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ECO LOGICAL AUSTRALIA PTY LTD

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Dear Len,

RE: 53A & 53B Warriewood Road, Warriewood - Bushfire Contentions Response Statement

Eco Logical Australia (ELA) prepared a Bushfire Protection Assessment (BPA), dated 27 August 2014, to support a proposed residential subdivision Development Application (DA) at 53A and 53B Warriewood Road, Warriewood, within the Northern Beaches Council (NBC) local government area (formerly Pittwater).

Further to this, you have advised ELA of the following:

1. The abovementioned BPA report was lodged with NBC in support of the original subdivision DA process.
2. The proposed residential subdivision DA (with indicative built form layout) has been approved subject to conditions.
3. Subsequent to the abovementioned subdivision DA, a separate DA for the proposed 'built form' component was submitted - which aligned to the previously identified "indicative built form" within the subdivision DA.
4. At the time of lodgement of the built form DA, ELA Director Rod Rose prepared a supporting statement via email, dated 19 December 2014, which was subsequently provided to NBC as part of the built form DA lodgement process. The statement confirmed that the ELA BPA report (and information contained therein) was also valid for supporting the built form DA and addressing the relevant bushfire matters associated with this further proposal.
5. NBC have subsequently 'refused' the DA for the proposed residential built form. One of the reasons noted by NBC as to their reasoning for the refusal is that:
 - o *"the applicant has not demonstrated that the development conforms to the relevant specifications and requirements of Planning for Bush Fire Protection 2006 and AS3959-2009 as required by Clause 79BA of the EPA Act".*
6. The emailed advice prepared by ELA and provided to NBC with the built form DA directly addressed the above matter (outlined by council in their refusal documentation).
7. The matter of the built form DA refusal is currently before the NSW Land & Environment Court (LEC), being the subject of an appeal initiated by the Applicant (Developer). As part of the LEC appeal process, the Applicant is required to address the matters of contention stipulated by NBC, including (but

not limited too), addressing compliance with the relevant bushfire requirements – as noted in point 4 above.

Furthermore, the Applicant has requested that ELA provide a brief written response the bushfire-relevant abovementioned contentions. The following information is provided in order to demonstrate that the prepared BPA report does satisfy the relevant specifications and requirements of *Planning for Bush Fire Protection* 2006 (PBP) and AS3959-2009 *Construction of buildings in bushfire prone areas* (AS3959) for the built form DA:

- a) Firstly, ELA acknowledges that the BPA report in question explicitly mentions only the proposed 'subdivision', as the original report was prepared for the purpose of the supporting the subdivision DA. However, it is not uncommon for subdivision DAs to also provide some indicative locations (dwelling footprints) for future built form. This is the case in this instance, with the subsequent built form DA remaining consistent with the original indicative built form layout. It is also noted that the subdivision DA has been approved subject to conditions.

A simple amendment could be provided to the BPA should this matter persist in order to explicitly reference the 'built form' element of the proposal also.

- b) Secondly, the residential nature of the development proposal is consistent for both the subdivision and the built form components. That is, there are no inconsistencies, or proposed changes of use to other higher risk development types that would cause a different set of requirements to be triggered between the subdivision DA and the built form DA. The residential requirements of PBP and AS3959 are applicable for both. No additional reporting is required in this instance.
- c) Thirdly, the very nature of the current NSW planning processes and requirements for development within bushfire prone areas, means that a residential subdivision is required to be designed in such a manner so as to ensure any future built form (residential dwellings) that is constructed within the subdivision, are able to fully comply with the relevant bushfire mitigation measures as identified within PBP – including: Asset Protection Zones (APZs), construction standards (as per AS3959), access arrangements and water supplies.

In this instance, the residential subdivision has been previously approved, therefore, providing a compliant and lower-risk context for future built form residential development to occur, where mitigation measures are already in place, satisfying the requirements of PBP. No additional reporting is required in this instance.

- d) Finally, in relation to the specific construction requirements for the future built form development (in accordance with AS3959), the provided BPA report clearly outlines the requirements for any future built form development within the site – refer to Section 4 and Figure 4 of BPA report. The requirements detailed within this report provide a Deemed-to-Satisfy outcome utilising Method 1, within AS3959. Should the Applicant seek to vary these construction requirements, a more detailed analysis and alternate solution (Method 2 assessment), this could be undertaken on a case-by-case basis for each relevant built form dwelling. This approach satisfies the requirements of PBP and AS3959 - no additional reporting is required in this instance

It is important to note that further opportunities exist within the planning approval (through conditions) and Construction Certificate processes (through certification of detailed design), to ensure compliance with the measures outlined above.

The abovementioned responses clearly demonstrate that the proposed BPA reporting prepared by ELA satisfies the requirements of both PBP 2006 and AS3959-2009, and therefore, Clause 79BA of the *Environmental Planning and Assessment Act 1979*. The current provided report is considered appropriate and no further documentation is required.

If you require further clarification of the above matters, please contact me on (02) 4302 1224.

Yours sincerely,



Daniel Copland

Senior Bushfire Consultant

FPAA BPAD Level 3 Certified Practitioner No. BPD-L3-28853

