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6 December 2018

Your Reference: DS18/1311 / SF9320

Our Ref: L103000

Senior Development Planner
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Attention: Elliott Weston

Dear Mr Weston

RE: DS18/1311 / SF9320 - Response to Community Submissions in regard to a S.4.55 application at LOT 4 DP 1011021 SCHOFIELDS LANE BERRY; LOTS 72 DP 4468 KANGAROO VALLEY ROAD BERRY; LOT 73 & 79 DP 4468 HITCHCOCKS LANE BERRY; LOT 2 DP 1029237 FORD STREET BERRY; & LOTS 25, 26, 33, 34, 35, 36 DP13701 KANGAROO VALLEY ROAD BERRY (collectively, the Land).

We write this letter on behalf of *Pindan Capital Berry Pty Ltd* to provide a response to Council's referrals and to address the concerns raised by members of the community in their submissions regarding the proposed Section 4.55(1A) application to modify development consent SF9320 (reference number DS18/1311). The modifications to the development consent originally proposed in the S.4.55 have been modified to address the issues raised. The modification now involves the following:

- The number of lots in Stage 8 will increase from 9 to 15 (comprising Lots 801 – 815), as a result the stage 8 boundary will move further to the west;
- The rear boundaries for lots 801 - 810, and 812 - 814 in Stage 8 have been extended to the south towards the creek line, to reduce the bush fire threat to lots 801-814, which will result in a reduced in the width of the riparian zone.
- The number of lots in Stage 9 have been reduced by one lot (901 – 912) and the lot boundaries have been reconfigured.

- The rear boundaries for lots 901 - 907 and 909 - 910 in Stage 9 have been extended to the south towards the creek line, to reduce the bush fire threat to lots 901-907, which will result in a reduced in the width of the riparian zone.
- The road within Stage 9 has been extend to the west to remove the battle-axe lots.
- The proposed public reserve located in the north western corner has now been retained and a 10m wide restriction on the use of land (as denoted O on the submitted Plans) will be place along the western boundary of Lots 907 and 908, which will retain the wildlife corridor linking the riparian land to the significant ecological land to the north.

Subsequent to the above modifications the development consent currently comprises of 249 residential lots, one community lot, one medium density lot and public open space. Huntingdale Park estate was originally approved for development by Shoalhaven City Council in 2003 incorporating 276 residential lots, one community lot, one medium density lot and public open space.

The original design of Huntingdale required a re-alignment of the existing creek line running through the property for a distance of approximately 500m including a 7m deep rock lined channel. This was observed as a less than desirable environmental outcome and a re-design of sections of the development commenced to retain the natural creek line. In conjunction with the amendment of the development to retain the creek it was acknowledged with Council and Department of Primary Industries (DPI) that amendment of lots backing onto the creek in future stages and alternative crossings would also occur but be subject to a separate S4.55 application. Huntingdale is now at that stage. It is noted that while there might be some additional impact on vegetation, the intent was to provide an overall improvement to the outcome for the riparian corridor.

Specifically, the following points have been raised by Council and submissions made by members of the Community regarding the proposed modification application. This letter has been written to address the concerns raised, and provide justifications for the changes made in response to the community's submissions. Each of the points raised have been addressed below, with a response under each heading being provided.

1. *Impacts on Biodiversity*

There have been concerns raised around the potential impacts on the existing biodiversity as a result of the proposed modifications, in particular along the existing creek, and the significant vegetated area to the north west of Stage 9. It should be noted that the creek and riparian lands have been retained, and the measures outlined below are in aid to further protect the biodiversity along the creek. The creek and associated riparian environment has directly affected the subdivisions layout, as the aim is to retain and reduce the potential impacts as much as possible.

It is proposed that Lots denoted with an 'N' in Stages 8 and 9 on the revised plans have a restriction and positive covenant placed on the land. This is in regard to the creation of APZ's and the ongoing Vegetation Management on the affect lots. These areas would require thinning of the vegetation to establish the appropriate APZs to ensure for the safe development of the lots. It should be noted that the creation of the APZs would not require the complete clearing of the vegetation. The APZs will require the removal of small trees, shrubs, fallen trees, tree limbs and stumps. The larger trees of at

least 150mm in DBH are to be retained. Owners of the land would then be required to maintain these areas as outlined in the Vegetation Management Plan. This is a replication of the Stage 6 & 7 APZs approved by Council. It is noted the effectiveness of the Stage 6 & 7 APZs implemented is reduced should the Stage 8 & 9 APZs not be approved. In addition to this, the creek and adjacent riparian land will form part of a public reserve.

The referral response from Councils Threatened Species Officer requested a Biodiversity Development Assessment Report be undertaken by an accredited BAM assessor.

A Biodiversity Development Assessment Report (BDAR) prepared by *Lesryk Environmental* investigated the areas impacted by the proposed APZ areas undertaken by an accredited BAM assessor. The report includes the new impact area with Parts 6 and 7 of the report outlining the Biodiversity offsets required for their thinning.

The report included two field investigations conducted by Deryk Engel and Stephen Bloomfeild on the 2nd and 9th of November 2018. Section 2 of the BDAR includes an outline of the methodologies used for the assessment of the site. The site was identified as containing Turpentine - Bangalay x Blue Gum open forest vegetation. Fauna observed, heard or evidence of their presence was also noted. In regards to the fauna of the site, the report found that:

"No species credit species are considered to be present as a resident population within the subject site. Similarly, none are considered to be solely reliant upon any of the resources present for their necessary lifecycle requirements. No important or significant areas of roosting or breeding habitat are present."

The assessment found that the new area of impact resulting from the proposed APZ would accrue to 1 credit point of PCT 694 - Blackbutt - Turpentine - Bangalay moist open forest on sheltered slopes and gullies, southern Sydney Basin Bioregion. The BDAR calculations can be found under Parts 5 and 6 of the Biodiversity Development Assessment Report. The appropriate offsets will be paid as required under the Biodiversity Conservation Act.

An amended Vegetation Management Plan is in the process of being finalised. The Vegetation Management Plan is not required as a condition for the subdivisions approval. However the plan will be completed once the final subdivision layout has been approved, and submitted prior to the construction certificate stage.

The removal of the public reserve, and retention of the ecological significant vegetation to the north western corner of Stage 9 within Lots 909 and 910 was also an area of concern. Therefore the subdivision plans have been amended to retain the existing significant vegetation in the northern corner of Stage 9 as a public reserve once more. This has resulted in a loss of one Lot from Stage 9. Lots 907 and 908 have also been amended to now include a restriction and positive covenant denoted with an 'O', which will retain the wildlife corridor linking the riparian land to the significant ecological land to the north.

Members of the community have also expressed concern around the connectivity between the riparian area around the creek and the area of vegetation to the north west of Stage 9. The additional restriction and positive covenant over Lots 907 and 908 addresses this concern. Originally a 10m wide connection was established along the western boarder of Stage 9, where proposed Lots 907 and 908 were situated. This was proposed to be removed as part of this modification, but has now been brought back to provide a wildlife corridor. The connection will be protected under a restriction and positive covenants preventing all clearing and development from occurring in the areas denoted with an 'O'.

In addition to the retained wildlife corridor, another link is proposed utilising a culvert pipe with the diameter of 750mm being provided to connect the riparian land to the proposed public reserve (between Lots 909 & 910). This pipe is considered sufficient to allow fauna to traverse between the two areas. The road providing access to Lots in Stage 9 ends in a cul-de-sac, it is expect to be used by light residential traffic. As the road is to be used primarily by local residence and traffic speeds are to be slowed due to the design of the road layout, there is expected to be little conflict between vehicles and any potential fauna on the road.

These changes to the subdivision layout will further ensure that the area of significant ecological importance will be protected, and that wildlife can move between the areas. It is noted that Council was supportive of the proposed retention of the significant vegetation as part of the restriction on the Lots and are less supportive of the retention as a public reserve. This is due to the non-compliances with the *Community Infrastructure Strategic Plan 2017* in terms of its access, usability and cost of maintenance. Given the response from the community in support of retaining the vegetation as a public reserve, and Berry Community groups offering assistance with its maintenance, we believe this solution which will retain this area as a public reserve should be supported.

2. *Public Open Space and Public Reserves*

Another concern identified by members of the community was the amount public open space proposed. Currently a linear park is proposed denoted with a 'A, B & C' on the Revised Staging and Layout Plan dated 26/11/18, as well as the retention of the riparian environment within the public reserve, and the area of significant ecological importance in the northern corner of Stage 9.

The linear park is also used as the easement for the overhead transmission lines (noted as 'A & B') and pipeline (noted as 'C'). The community has raised concerns with the powerlines being located within the proposed park, and the affects they could have on users of the park. The transmission lines are not expected to cause any adverse effects to the community, and users of the public open space provided. Referral response from Councils Social and Infrastructure Planning Officer states that:

"Council's Community Infrastructure Strategic Plan identifies that Planning Area 1 meets the demand for park infrastructure. It is acknowledged that the linear park within the subdivision (east of Stages 8 and 9), and Berry District Park (Bongaree) will provide additional and sufficient public open space to support this subdivision."

In addition to the linear park, the developer is pursuant of an additional park with children's play equipment for active recreation to be located within the earlier stages of the estate. Negotiations with council to forgo the S94 Contributions payment to cover the cost of the additional playground is currently being pursued.

Concerns have also been voiced regarding the impacts on significant vegetation located in the north western corner of Stage 9, as it was no longer allocated as a public reserve. This has since been revoked, with the vegetation again been retained as a public reserve. The change back to a public reserve will ensure the vegetation is protected into the future.

3. *Exits from the subdivision*

There have been some concerns from members of the community around potential issues stemming from there only being a single access road to the subdivision. The potential issues include the increased risk in the event of evacuation during a bushfire, and the increased traffic on the road providing access to the subdivision.

The subdivision has been designed to minimise the risks associated with potential bushfires. For example appropriate APZs have been included where necessary to ensure that developments can be protected in the event of a bushfire. Future developments on the created lots are also expected to be accompanied by a Bushfire Assessment Report. This assessment will outline the recommendations regarding construction standards of the proposed developments. In the event of a bushfire, the developments if constructed to the recommendations of the Bushfire Assessment Report will reduce the risk of damage.

In the unlikely event requiring the evacuation of the subdivision, the existing Huntingdale Park Road providing access to the subdivision is considered sufficient to allow the full evacuation of the area in a safe amount of time. The New South Wales Rural Fires Service operating in NSW provide early warning services to ensure property owners are updated in the event of bushfire threat. There are a total of 258 lots that make up the entirety of the estate. This has been reduced to 257 with the reallocation of the public reserve in the north western corner of Stage 9. If evacuation is required, there will be sufficient time for all properties to be evacuated via Huntingdale Park Road.

The proposed modifications to Stages 8 and 9 have been referred to the NSW RFS, and assessed under the requirements of the Rural Fires Act 1997. The proposed subdivision complies with the RFS requirements in terms of the proposed access, APZs, Water and Utilities.

4. *Increased vehicle traffic on Connors View*

Stages 8 and 9 will be access via Connors View, in accordance with the current approval. The only change to the approved road within Stage 9, is a slight extension to the west to remove the battle-axe lots.

There have been some concerns regarding the width of Connors View and the increased traffic along the road as a result of Stages 8 and 9 utilising the road for access. The potential to splay and widen the corner of the road to increase the turning radius is currently being investigated.

Stages 8 and 9 now include a total of 27 lots (5 additional lots) that will be accessed by Connors View. The traffic is expected to be mostly residential light traffic, with appropriate speed restriction put in place. The estimated additional traffic generation for residential developments is 9 vehicle trips per dwelling per day in accordance with the RTA (2002) Traffic Generating Development. The road infrastructure along Connors View, and the surrounding road networks are considered sufficient to cope with the estimated 243 vehicle movements per day generated by Stages 8 and 9.

The proposed road passes along the southern boundaries of existing lots to the north, accessible via Kangaroo Valley Road, Thomas Close, and Raffia Close. These lots will not be significantly affected by the proposed access road to Stages 8 and 9. The proposed road is not expected to generate any additional noise that would be expected from a residential street. A retaining wall designed by appropriately qualified engineers will eliminate the potential soil erosion of the land to the north.

5. *Retaining the Character of Berry*

There has been some concerns raised around the impacts Stages 8 and 9 will have on the existing character of Berry. Berry is considered a popular country town, unique when compared to other surrounding towns in the region. The country 'feel' of the town attracts regular visitors and tourism, which has helped shape the community and create the character of Berry we experience today.

The proposed modifications to Stages 8 and 9 will not impact on the existing character of Berry. The existing creek and riparian environment is to be retained, with restrictions on some lots put in place to ensure APZ and vegetation be managed by the future owners. This will retain a green spine through the subdivision as a public reserve.

The modification will only result in the creation of the an additional 5 lots, with Stages 8 and 9 totalling 27 residential developments lots, varying in size from 2000m² to 5456m². This is consistent with the existing subdivision of Huntingdale, with lots generally larger than what has been approved in early stages. As the town attracts people to the area, with Berry being a popular place to relocate to be a part of the country community, it is considered in the public interest to provide additional housing for people to settle.

We would be pleased for Council to give consideration to this matter and continue the assessment of the application as soon as possible.

Yours faithfully

SET CONSULTANTS PTY LIMITED

A handwritten signature in black ink, appearing to read 'D Cannon', written over a horizontal line.

David Cannon

Environmental Engineer (M.Env.Eng.Sc, Grad Dip (Bushfire Protection), B.Env.Sc.Adv (Hons 1))

BPAD (Level 3) Certified Practitioner BPD-PD-23829

Corporate Member - PIA