

4 March 2019

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**UPDATED ECOLOGICAL ASSESSMENT: DA FOR DWELLING ON LOT 3,
7 TRENTWOOD PARK, AVALON**

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Dear Sean,

It is our understanding that Gartner Trovato Architects are preparing a development application for a new dwelling on Lot 3, consistent with the Masterplan/Concept Plan for the subdivision of 7 Trentwood Park, Avalon (Lot 1 DP 202857) as approved by the Land and Environment Court (LEC) in 2017.

The purpose of this letter is to supplement the existing Flora and Fauna Assessment prepared by Cumberland Ecology (REF: 17043 RP1) for the Masterplan/Concept Plan and LEC proceedings and to provide a comparative summary of impacts to native vegetation, threatened species and their habitat as a result of the modified plans for the proposed dwelling on Lot 3 within the subdivision.

Our updated ecological assessment is provided in **Appendix A** and a figure showing the comparative extent of impacts with the current approved plan and the proposed modification is provided in **Appendix B**.

If you have any queries or require further information, please do not hesitate to contact either myself, or Michael Davis, on (02) 9868 1933.

Yours sincerely



Dr David Robertson
Director
david.robertson@cumberlandecology.com.au

Appendix A

Updated Ecological Assessment: Lot 3, 7
Trentwood Park, Avalon

A.1 Background

The subject land comprises Lot 1 DP 202857, and is located at 7 Trentwood Park, Avalon Beach in the Northern Beaches Local Government Area (LGA). The subject land is approximately 0.54 ha in area and is bound by Trentwood Park to the east and residential dwellings to the north, south and west. The subject land is currently utilised as a residential lot with open space and gardens.

Cumberland Ecology Pty Ltd (Cumberland Ecology) was commissioned in 2017 by Jim & Margot Dargaville (the Client) to conduct a Flora and Fauna Assessment to support a Development Application (DA) and to comply with contentions to a DA at 7 Trentwood Park, Avalon. This DA, as approved by the LEC, proposed the subdivision of the subject land into three lots, referred to as Lot 1, Lot 2 and Lot 3.

The previous three lot subdivision would have resulted in the complete clearance of approximately 0.15 ha of vegetation throughout the development footprint of all three lots. This land consists of approximately 0.14 ha of Coastal Enriched Sandstone Moist Forest and approximately 0.01 ha of Urban Native/Exotic Vegetation. The remaining area was proposed to be partially cleared and managed as the requisite asset protection zone (APZ), comprising a 0.3 ha area of Coastal Enriched Sandstone Moist Forest and a 0.09 ha area of Urban Native/Exotic vegetation across the three proposed lots.

The Flora and Fauna Assessment conducted by Cumberland Ecology in 2017 concluded that no significant impacts are predicted to occur to threatened species, populations or communities as a result of the proposed development across all three lots. Therefore, the preparation of a Species Impact Statement (SIS) was not warranted. A referral to the Commonwealth Department of the Environment, under the EPBC Act was also not required.

A.2 Development Application

The current approved plan involves a subdivision of the subject land from one lot into three lots, with the construction of a shared driveway and the establishment of an easement for services and drainage.

It is our understanding that the development, as approved by the LEC, is proposed to be modified as follows:

- Current Approved Lot 2 is to be further subdivided into Lot 2 and Lot 4 in a new DA; and
- The lot boundaries for Lot 1 and Lot 3 remain unchanged but there are minor modifications to the layout of the development footprint of the proposed house.

Separate development applications are to be submitted for the development of new houses on Lot 1 and Lot 3 as well as for the further subdivision of Lot 2.

This assessment letter focuses on the development application for the proposed dwelling within Lot 3 only.

A.2.1 Current Approved Plan

The vegetation on proposed Lot 3 is comprised entirely of Coastal Enriched Sandstone Moist Forest. Under the LEC approved development, a total of 0.03 ha of vegetation would be removed from Lot 3 for the development footprint whilst the remaining 0.13 ha area of vegetation will be partially cleared/modified for the APZ.

No locally occurring threatened flora species, listed under the TSC Act or EPBC Act were recorded or are considered to have the potential to occur within the subject site. The proposed development, therefore, would not have had a significant impact upon threatened flora species. Whilst a number of threatened fauna species were considered to have the potential to access foraging resources within the subject site as part of a larger foraging range, the subject site is not considered likely to exclusively support any local populations. Subsequently the approved plan was not considered to result in significant impacts to threatened fauna species listed under the TSC Act or EPBC Act.

A.2.2 Proposed Development Application

The layouts of the approved DA (indicated as the 'Approved Development Footprint') and the currently proposed dwelling (indicated as the 'Proposed Development Footprint') are shown in **Figure 1 of Appendix B**.

Although the proposed dwelling features a marginally larger development footprint for the proposed house, both the approved plan and the proposed application will result in removal of approximately 0.03 ha of Coastal Enriched Sandstone Moist Forest vegetation. It should be noted that no further tree removal is required to facilitate the proposed development modification for Lot 3. The extent of partial clearing/modification for the APZ remains at approximately 0.13 ha of Coastal Enriched Sandstone Moist Forest for both the approved development and proposed development application. As the clearing footprint is largely unchanged from the approved plan, the potential impacts upon threatened flora and fauna listed under the BC Act or EPBC Act are considered to remain the same.

A.2.3 Relevant Legislation

The ecological assessment for the development, as approved by the LEC, was conducted under the planning provisions of the *Threatened Species Conservation Act 1995* (TSC Act).

Under the NSW Land Management and Biodiversity Conservation reform, the TSC Act has been repealed and replaced by the *Biodiversity Conservation Act 2016* (BC Act). The BC Act is now in force and applies to modifications to existing approvals, including modifications to DAs approved under TSC Act and therefore would apply to the current proposed application for Lot 3. Under the BC Act, a Biodiversity Development Assessment Report (BDAR) is required if the proposed development triggers specific thresholds that require entry into the Biodiversity Offsets Scheme (BOS)

However, the BC Act is supported by the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* (the Transitional Regulations) which allows for some exemptions provided they satisfy specific criteria outlined in the Transitional Regulations.

As per Clause 30A of the Transitional Regulations, the BC Act applies to modifications of planning approvals granted before the commencement of the BC Act or granted after the commencement of the BC Act, as a result of the determination of a pending or interim planning application and thus applies to the proposed application for Lot 3.

Clause 30A (2)(c) of the the Transitional Regulations states that “*however a biodiversity development assessment report is not required to be submitted if the authority or person determining the application for modification (or determining the environmental assessment requirements for the application) is satisfied that the modification will not increase the impact on biodiversity values.*”

As outlined in **Section A.2.1** and **Section A.2.2.**, the proposed application within Lot 3 will result in a similar impact footprint as that for the approved DA. Therefore the proposed modification is not considered to increase the impact on biodiversity values.

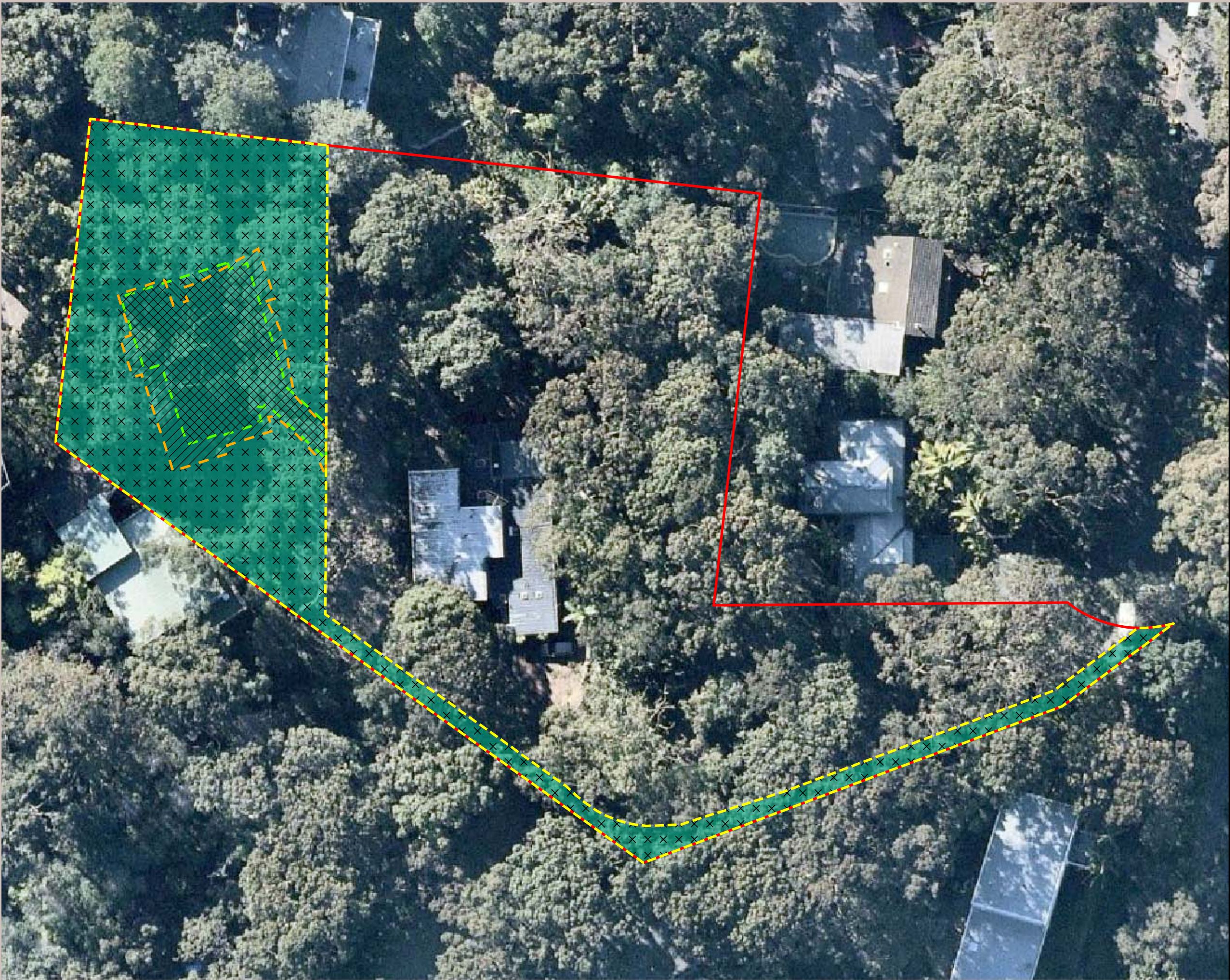
Therefore, in accordance with Clause 30A (2)(c) of the Transitional Regulations, a BDAR for the proposed modification DA for Lot 3 is not warranted.

A.3 Conclusion

Due to the extremely similar nature of impacts for the plan approved by the LEC and the proposed plan, the proposed application is not considered to increase impacts on biodiversity values within Lot 3. Within the proposed Lot 3 boundaries, impacts to biodiversity are consistent with the former Flora and Fauna Assessment produced by Cumberland Ecology in 2017 (REF: 17043 RP1). Therefore, in accordance with Clause 30A (2)(c) of the Transitional Regulations additional assessments in the form of a BDAR under the BC Act are not warranted for the development within Lot 3. The conclusions of the Flora and Fauna Assessment are considered to still be relevant and no significant impact is considered likely to occur to threatened flora, fauna or ecological communities as a result of the proposed application.

Appendix B

Figure



Legend

- Subject Land
- Proposed Lot 3
- Proposed Development Footprint
- Approved Development Footprint
- Asset Protection Zone

Vegetation Community

- Coastal Enriched Sandstone Moist Forest (CESMF)

Image Source:
Image © NearMap
(30/08/2017)

Data Source:
GARTNER TROVATO
Architects
Site Plan & Site Analysis
1711-Lot 4 DA.01
30/01/2019

Coordinate System: MGA Zone 56 (GDA 94)

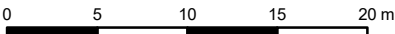


Figure 1. Proposed Lot 3 vegetation impact comparison