment however some physical works will be required to comply with NSW Rural Fire Service conditions.

There are no additional connections to services or infrastructure required to facilitate the proposed boundary adjustment.

1.3 BACKGROUND

There are no previous applications relevant to the proposed boundary adjustment however the rezoning and reclassification history of Lot 192, being a Council-owned lot, is of relevance to the boundary adjustment as it demonstrates the steps taken by the applicant and Council in support the disposal of the Council owned land.

The reclassification history includes:

July 2003: The owners of 1 Nolan Street, Berkeley submitted a request to Council to purchase a portion of Council's reserve for agistment purposes. At the time of the request, the subject site was zoned Public Recreation (6)(a) under the Wollongong LEP 1990 and classified Community Land in accordance with the Local Government Act 1991.

The sale of community land for private purposes is not enabled by the Local Government Act. At the time, Council did not have a policy mechanism established to consider private requests for the purchase of Public Land, therefore Council initiated a process to reclassify the land.

February 2005: Council at its Ordinary Meeting of 28 February 2005 resolved to authorise the preparation of an LEP Amendment to rezone the land to Environmental Protection Conservation 7(b) and reclassify a portion of Lot 192 DP 700165 to Operational Land.

As part of the Council resolution, Council resolved to authorise the sale of part of Lot 192.

May 2006: Council forwarded the proposal to rezone and classify the land to Department of Planning. The proposal was rejected as the Department would not process any standalone applications. The proposal was subsequently incorporated into the then draft Wollongong LEP 2007.

November 2009: Draft Wollongong LEP 2009 was publicly exhibited, which included the proposed rezoning and reclassification of the subject site.

26 February 2010: Wollongong LEP 2009 became effective, and Part Lot 192 DP 700165 was rezoned to E4 Environmental Living (now C4) and reclassified as Operational Land.

22 July 2013, Council resolved that:

1. Council authorise the sale of Part of Lot 192 700165 Nolan Street Berkeley, as shown in red in figure 3.
2. Authority be granted to affix the Common Seal of Council to the transfer documents and any other documentation required to give effect to this resolution. The area identified for disposal is included in the Attachment of Councils Business Paper from 22 July 2013 and is reproduced at figure 3.



Figure 3: Map of land proposed for disposal (Page 193, WCC Business Paper 22 July 2013)

The proposed boundary adjustment the subject of this development application seeks to facilitate the purchase of the land by the owner of 1 Nolan Street.

No pre-lodgement meeting was held for the proposal.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.4 SITE DESCRIPTION

The subject site consists of two allotments being Lot 193 DP 32303, 1 Nolan St, Berkeley and Part of Lot 192 DP 700165, Nolan Street, Berkeley. Lot 192 is 3.104 hectares in area and Lot 193 is 5634m² in area. Both lots are accessed of Nolan Street, with Lot 193 accessible via a battle-axe handle.

The subject site slopes steeply from the highest point at the eastern boundary down toward the Nolan Street frontage.

Lot 193 contains an existing dwelling and ancillary residential structures. The Council-owned portion of the subject site (Lot 192) is undeveloped and affected by an easement for overhead transmission lines (variable width). The subject sites are zoned R2 Low Density Residential (Lot 193) and C4 Environmental Living (Part of Lot 192) under Wollongong LEP 2009 (see Figure 5).

Adjoining development is as follows:

- North: Low density housing comprising mainly single dwellings within an R2 zone (Nolan Street and Roche Place).
- East: Undeveloped. C3 - Environmental Management zone.
- South: Low density housing comprising mainly single dwellings within an R2 zone.
- West: Nolan Street.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Unstable land: no proposed physical works.
- Easement for Transmission Line – no impact of the proposed boundary adjustment.
- Bushfire

The site is identified as being affected by bushfire. The proposal was assessed in accordance with Section 4.14 of the *Environmental Planning and Assessment Act 1979* and 'Planning for Bush Fire Protection' (RFS 2019) by Harris Environmental. The Bushfire Hazard Assessment is provided in support of this application and concludes that:

*"The proposed development includes a boundary adjustment only. No built development is proposed in this Development Application. The existing dwelling is exposed to **BAL 12.5** and **BAL LOW**. The vacant lot can provide building envelopes BAL 29 or less.*

Both Lot 192 and 193 are located on Nolan Street. This is a two-wheel drive, all weather roads. The capacity of roads surfaces and bridges is sufficient to carry fully loaded firefighting vehicles. The existing dwelling on lot 193 has existing access and no proposed changes to access are included."

The Assessment notes that the boundary adjustment requires a Bush Fire Safety Authority in accordance with Section 100B of the Rural Fires Act.

There are no restrictions on the title.



Figure 4: Aerial photograph, Intramaps 2023

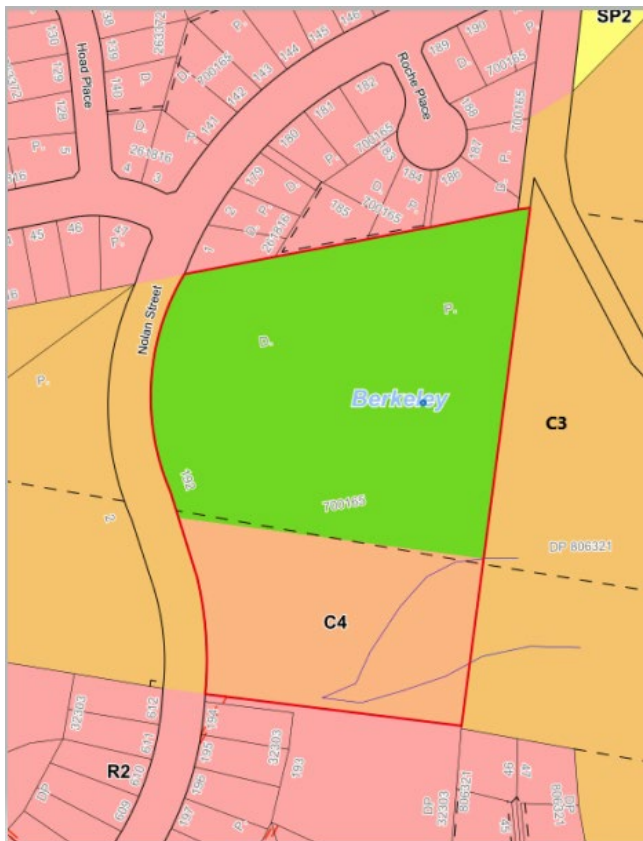


Figure 5: WLEP 2009 Zoning Map



Figure 6: Site as viewed from Nolan Street.

1.5 SUBMISSIONS

The application was notified in accordance with Council's Community Participation Plan 2019. One submission (in support) was received following the notification.

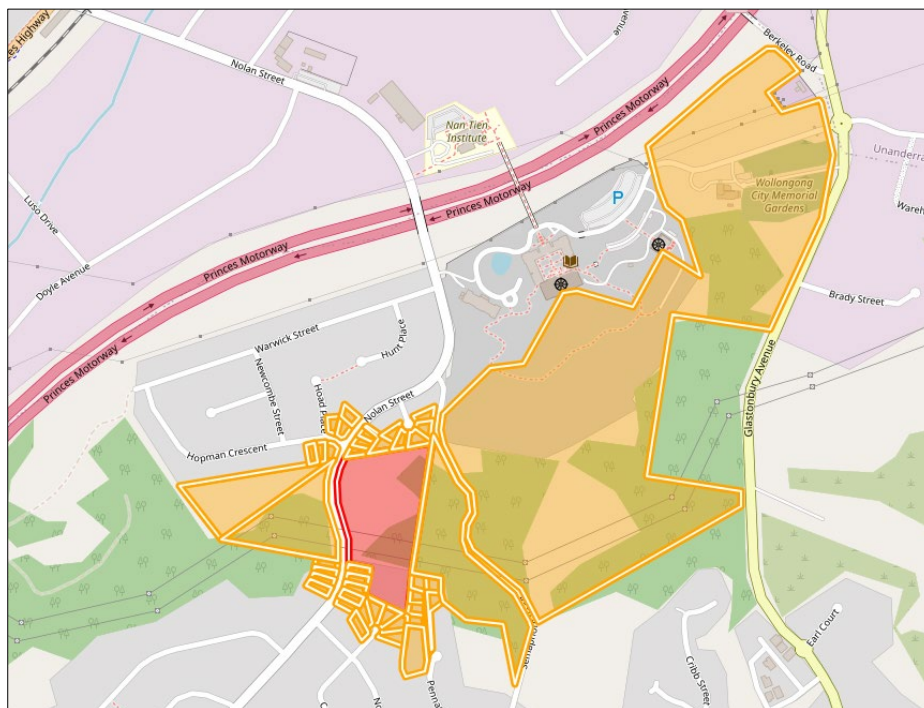


Figure 7: Notification map

1.6 CONSULTATION

1.6.1 INTERNAL CONSULTATION

Council's Subdivision engineer, Environment and Bushfire officers have provided satisfactory referrals. Statutory Property officer has no objections to the proposal as there is a valid Council resolution for the disposal.

1.6.2 EXTERNAL CONSULTATION

Rural Fire Service

The NSW Rural Fire Service has provided General Terms of Approval which will be attached to the Development Consent.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

COASTAL MANAGEMENT Amendment Act 2021

The *Coastal Management Amendment Act 2021* commenced on 1 November 2021, to give coastal councils until 31 December 2023 to implement their CZMPs. By effect this enables a continuation of the current certified CZMP (20 December 2017) whilst Council undertakes further studies and community consultation for a transition to a new Coastal Management Plan.

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994.

This Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 that relate to the operation of this Act in connection with the terrestrial and aquatic environment.

NSW BIODIVERSITY CONSERVATION ACT 2016

Section 1.7 of the Environmental Planning and Assessment Act 1979 (EP&A Act) provides that Act has effect subject to the provisions of Part 7 of the Biodiversity Conservation Act 2016 (BC Act).

Part 7 of the BC Act relates to Biodiversity assessment and approvals under the EP&A Act where it contains additional requirements with respect to assessments, consents and approvals under this Act.

Clause 7.2 of the Biodiversity Conservation Regulation 2017 provides the minimum lot size and area threshold criteria for when the clearing of native vegetation triggers entry of a proposed development into the NSW Biodiversity offsets scheme. For the subject site, entry into the offset scheme would be triggered by clearing of an area greater than 0.25 hectares based upon the minimum lot size of the subject site (i.e. less than 1 hectare).

No native vegetation is proposed to be cleared for the development. The minimum subdivision lot size for the land under WLEP 2009 is 449sqm (R2 zone) and 3,999ha (C4 Zone). Therefore the proposal does not trigger the requirement for a biodiversity offset scheme.

The site is not identified as being of high biodiversity value on the Biodiversity Values Map.

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY (RESILIENCE AND HAZARDS) 2021

Chapter 4 Remediation of land

4.6 Contamination and remediation to be considered in determining development application.

A desktop audit via Council's land information system database for property constraints and previous uses was undertaken to understand the likelihood of contamination issues.

The audit revealed there are no constraints or past uses that give rise to concerns or the need for further investigation regarding land contamination and Council as determining authority can be satisfied that clause 4.6 matters are thus satisfied. No conditions of consent are required relating to an unexpected finds protocol as no site works are proposed.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY (BIODIVERSITY AND CONSERVATION) 2021

Chapter 4 Koala Habitat Protection 2021

The land has not been assessed by a suitably qualified and experience person as being highly suitable koala habitat, and Council has no record of the presence of koalas on the site currently or within the previous 18 years. The proposal does not include the removal of native vegetation. As such, the land is not considered to core koala habitat and consent can be granted for the proposed development in this regard.

2.1.3 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

Subdivision is defined under the Environmental Planning and Assessment Act, 1979 as:

6.2 Meaning of “subdivision” of land

(1) *For the purposes of this Act, **subdivision** of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected—*

(a) by conveyance, transfer or partition, or

(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.

(2) *Without limiting subsection (1), **subdivision** of land includes the procuring of the registration in the office of the Registrar-General of—*

(a) a plan of subdivision within the meaning of section 195 of the Conveyancing Act 1919, or

(b) a strata plan or a strata plan of subdivision within the meaning of the Strata Schemes Development Act 2015.

Note—

*The definition of **plan of subdivision** in section 195 of the Conveyancing Act 1919 extends to plans of subdivision for lease purposes (within the meaning of section 23H of that Act) and to various kinds of plan under the Community Land Development Act 2021.*

(3) *However, **subdivision** of land does not include—*

(a) a lease (of any duration) of a building or part of a building, or

(b) the opening of a public road, or the dedication of land as a public road, by the Crown, a statutory body representing the Crown or a council, or

(c) the acquisition of land, by agreement or compulsory process, under a provision of an Act (including a Commonwealth Act) that authorises the acquisition of land by compulsory process, or

(d) a division of land effected by means of a transaction referred to in section 23G of the Conveyancing Act 1919, or

(e) the procuring of the registration in the office of the Registrar-General of—

(i) a plan of consolidation, a plan of identification or a miscellaneous plan within the meaning of section 195 of the Conveyancing Act 1919, or

(ii) a strata plan of consolidation or a building alteration plan within the meaning of the Strata Schemes Development Act 2015.

A boundary adjustment is considered subdivision which is permissible with consent on accordance with Clause 2.6(1) of WLEP 2009.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies.

The zoning map identifies the land as being zoned part R2 Low Density Residential and Part C4 – Environmental Living.

Clause 2.3 – Zone objectives and land use table

The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The objectives of the C4 zone are as follows:

- *provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*

The proposal is satisfactory with regard to the above objectives.

The land use table permits the following uses in the R2 zone:

Attached dwellings; Bed and breakfast accommodation; Boat launching ramps; Centre-based child care facilities; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Tank-based aquaculture; Veterinary hospitals.

The land use table permits the following uses in the C4 zone:

Bed and breakfast accommodation; Business identification signs; Community facilities; Dwelling houses; Environmental facilities; Environmental protection works; Home-based child care; Home businesses; Home industries; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Roads; Secondary dwellings; Tank-based aquaculture.

The proposal is categorised as a subdivision which, although not listed as a permissible use in the relevant Land Use Tables, is permissible with development consent under Clause 2.6 of the WLEP 2009.

Clause 2.6 Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Notes—

- 1 If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
 - 2 Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is complying development.
- (2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

Part 4 Principal development standards

Clause 4.1 Minimum subdivision lot size

R2 Low Density Residential zone – 449m²

C4 Environmental Living zone – 3,999m²

The proposed boundary adjustment will achieve the minimum lot sizes for the respective zones.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewerage services.

Clause 7.5 Acid Sulfate Soils

The Acid Sulfate Soils Map does not indicate the site as being affected by acid sulfate soils.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

Not applicable

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant chapters of WDCP 2009. See attachment 2. No variations are sought.

2.4 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN

Wollongong City-Wide Development Plan - City Wide

The Wollongong City-Wide Development Contributions Plan applies to the subject property. This Plan levies a contribution based on the estimated cost of development.

The proposed cost of development is less than \$100,000 - contributions do not apply.

2.5 SECTION 4.15(1)(A) (IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.6 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

Environmental Planning and Assessment Regulation 2021

6 Determination of BASIX development

Not applicable

61 Additional matters that consent authority must consider

Not applicable

62 Consideration of fire safety

Not applicable

63 Considerations for erection of temporary structures

Not applicable

66A Council-related development applications—the Act, s 4.16(11)

A Council-related development application must not be determined by the consent authority unless:

- (a) the Council has adopted a conflict of interest policy, and
- (b) the Council considers the policy in determining the application.

A conflict of interest policy means a policy that—

- (a) specifies how a council will manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority, and
- (b) complies with the Council-related Development Application Conflict of Interest Guidelines published by the Department and available on the NSW planning portal, as in force from time to time.

Council adopted a conflict of interest policy (Cop) on 31 July 2023. This report considers the CoIP and guidelines.

The management control in the CoIP requires that: Council-related applications and approvals to modify development consents will be referred to the Wollongong Local Planning Panel for determination, as required by Schedule 2 of the Local Planning Panel Directions – Council is not the consent authority. The application is referred to the Wollongong Local Planning Panel for determination.

The guidelines set out that the requirements for the CoIP required under section 66A assists councils in meeting these requirements by providing a sample policy and management strategy statement that can be used as a template when developing their policies and provides general information and guidance about the policy.

Council's CoIP complies with these guidelines.

2.7 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

There are not expected to be adverse environmental impacts on either the natural or built environments or any adverse social or economic impacts in the locality. This is demonstrated through the following:

- The proposal is satisfactory regarding the applicable planning controls as detailed in the body of this report.
- The submission in support does not preclude the development.

- Internal and external referrals are satisfactory subject to appropriate conditions of consent.

There are no physical impacts arising from the proposal on surrounding development. The proposal has been assessed with regard to the relevant controls for the land, and site constraints and is considered to be compatible with the locality.

2.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have any negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

2.9 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

One submission in support was received.

3 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to have any unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate in the land use zoning and will not alter the character of the area. No submissions were made following notification and the use is considered to be satisfactory having regard to public interest considerations.

4 CONCLUSION

This application has been assessed as satisfactory having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies. The proposed development is permissible with consent and has regard to the objectives of the zone.

One submission of support was received, internal referrals are satisfactory, and the NSW Rural Fire Service have provided General Terms of Approval. On 26 February 2010 the land was rezoned to E4 Environmental Living (now C4) and reclassified as Operational Land. On 22 July 2013 Council resolved to authorise the sale of the land. This resolution remains in force.

It is considered that the proposed development has considered all of the relevant statutory requirements and is unlikely to result in significant adverse impacts on the character or amenity of the surrounding area.

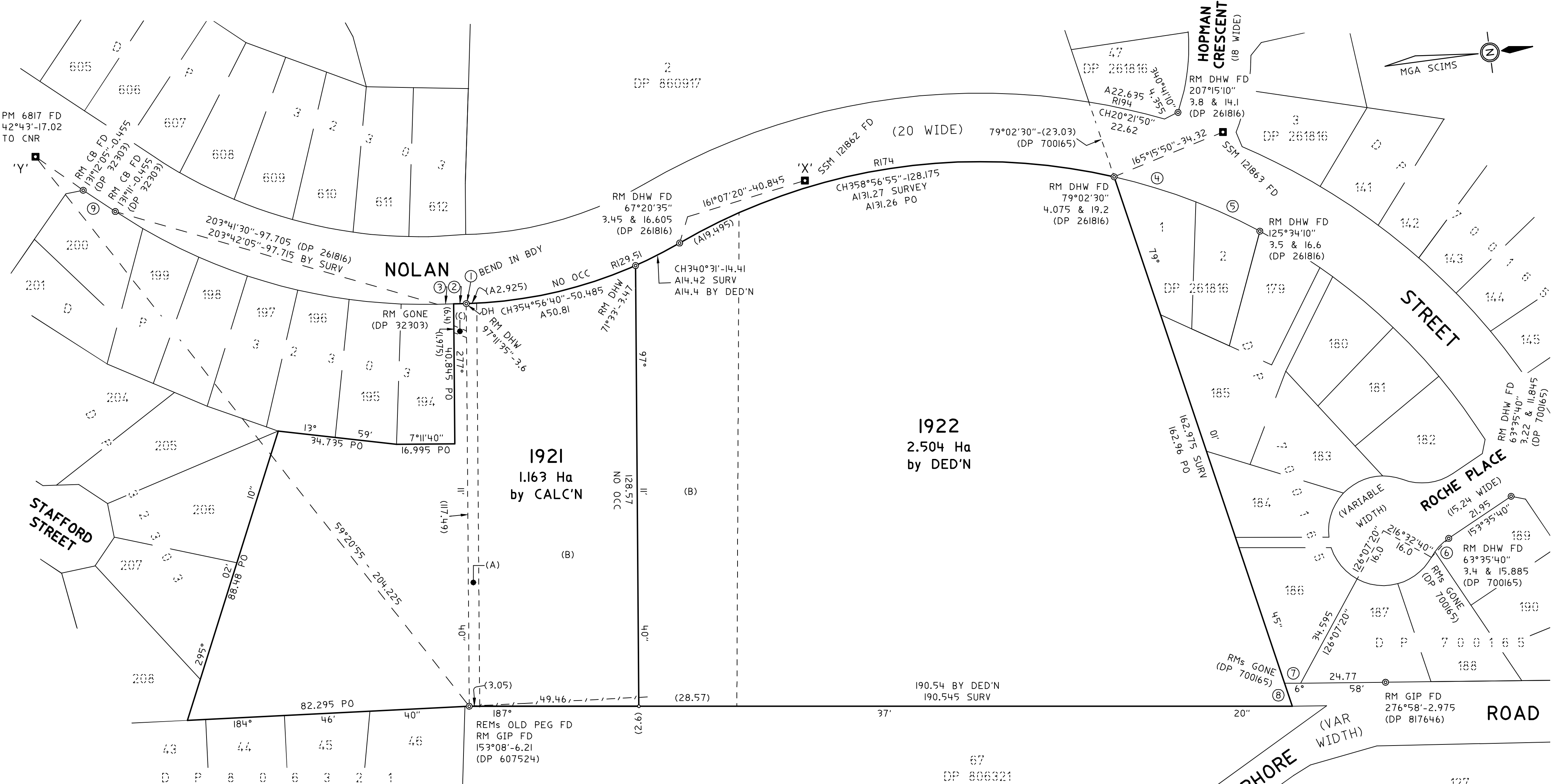
There being no outstanding issues, approval of the application is recommended.

RECOMMENDATION

It is recommended that the development application be approved subject to appropriate conditions of consent.

ATTACHMENTS

- 1 Plans
- 2 WDCP Assessment
- 3 Draft conditions of consent



SCIMS CONNECTIONS TABLE			
'X'	'Y'	MGA GND	189°24'04"-224.490
SSM 121862	- PM 6817	BY SURVEY	189°24'04"-224.492
PM 6817	- SSM 121863	MGA GND	6°25'46"-346.350
		BY SURVEY	6°25'56"-346.356
SSM 121863	- SSM 121862	MGA GND	180°59'15"-122.715
		BY SURVEY	180°59'45"-122.717

SHORT LINE/ARC TABLE				
NUMBER	BEARING	DISTANCE	ARC LENGTH	RADIUS
1	6°11'40"	0.125	-	-
2	6°11'40"	3.66 PO	-	-
3	6°11'40"	4.805	-	-
4	204°42'10"	24.98	25	174
5	212°11'30"	20.49	20.5	174
6	140°04'	7.485	-	-
7	186°58'	4.66	-	-
8	79°01'20"	(7.035)	-	-
9	41°12'05"	11.163 BY DP 32303 11.22 BY SURVEY	-	-

- (A) EASEMENT FOR TRANSMISSION LINE 3.05 WIDE (BK 2554 No 611)
- (B) EASEMENT FOR TRANSMISSION VARIABLE WIDTH (BK 2882 No 227)
- (C) EASEMENT TO DRAIN WATER 1.83 WIDE (K358377 & DP 32303)

COORDINATE SCHEDULE - SURVEYING AND SPATIAL INFORMATION REGULATION 2017 (CLAUSE 70)						
MGA DATUM: GDA2020 - COMBINED SCALE FACTOR 1.000073						
MARK	EASTING	NORTHING	CLASS	PU	METHOD	STATE
PM 6817	301959.930	6183365.721	B	0.02	SCIMS	FOUND
SSM 121862	301996.602	6183587.212	B	0.02	SCIMS	FOUND
SSM 121863	301998.717	6183709.918	B	0.02	SCIMS	FOUND
SOURCE: MGA CO-ORDINATES ADOPTED FROM SCIMS 27/10/2022						

Surveyor:	BENJAMIN P. SRECKOVIC	LGA:	WOLLONGONG	Registered	
	of Maker ENG	Locality:	BERKELEY		
Date of Survey:	08/11/2022	Reduction Ratio 1 : 800			
Surveyor's Ref:	MKR00390	Lengths are in metres.			
PLAN OF SUBDIVISION OF LOT 192 DP 700165 & LOT 193 DP 32303					

REF: 5664BF

Date: 19/10/22

Valid To: 19/10/23



BUSHFIRE HAZARD ASSESSMENT

PROPOSED BOUNDARY ADJUSTMENT

1 NOLAN STREET, BERKLEY, NSW

LGA: Wollongong

Lot 193 DP 32303 and Lot 192 DP 700165

Applicant: Sonja and Ronald Arnts

HARRIS ENVIRONMENTAL CONSULTING

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Version Control

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1.0	MV	DA	18/10/2022	Complete

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DISCLAIMER

The recommendations provided in the summary of this report are a result of the analysis of the proposal in relation to the requirements of Planning for Bushfire Protection 2019. Utmost care has been taken in the preparation of this report however there is no guarantee of human error. The intention of this report is to address the submission requirements for Development Applications on bushfire prone land. There is no implied assurance or guarantee the summary conditions will be accepted in the final consent and there is no way Harris Environmental Consulting is liable for any financial losses incurred should the recommendations in this report not be accepted in the final conditions of consent. This bushfire assessment provides a risk assessment of the bushfire hazard as outlined in the PBP 2019 and AS3959 2018. It does not provide protection against any damages or losses resulting from a bushfire event.

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EXECUTIVE SUMMARY

This Bushfire Hazard Assessment is for the proposed Boundary Adjustment at 1 Nolan Street, Berkley, NSW involving two lots.

The proposal will result in:

- Lot 192: 21,441 m² in size
- Lot 193: 15,463 m² in size with existing dwelling

The proposed development includes a boundary adjustment only. No built development is proposed in this Development Application. The existing dwelling is exposed to **BAL 12.5** and **BAL LOW** as specified by PBP 2019.

This development proposal is Integrated Development under section 100B of the Rural Fires Act (RF Act). It requires a Bushfire Safety Authority from the Rural Fire Service (RFS) before Council can provide consent.

Both Lot 192 and 193 are located on Nolan Street. This is a two-wheel drive, all-weather roads. The capacity of roads surfaces and bridges is sufficient to carry fully loaded firefighting vehicles.

The existing dwelling on Lot 193 has existing access and no proposed changes to access are included.

1. PROPOSAL

The owners of 1 Nolan Street, Berkley, NSW, propose a boundary adjustment on lot 193 DP 32303. The boundary adjustment does not include any additional development. An existing primary dwelling is located on lot 193.

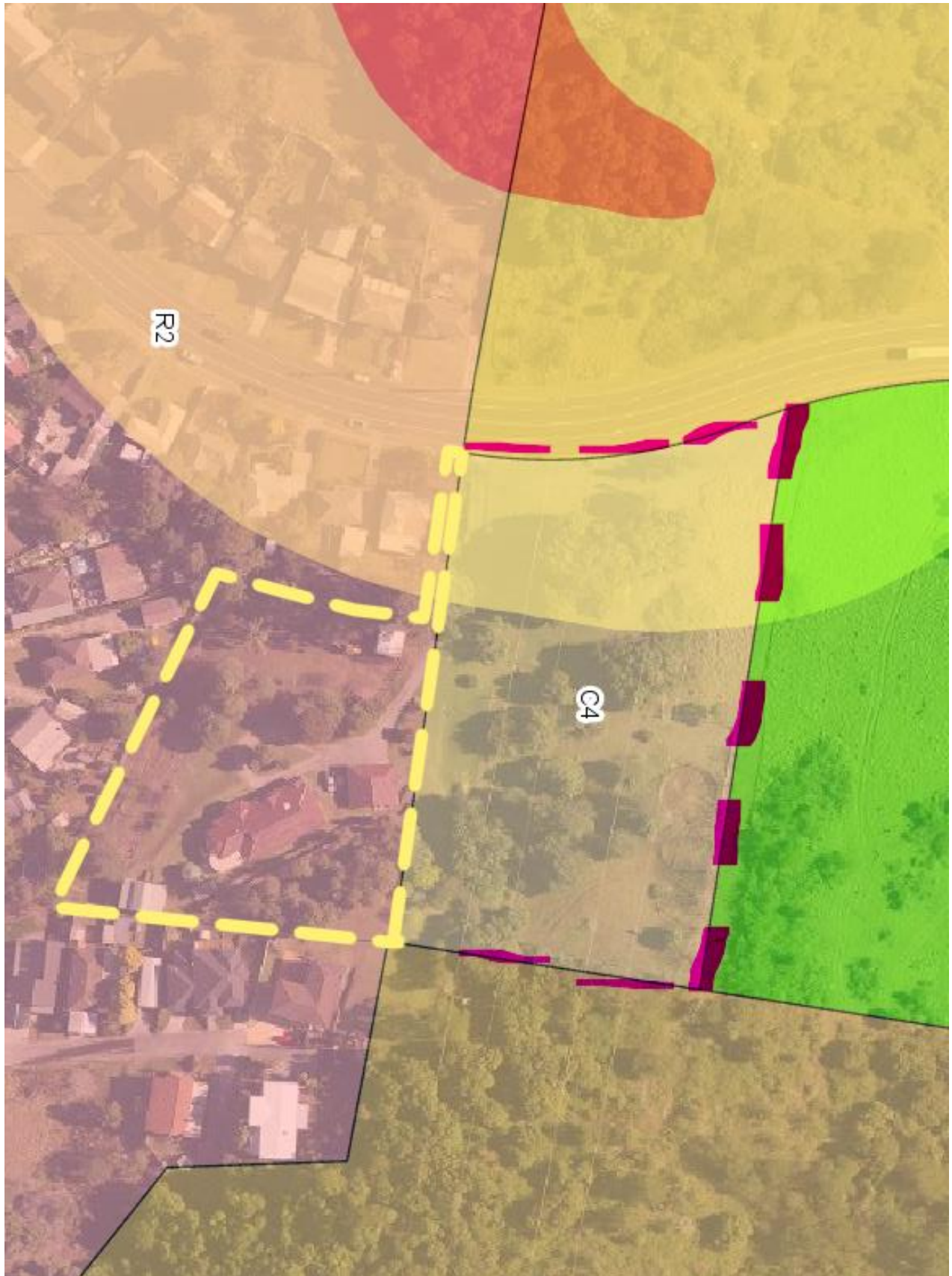
Harris Environmental Consulting was commissioned to provide this bushfire assessment. The assessment confirms the subject lots are mapped Bushfire Prone.

Figure 1 shows a close-up proposed boundary adjustment plan, and Figure 2 provides the plan.

FIGURE 1 CLOSE UP OF PROPOSED BOUNDARY ADJUSTMENT PLAN



FIGURE 2 PROPOSED BOUNDARY ADJUSTMENT PLAN



2. ASSESSMENT REQUIREMENTS

2.1 Regulation

As this proposal involves a boundary adjustment it requires Integrated DA approval. This involves obtaining a Bushfire Safety Authority (BFSA) from the NSW Rural Fire Services (RFS).

Integrated development applications under section 100B of the *Rural Fires Act* (RF Act) and section 4.46 of the *EP&A Act* require the following detailed information:

- Description of property.
- Classification of vegetation out to 140 m from the development.
- An assessment of the effective slope to a distance of 100 m.
- Identification of any significant environmental features.
- Details of threatened species, populations, endangered communities and critical habitat known to the applicant.
- Details of Aboriginal heritage known to the applicant; and
- A bushfire assessment that complies with the relevant requirements of the PBP (2019) and AS 3959:2018.

These relevant specific objectives for subdivision in Chapter 5 of the PBP (2019) include:

- Minimise perimeters of the subdivision exposed to the bush fire hazard;
- Minimise bushland corridors that permit the passage of bush fire;
- Provide for the siting of future dwellings away from ridge tops and steep slopes;
- Ensure that separation distances (APZ) between a bush fire hazard and future dwellings enable conformity with deemed to satisfy requirements of the BCA;
- Ensure the ongoing maintenance of asset protection zones;
- Provide clear and ready access from all properties to the public road for residents and emergency services; and
- Ensure the provision of adequate supply of water and other services to facilitate effective firefighting.
- Ensure any vegetation planted around the house is a suitable distance away so these plants do not come into physical contact with the house as they mature; and
- Incorporate suitable impervious area surrounding the house, including courtyards, paths and driveways.

3. SITE LOCATION

The subject lots are located in a rural setting, as shown in Figure 3. Figure 4 provides a broad scale aerial view of the subject site.

FIGURE 3 LOCATION OF SUBJECT LOT

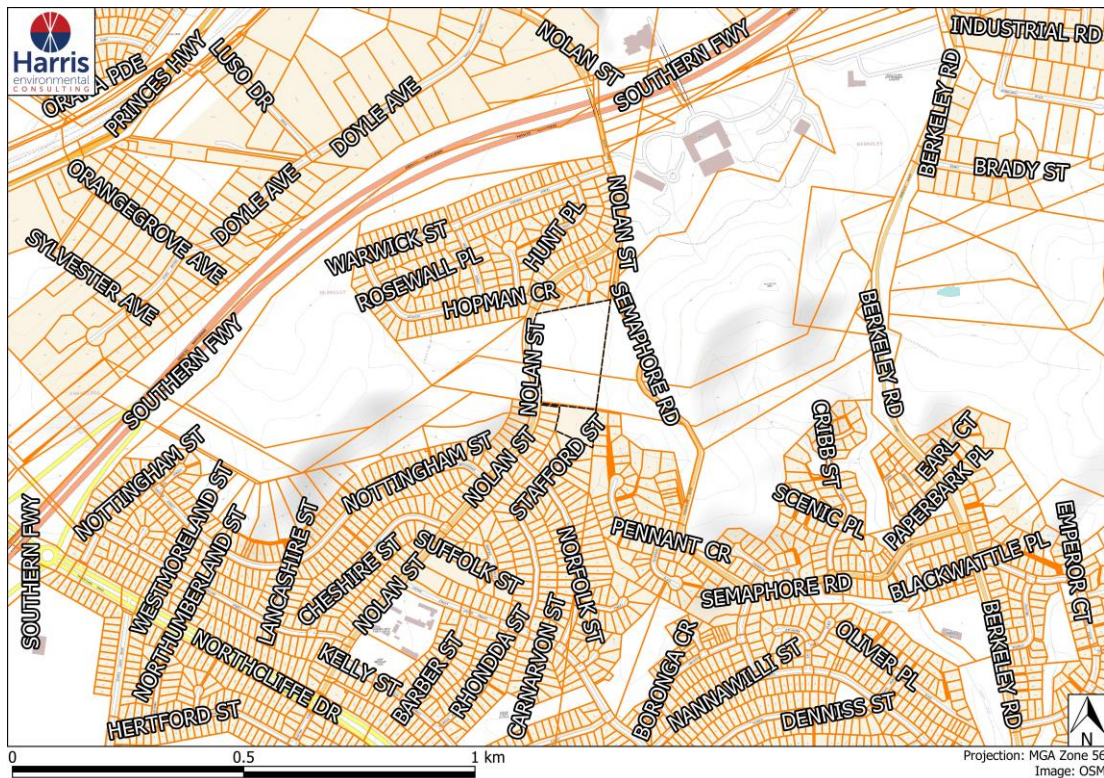


Figure 4 Extended Aerial view of the subject lot



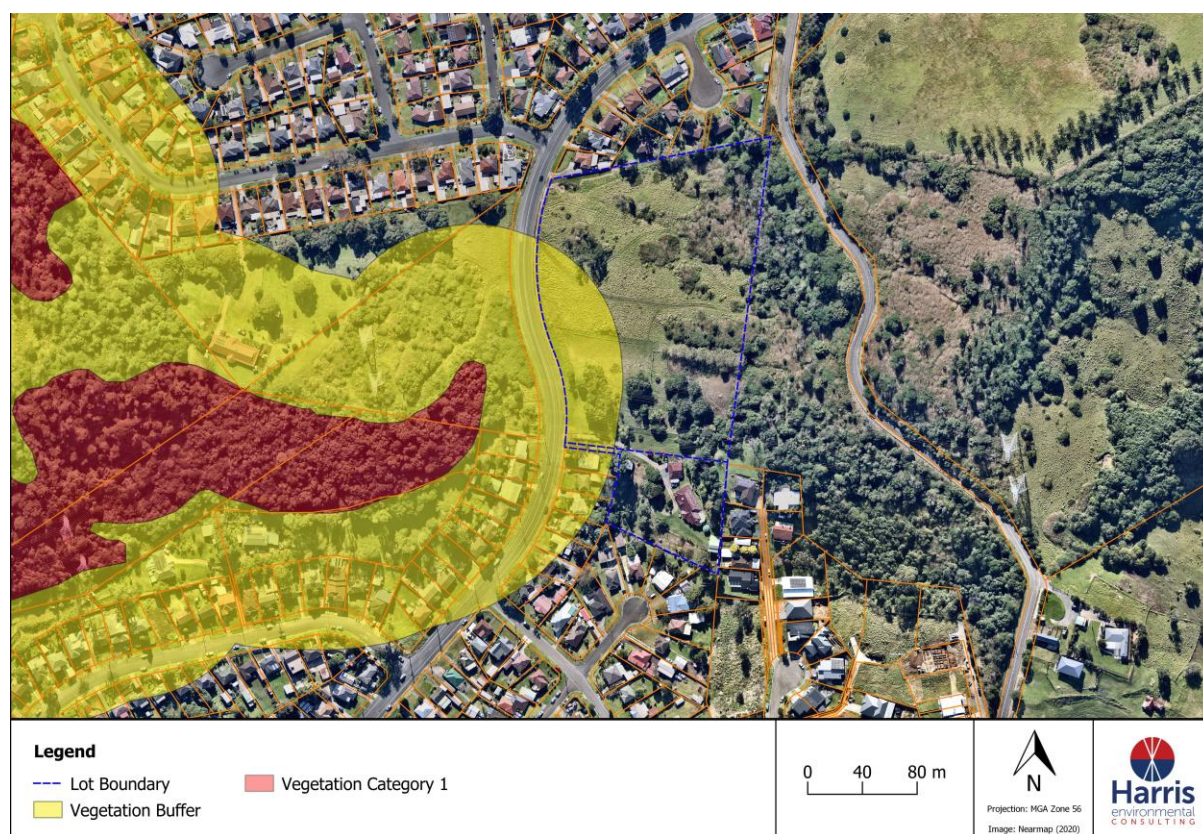
4. PLANNING LAYERS

The following planning layers are described in Table 1 and shown in the Figures below:

TABLE 1 PLANNING LAYERS

MAP	FIGURE	DESCRIPTION
Bushfire Prone Land Map	5	The subject lot is mapped "Vegetation Buffer 100m".
LEP Zone Map	6	The subject lot is zoned as "R2 Low Density Residential", "E4 Environmental Living" and "RE1 Public Recreation".
Vegetation Mapping Southeast NSW Native Vegetation Classification and Mapping SVI VIS ID 2230	7	The vegetation in the subject lot has been mapped as "Dry Rainforest", "Dry Rainforest/Coastal Valley Grassy Woodland" and "Weeds & Exotics" (DPIE, 2010)
Biodiversity Values Map	8	There is no land within the subject lots identified as of 26/4/22 as having high biodiversity value under the Biodiversity Offsets Scheme under the <i>Biodiversity Conservation Act 2016</i> .

FIGURE 5 BUSHFIRE PRONE MAP



NSW Bushfire Prone Land Map

FIGURE 6 LEP ZONE MAP

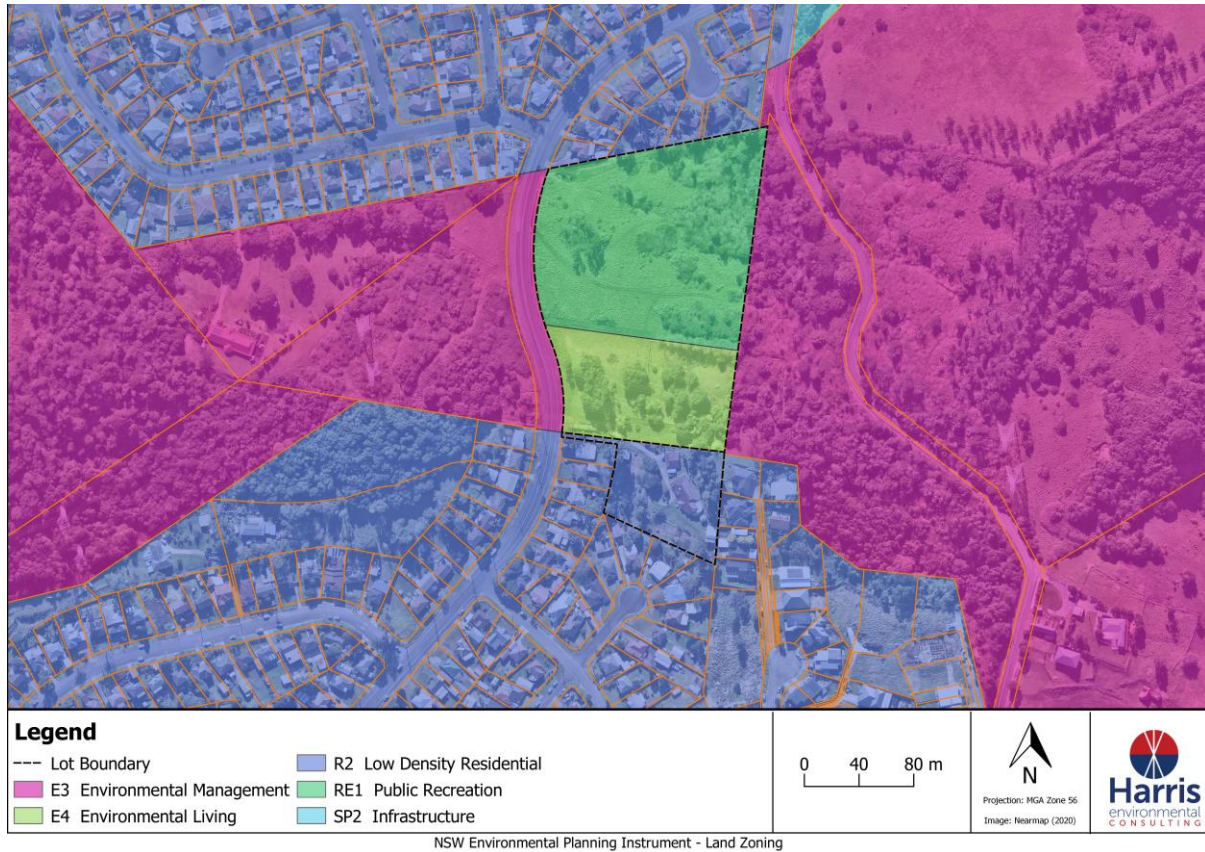
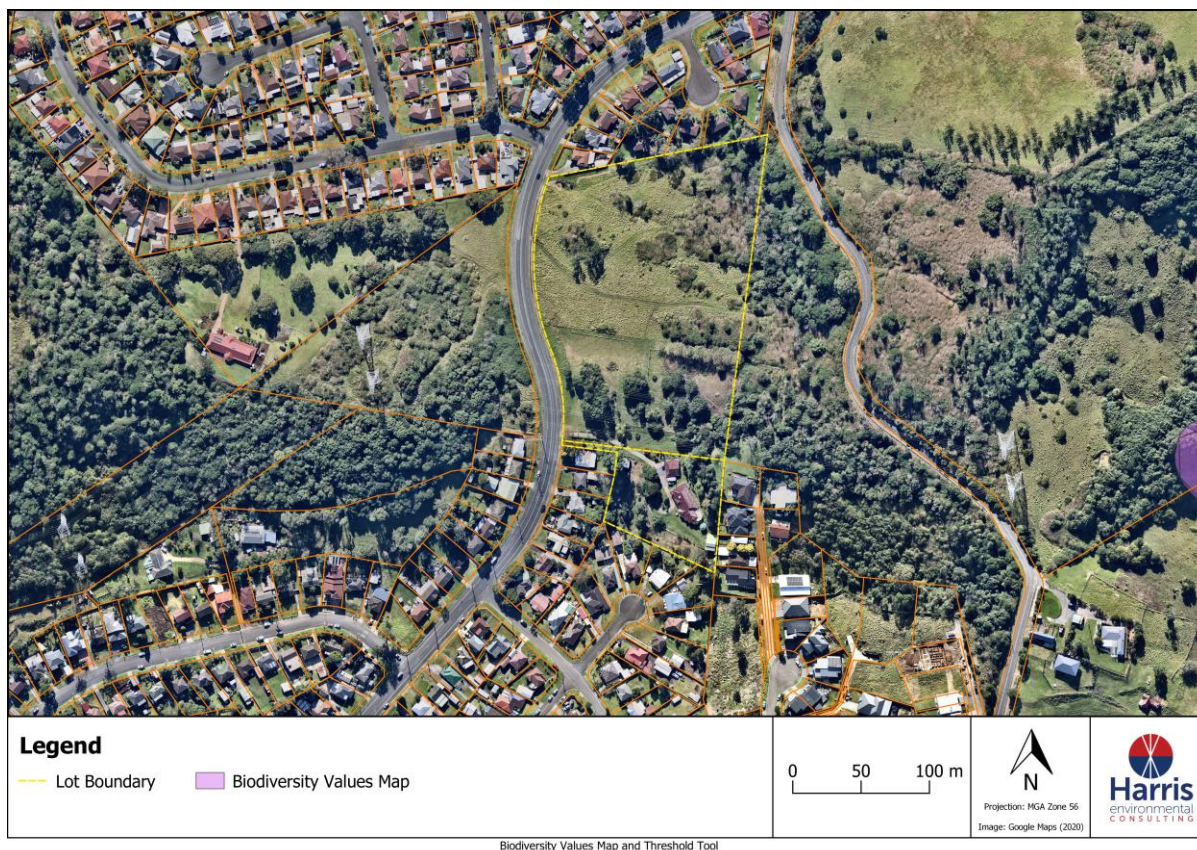


FIGURE 7 VEGETATION MAPPING



FIGURE 8 BIODIVERSITY VALUES MAP



5. SITE DESCRIPTION

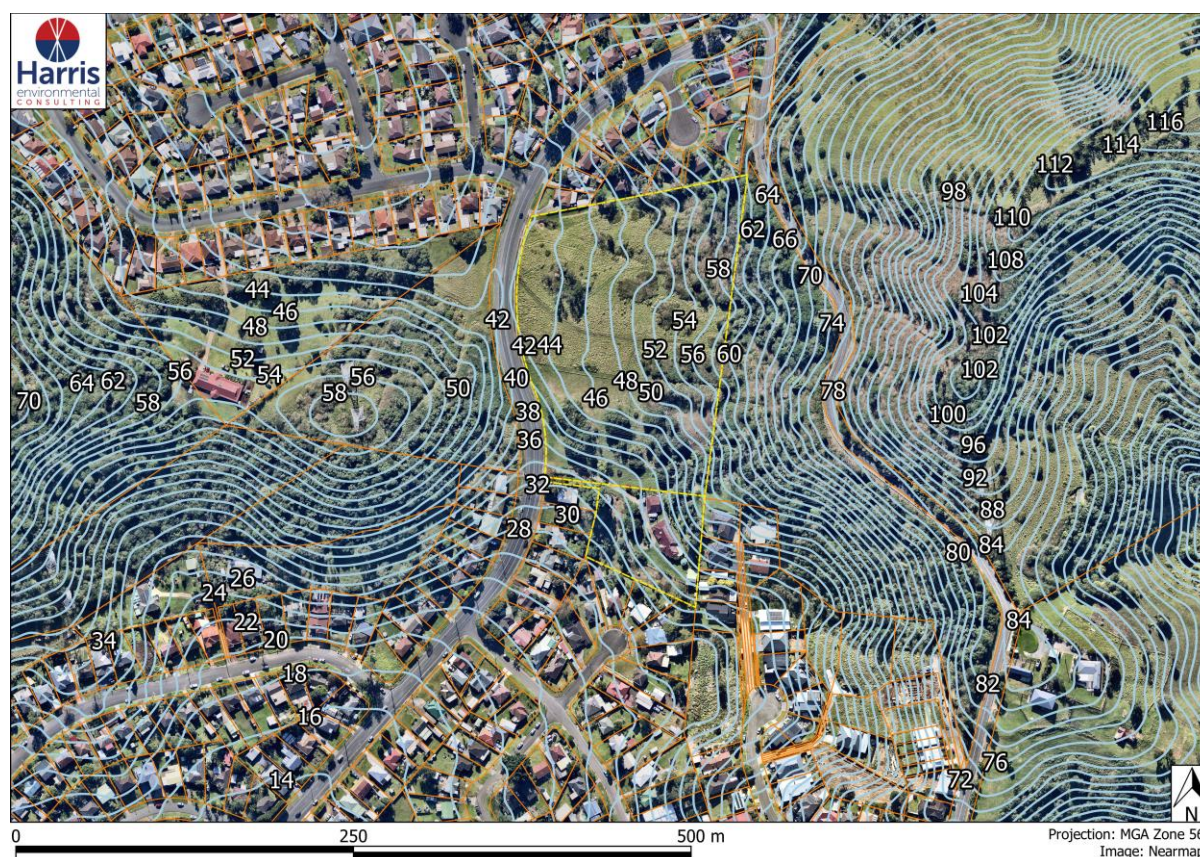
5.1 Slope and aspect of the site within 100 m

The slope that would most significantly influence fire behaviour was determined over a distance of 100m out from the proposal. This assessment used 2 m contour intervals.

The Australian Standard AS3959:2018 identifies that the slope of the land under the classified vegetation is much more important than the slope between the site and the edge of the classified vegetation.

Figure 9 shows the topography of the land upsloping on the northeastern and northwestern elevations.

FIGURE 9 SLOPE



5.2 Identification of significant environmental features

The owner has not provided any studies of environmental significance, and no additional management of vegetation is required.

5.3 Vegetation formation within 140 m of proposal

Figure 10 shows the managed and unmanaged land within 140 m of the proposed boundary adjustment.

The vegetation formations are described below and summarised in Table 2.

The vegetation is mapped as “Dry Rainforest “, “Dry Rainforest/Coastal Valley Grassy Woodland” and “Weeds & Exotics” (Illawarra Compiled Plant Community Type Map, 2016. VIS_ID 4678) and has been classified as ‘Forest’ in accordance with the *Planning for Bush Fire Protection 2019*.

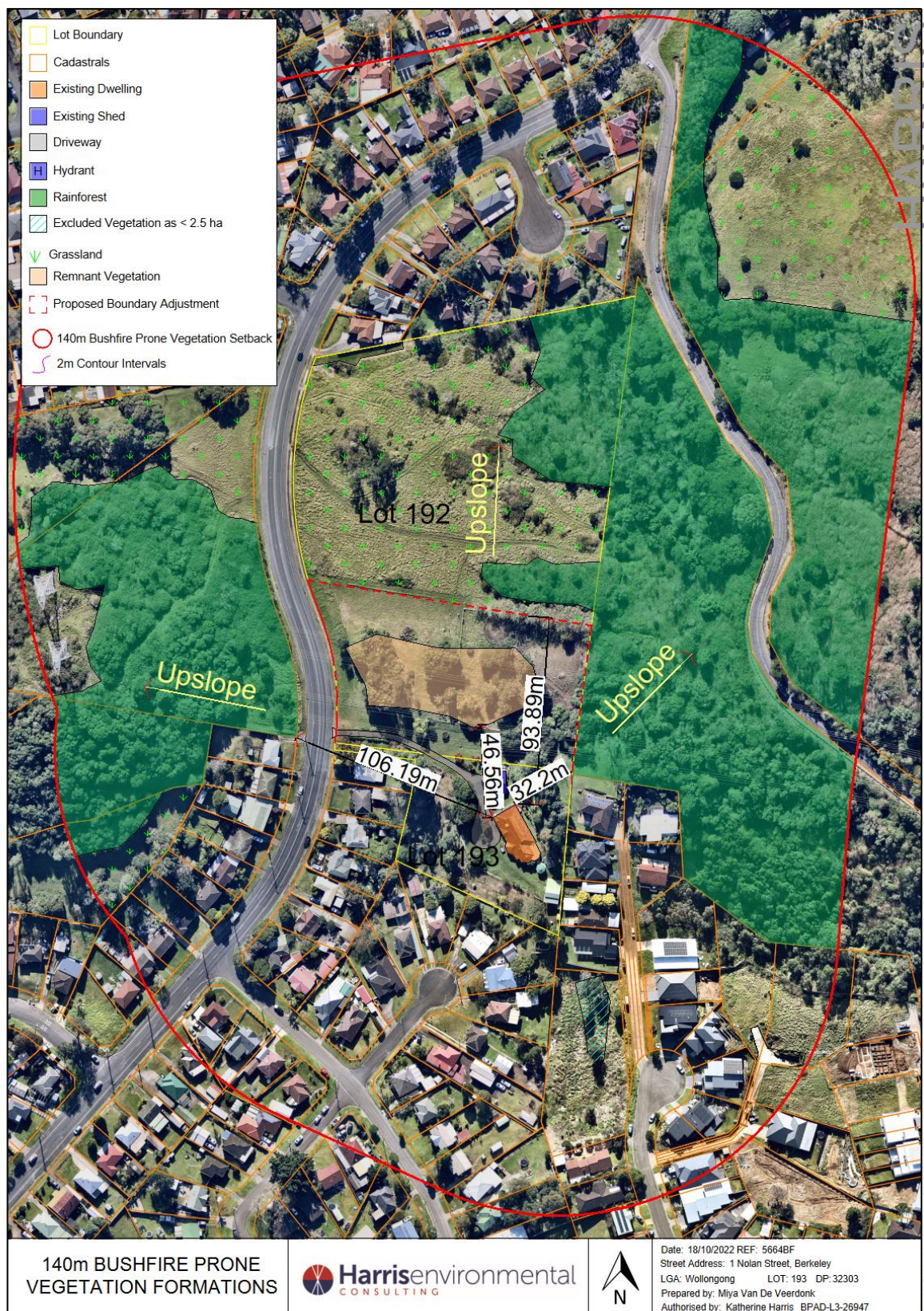
The small cluster of trees to the northern elevation have has been classified as ‘Remnant Vegetation’ in accordance with the Planning for Bush Fire Protection 2019.

The remaining unmanaged vegetation has been classified as ‘Grassland’.

TABLE 2 PREDOMINATE VEGETATION CLASSIFICATION

	Vegetation Formation	Effective Slope	Distance from façade to hazard
North-East	Rainforest	Upslope	32.2 m
North	Remnant Vegetation & Grassland	Upslope	46.56 m & >50 m
North-West	Rainforest	Upslope	>100 m

FIGURE 10 BUSHFIRE PRONE VEGETATION WITHIN 140 M LOT 512



6. BUSHFIRE THREAT ASSESSMENT

6.1 Asset Protection Zones (APZ)

Table A1.12.5 PBP 2019 has been used to determine the width of the required APZ for the proposed development using the vegetation and slope data identified.

This location is within the 100 Fire Danger Index (FDI).

Table 3 demonstrates how the existing dwelling meets BAL 12.5 and BAL LOW, and therefore can comply with less than BAL 29. The vacant lot can provide building envelopes BAL 29 or less.

TABLE 3 APZ AND BAL DETERMINATION

	Vegetation Formation	Effective Slope	Distance from façade to hazard	BAL 12.5 required APZ	BAL Demonstrated
North-East	Rainforest	Upslope	32.2 m	23 -< 100 m	BAL 12.5
North	Remnant Vegetation & Grassland	Upslope	46.56 m & >50 m	23 -< 100 m & 22 -< 50 m	BAL 12.5 & BAL LOW
North-West	Rainforest	Upslope	>100 m	23 -< 100 m	BAL 12.5

6.2 Relevant Construction Standard

The Australian Standard AS3959:2018 is the enabling standard that addresses the performance requirements of both parts 2.3.4 and Part GF5.1 of the Building Code of Australia for the construction of the Class 1, 2 and Class 3 buildings within a designated Bushfire Prone Area.

The following was determined for this site:

Relevant fire danger index.....FDI 100
Flame temperature1090 K

The proposed development includes a boundary adjustment only. No built development is proposed in this Development Application. The existing dwelling is exposed to **BAL 12.5** and **BAL LOW**. The vacant lot can provide building envelopes BAL 29 or less.

6.3 Safe Operational Access

The PBP (2019) requires the provision of safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

Both Lot 192 and 193 are located on Nolan Street. This is a two-wheel drive, all-weather roads. The capacity of roads surfaces and bridges is sufficient to carry fully loaded firefighting vehicles.

The existing dwelling on lot 193 has existing access and no proposed changes to access are included.

7. SUMMARY

The proposed development includes a boundary adjustment only. No built development is proposed in this Development Application. The existing dwelling is exposed to **BAL 12.5** and **BAL LOW**. The vacant lot can provide building envelopes BAL 29 or less.

Both Lot 192 and 193 are located on Nolan Street. This is a two-wheel drive, all-weather roads. The capacity of roads surfaces and bridges is sufficient to carry fully loaded firefighting vehicles.

The existing dwelling on lot 193 has existing access and no proposed changes to access are included..

9. REFERENCES

Keith, D. (2004) "*Ocean Shores to Desert Dunes*" Department of Environment and Conservation, Sydney

National Association of Steel-Framed Housing (2014) *NASH Standard Steel Framed Construction in Bushfire Areas*

NSW Department of Planning and Environment (2020). Planning Portal. Accessed at: <https://www.planningportal.nsw.gov.au/>

NSW Office of Environment and Heritage (2020). Biodiversity Value Map. Accessed at: <https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap>

NSW Rural Fire Service (2019) *Planning for Bushfire Protection. A Guide for Councils, Planners, Fire Authorities and Developers. November 2019*

Standards Australia (2018) *AS3959, Construction of buildings in bushfire-prone areas.*

Tozer MG, Turner K, Keith DA, Tindall D, Pennay C, Simpson C, MacKenzie B, Beukers P, Cox S (2010). *Native Vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands.* Cunninghamia 11:359-406.

ATTACHMENT 2 - WDCP 2009 Assessment

CHAPTER B2 – RESIDENTIAL SUBDIVISION

<i>Controls/objectives</i>	<i>Comment</i>	<i>Compliance</i>
<u>6.1 Lot layout – aspect and solar access</u>	Not applicable	N/A
<u>6.2 Lot Size</u> 1. The minimum subdivision allotment size requirement for a particular parcel of land shall be in accordance with the provisions of Wollongong LEP 2009 and the accompany Lot Size Map, relevant to the land. 2. Irregular shaped lots shall have a minimum allotment size of 485m ² . 3. Regular shaped corner lots shall have a minimum allotment size of 500m ² as per Table 1 below and as illustrated in Figure 1 below. 4. Regular shaped battle axe allotments within residential zones shall have a minimum allotment size of 550m ² , excluding the battle axe access handle. Irregular shaped battle – axe lots shall have a minimum allotment size of 600m ² (excluding the access handle).	The boundary adjustment results in two adjusted allotments that comply with the relevant minimum lot size. The boundary adjustment results in lots that exceed the minimum lot size. Not applicable. The lot size proposed will exceeded the minimum lot size requirement..	Yes
<u>6.3 Lot width and depth</u> Various controls	The boundary adjustment will result in allotments that comply with the relevant minimum lot size and widths.	Yes
<u>6.4 Battle-axe lots</u> Various controls	Lot 193 currently exists as a battle-axe lot, however the boundary adjustment will result in the adjusted allotment having a street frontage greater than the access handle. However, the proposed development will not modify the existing access arrangements to the dwelling on Lot 193.	Yes
<u>6.5 Building Envelopes</u> Various controls	Not applicable	N/A
<u>6.6 Superlots</u> Various controls	Not applicable	Yes
<u>6.7 Existing Easements</u> 1. A Development Application shall include the proposed use of all land under easements.	Noted.	Yes

2. Water management can be carried out in electrical easements	Noted.	
3. Landscape planting (low rise) can be established in electrical easements while allowing for necessary service access.	There is no new landscaping or modification of existing landscaping proposed.	
4. More significant planting can happen on the edge of electrical easements to create a visual buffer to electrical infrastructure	There is no new landscaping or modification of existing landscaping proposed.	
5. Recreational uses and open space can be established within easements.	The area affected by the existing easement will be used for private horse agistment.	
6. Easements can be used for roads, pedestrian and bicycle routes subject to approval by the easement authority.		
7. Consultation with the asset owner (eg. TransGrid, Endeavour or Jemena) is required to ensure that buffers, road levels and access are adequate.	Noted.	
	Not required	

CHAPTER E16: BUSHFIRE MANAGEMENT

This chapter of the DCP provides guidance and controls for all development upon land classified as being bush fire prone within the Wollongong LGA.

In accordance with the DCP Chapter, a Bushfire Hazard Assessment has been prepared by Harris Environmental and submitted with the Development Application. The proposed boundary adjustment was assessed in accordance with Section 4.14 of the *Environmental Planning and Assessment Act 1979* and 'Planning for Bush Fire Protection' (RFS 2019). The Bushfire Hazard Assessment concluded that:

- *The proposed development includes a boundary adjustment only. No built development is proposed in this Development Application. The existing dwelling is exposed to **BAL 12.5** and **BAL LOW**. The vacant lot can provide building envelopes BAL 29 or less.*
- *Both Lot 192 and 193 are located on Nolan Street. This is a two-wheel drive, all-weather roads. The capacity of roads surfaces and bridges is sufficient to carry fully loaded firefighting vehicles.*
- *The existing dwelling on lot 193 has existing access and no proposed changes to access are included.*

The proposal has been referred to NSW Rural Fire Service who have provided General Terms of Approval. Council's Bushfire Officer has also provided appropriate conditions of consent.

Therefore the proposed boundary adjustment is considered to be consistent with the development controls within Chapter E16.

CHAPTER E20: CONTAMINATED LAND MANAGEMENT

This chapter outlines Council's procedures in dealing with the assessment of known or potentially contaminated land and the remediation and subsequent validation of Contaminated land.

The proposed boundary adjustment has been assessed against the Chapter 4 Remediation of Land in State Environmental Planning Policy (Resilience and Hazards) 2021. The proposed development involves an administrative change to the boundaries of the subject sites, the proposed development does not involve a change of use of the land.

Council's Environment Officer has provided a satisfactory referral and the proposed boundary adjustment is considered to be consistent with the development controls within Chapter E20.

Attachment 3 – Draft Conditions

NOTICE OF DETERMINATION OF INTEGRATED DEVELOPMENT APPLICATION

Issued under Section 4.16 of the Environmental Planning and Assessment Act 1979

The development application described below has been determined:

Proposal	Subdivision - boundary adjustment
Location	Nolan Street Park Lot 193 DP 32303 1 Nolan Street, BERKELEY NSW 2506 & Lot 192 DP 700165 Nolan Street Park, Nolan Street, BERKELEY NSW 2506

Consent has been granted subject to the following conditions:

The development proposed is Integrated Development and approval is required from the approval bodies listed below:

NSW Rural Fire Service (RFS)

Pursuant to s100B – authorisation under the Rural Fires Act 1997 – NSW Rural Fire Service - General Terms of Approval issued by the NSW Rural Fire Service dated 8 January 2024 as attached shall form part of this Notice of Determination

Conditions imposed by Council as part of this Integrated Development Consent are:

1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No	Revision No	Plan Title	Drawn By	Dated
MKR00390		Plan of Subdivision of Lot 192 DP 700165 & Lot 193 DP 32303	Benjamin P. Sreckovic	08.11.2022

Document Title	Version No	Prepared By	Dated
Bushfire Hazard Assessment Ref. 5664BF	1.0	Harris Environmental Consulting	19.10.2022

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason:

To ensure all parties are aware of the approved plans and supporting documentation.

Before the Issue of a Construction Certificate

2. Bush Fire Attack Level (BAL)

The existing dwelling on proposed lot 1921 must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor

areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

Details shall be reflected on the Subdivision Works Certificate plans and supporting documentation for the endorsement of the Principal Certifier prior to the issue of the Construction Certificate.

Reason:

To satisfy the requirements of the legislation and Australian Standards.

Before the Commencement of Building Work

3. Asset Protection Zones

In perpetuity, the property around the existing dwelling on proposed Lot 1921 shall be managed as an Asset Protection Zone as outlined within Appendix 4 of 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Service's document 'Standards for asset protection zones' for the following distances:

- As an Inner Protection Area (IPA) for a distance of 23m to the North, South and West.
- As an Inner Protection Area (IPA) to the lot boundary to the East.

Reason:

To satisfy the requirements of the legislation.

While Building Work is Being Carried Out

4. Landscaping

Landscaping within the Asset Protection Zone (APZ) is to comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection 2019'.

Reason:

To satisfy the requirements of the legislation.

5. Water and Utilities

Water, electricity and gas to the existing dwelling are to comply with Section 5 of 'Planning for Bush Fire Protection 2019'.

Reason:

To satisfy the requirements of the legislation.

Before the Issue of an Occupation Certificate

6. Bush Fire Compliance Certificate

A Compliance Certificate shall accompany any Subdivision Certificate for Bushfire Protection Measures as have been completed, verifying that the development has been constructed/completed in accordance with the relevant Bush Fire Attack Level (BAL) and Planning for Bushfire Protection requirements of the Development Consent and Subdivision Works Certificate.

Reason:

To satisfy the requirements of the legislation.

Occupation and Ongoing Use

7. Maintenance of Inner Protection Area

The Inner Protection Area must be maintained, at all times as follows:

- There shall be minimal fine fuel at ground level which could be set alight by a bush fire. Leaves and vegetation debris should be removed.
- Use of non combustible ground surfaces such as gravel roads, paved areas, in-ground pools, etc is acceptable.
- Lawn areas shall be maintained low cut and clear.

- Areas under fences, fence posts, gates and trees shall be raked and kept clear of fine fuel.
- Gutters, roofs and roof gullies shall be kept free of leaves and other debris.
- Verandahs, decks, carports, etc shall not be used to store combustible materials and shall be kept free of leaves and other debris.
- Areas within courtyards shall be maintained free of leaves and other debris.
- Climbing species are avoided to walls and pergolas.
- Reticulated or bottle gas services shall be installed and maintained in accordance with AS 1596.
- Gas cylinder relief valves shall be directed away from the building and away from any hazardous materials such as firewood, etc.
- Trees may be retained within the IPA where:
 - tree canopy cover should be less than 15% at maturity;
 - trees at maturity should not touch or overhang the building;
 - lower limbs should be removed up to a height of two (2) metres above the ground;
 - the canopy is discontinuous such that tree canopies should be separated by two (2) to five (5) metres;
 - they are smooth barked species or, if rough barked, shall be maintained free of decorticated bark and other ladder fuels (rough barked species are not encouraged);
 - create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards a building should be provided;
 - shrubs should not be located under trees;
 - shrubs should not form more than 10% ground cover;
 - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
 - no part of a tree shall be closer to a power line than the distances set out in the current edition of "Planning for Bush Fire Protection 2019" and
 - the use of local native plants with features that minimise the extent to which they contribute to the spread of bush fires is encouraged within the above constraints.

Reason:

To comply with legislation and Australian Standards.

Before the Issue of a Subdivision Certificate

8. Existing Easements

All existing easements must be acknowledged on the final subdivision plan.

Reason:

To comply with Council's Development Control Plan.

9. Existing Restriction as to Use

All existing restriction on the use of land must be acknowledged on the final subdivision plan.

Reason:

To comply with Council's Development Control Plan.

10. Encroaching Pipes

A minimum one (1) metre wide easement to drain water shall be created over any encroaching drainage pipes.

For all drainage easements proposed over the subject lots, a Works-As-Executed/survey plan of all stormwater drainage within the site is to be submitted with the Subdivision Certificate Application to confirm this.

Reason:

To comply with Council's Development Control Plan.

11. Encroaching Services

A minimum one (1) metre wide easement for services must be created over any encroaching utility service.

Reason:

To comply with Council's Development Control Plan.

12. 88B Instrument Easements/Restrictions

Any easements or restrictions required by this consent must nominate Wollongong City Council as the authority to vary, modify or release/extinguish the easements or restrictions. The form of the easement(s) or restriction(s) created as a result of this consent must be in accordance with the standard format for easements and restrictions as accepted by NSW Land Registry Services.

Reason:

To comply with Council's Development Control Plan.

13. Final Documentation Required Prior to Issue of Subdivision Certificate

The submission of the following information/documentation to the Principal Certifier, prior to the issue of a Subdivision Certificate:

- a. Completed Subdivision Certificate application form and fees in accordance with Council's fees and charges;
- b. Final plan of Subdivision prepared by a registered surveyor plus four (4) equivalent size paper copies of the plan;
- c. Section 88B Instrument (where applicable) covering all necessary easements and restrictions on the use of any lot within the subdivision;
- d. Original Subdivider/Developer Compliance Certificate pursuant to Section 73 of the Water Board (Corporatisation) Act 1994 from Sydney Water.

Reason:

To satisfy the requirements of the legislation.



NSW RURAL FIRE SERVICE

Wollongong City Council
Locked Bag 8821
WOLLONGONG DC NSW 2500

Your reference: (CNR-56114) DA-2023/434
Our reference: DA20230606002432-CL55-1

ATTENTION: Brad Harris

Date: Monday 8 January 2024

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Boundary adjustment
1 NOLAN ST BERKELEY NSW 2506, 193//DP32303

I refer to your correspondence dated 21/11/2023 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

General Conditions

1. The development proposal is to generally comply with the following plans/documents except where amended by the conditions of this Bush Fire Safety Authority.

- The plan of subdivision prepared by B.P. Sreckovic, ref MKR00390, dated 08/11/2022
- The bush fire assessment prepared by Kate Harris, ref 56648F, dated 18/10/2022

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact. To achieve this, the following conditions shall apply:

2. At the issue of a subdivision certificate, and in perpetuity, the site around the existing dwelling/s on proposed lot 1921 must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019* as follows;

- North, south & west for a distance of 23 metres; and
- east to the boundary.

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



When establishing and maintaining an inner protection area, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 metres above the ground;
- tree canopies should be separated by 2 to 5 metres;
- preference should be given to smooth-barked and evergreen trees;
- large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide, grass should be kept to no more than 100 millimetres in height); and
- leaves and vegetation debris should be removed regularly.

Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

3. The existing dwelling on proposed lot 1921 must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

Access – Property Access

The intent of measure: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

4. Existing property access roads must be upgraded where necessary to comply with the following:
- A further 1m distance to the entire northern side of the existing access driveway is to be clear of shrubby vegetation and future plantings for the life of the development;
 - access driveway roads are two-wheel drive, all-weather roads;
 - a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches; and,
 - provide a suitable turning area in accordance with Appendix 3 for the Static Water Supply to the nominated location (as per Figure 5 of the addendum by Harris Consultants, dated 15/12/203) and as per the requirements of condition 5 of these recommendations herein.

Water and Utility Services

The intent of measure 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.

5. The provision of water, electricity and gas to the existing dwelling/s on lot 193/DP32303 must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- a 10,000 litre static water supply, tank, pool, dam or the like, must be provided on-site,
- an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure
- 65 millimetres Storz connection with a ball valve is fitted to the outlet,
- the ball valve, pipes and tank penetration are adequate for the full 50 millimetres inner diameter water flow through the Storz fitting and are constructed of a metal material,



- underground tanks have an access hole of 200 millimetres to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4 metres of the water outlet or access hole,
- above-ground tanks are manufactured from concrete or metal. Where an existing plastic tank is to be used, it is to be fitted with the above connections for fire fighting purposes and shielded by way of a non-combustible shield a min.1.8m in height around the hazard side of the tank.
- raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine,
- unobstructed access can be provided at all times,
- underground tanks are clearly marked,
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19 millimetres internal diameter,
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - Markers must be fixed in a suitable location to be highly visible, and
 - Markers should be positioned adjacent to the most appropriate access for the water supply.
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19 millimetres internal diameter;
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30 metres), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 *Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal;
- polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

6. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;



- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

- This approval is for a boundary adjustment only. Any further development application for class 1,2 & 3 buildings as identified by the *National Construction Code* must be subject to separate application under section 4.14 of the *Environmental Planning and Assessment Act 1979* and address the requirements of *Planning for Bush Fire Protection 2019*.
- The recommendations for this application are based on a site specific performance based assessment provided by the RFS and may not be a precedence for future applications.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 21/06/2023.

For any queries regarding this correspondence, please contact Jamie Winter on 1300 NSW RFS.

Yours sincerely,

Anna Jones
Manager Planning & Environment Services
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision - Boundary adjustment
1 NOLAN ST BERKELEY NSW 2506, 193//DP32303
RFS Reference: DA20230606002432-CL55-1
Your Reference: (CNR-56114) DA-2023/434

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20230606002432-Original-1 issued on 21/06/2023 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Anna Jones

Manager Planning & Environment Services
Built & Natural Environment

Monday 8 January 2024