

Our Ref: HEN09BF

12 July 2024

Northern Beaches Council  
PO Box 82  
MANLY NSW 1655

**Attention: Planning Department**

Dear General Manager,

**Re: Request for a certificate under section 4.14 of the EP&A Act**

*Travers bushfire & ecology (TBE)* has been engaged by Henroth Investments Pty Ltd on behalf of Dan Maurici to complete a bushfire assessment under section 4.14 of the *Environmental Planning & Assessment Act (EP&A Act)* for the proposed Warriewood Nursery Development located at 10-12 Boondah Road, Warriewood. Council has requested a certificate to accompany this report citing section 4.14.

Section 4.14(1) of the *EP&A Act* states that:

*“(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2) unless the consent authority—*

*(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or*

*(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.”*

Further, if Council is not satisfied that the assessment conforms to the specifications and requirements, Council can send the assessment to the NSW Rural Fire Service for advice prior to granting consent. (see s4.14 (1A)). Sub-section 1(B) excludes State significant development, and sub-section 1(C) provides for certificates in relation to the regulations (currently only affecting urban release areas).

In other words, for development proposed on Bush Fire Prone Land (BFPL) (not being state significant development, a special fire protection purpose or a subdivision) the development application must be accompanied by a bushfire assessment report. This report must detail whether the proposal conforms with the specifications and requirements of the NSW Rural Fire Service (NSWRFS) document *Planning for Bush Fire Protection 2019 (PBP)* but does not require a certificate as this is an option upon which Council may rely.

It should be noted that the RFS itself, provides for a self-assessment kit, for home owners for submission to a Council, which does not include such a certificate, yet is provided specifically for section 4.14 in relation to a dwelling.

The role of the bushfire planning professional is to prepare the development's bushfire assessment report for the relevant consent authority, whether it be the council or other authority for consideration. The expertise of the bushfire planning professional ensures that the assessment report prepared is accurate and comprehensive, addressing all relevant bushfire risks and mitigation measures that are required by *PBP*.

A requirement for a certificate is without foundation, and exceeds the powers of the Council in relation to section 4.14.

In conclusion, *Section 4.14* of the *EP&A Act* does not require a bushfire planning professional to prepare a certificate in relation to their bushfire assessment report for a development on BFPL. However, this is an option upon which Council may rely, if it such a certificate is provided, noting that Council may still refer the matter to the RFS for advice, if it believes it does not conform to *PBP*.

If you require any further information, please do not hesitate to contact the undersigned on (02) 4340 5331 or at [servicedesk@traverseecology.com.au](mailto:servicedesk@traverseecology.com.au)

Yours faithfully



**Luke Simpson**  
*Bushfire Consultant*



**Grahame Douglas**  
*Principal Bushfire Consultant*