

BUSH FIRE COMPLIANCE REPORT

147 Soldiers Point Road, Soldiers Point, NSW



Our Ref: 2021654_20211117

Date: 17th November 2021

Tia Mills
Milestone Town Planning

Dear Tia,

This bush fire compliance letter is developed to determine if the proposed modifications to the Part 3A Concept Application No. MP06_0183 at 147 Soldiers Point Road, Soldiers Point, NSW (**Figure 1**) are consistent with contemporary bush fire planning and protection measures.

It is understood that Part 3A Concept Application No. MP06_0183 for the redevelopment of the site as a mixed-use / tourist development was approved in 2011. Ecological Australia completed a Bush fire Assessment Report (based on Planning for Bush fire Protection, 2006) in June 2010 that was submitted and approved as part of the original Concept Approval. This bush fire report was based on the lot being identification of bush fire prone lands (BPL Map) required under section 10.3 of the *Environment Planning and Assessment Act 1979* (EP&A Act). Extract from the BPL Map from the Ecological Australia Bush fire Assessment Report (2010) is provided in **Figure 2**.

Clause 13 of the Notice of Determination No. MP06_0183 indicates the NSW Rural Fire Service conditions:

- a) The first application for the first building shall be accompanied by evidence that a legally formed easement has been created over the Asset Protection Zone (APZ) on adjoining land to ensure that the APZ maintained in perpetuity, together with the adjoining landowners' consent.
- b) If future environmental assessment requirement 13(a) cannot be meet, future applications shall include further details of the developments compliance with the requirement of 'Planning for Bush fire Protection, 2006' such as the introduction of higher construction standards in accordance with AS3959 for relevant buildings.
- c) Future applications must demonstrate that the NSW Fire Brigade emergency vehicles can adequately access the site, buildings and structures in the event of an emergency via the internal perimeter access road.

The Part 3A Concept Application No. MP06_0183 development has not proceeded, and the proponent wishes to modify the concept approval to ensure the redevelopment aligns with current strategic direction of the Nelson Bay tourist precinct and wider Hunter Region and in response to recent site inspections and geotechnical investigation which has revealed that a large portion of the land cannot be excavated as it comprises an outcrop of elevated volcanic rock material and as a result the approved car parking and basement location of the Concept Plan Approval requires modification.

Bush fire Assessment

This assessment has been undertaken in accordance with EP&A Act and Appendix 1 of Planning for Bush fire Protection (2019) (PBP2019) to provide advice on the bush fire compliance of the proposal inclusive of the modifications proposed.

This report assesses the Bush fire construction and Bush fire planning requirements of a development on the site to meet the six objectives listed in section 1.1 of PBP2019 which provide for the protection of human life and minimize impacts on property.

- Afford buildings and their occupants protection from exposure to a bush fire.
- Provide for a defendable space to be located around buildings.
- Provide appropriate separation between a hazard and buildings which, in combination with other measures, minimize material ignition.
- Ensure appropriate operation access and egress for emergency services personnel and residents is available.
- Provide for ongoing management and maintenance of Bush fire Protection Measures (BPMs), and
- Ensure the utility services are adequate to meet the needs of firefighters.

This report adheres to the methodology within PBP2019 and has been prepared to determine whether the proposed development is bush fire-prone, and if so, what construction standards, setback and other relevant Bush fire Protection Measures will be required in accordance with PBP2019.

The first step is to determine if the proposed development lot is considered bush fire affected. Extract from the current Port Stephens Council BPL Map provided in **Figure 3** illustrates the development is not recognised as Bush fire affected.

It is important to note the application of *NSW RFS Guide for bush fire prone land mapping V 5b* (2015) implements improvements to bush fire prone area mapping. Significantly, Planning for Bush fire Protection is based on the risk of landscape wildfire, and in situations where this type of wildfire is not possible, land has been removed from being a bush fire threat to surround development. In this case, the vegetation immediately to the south and east of the site (that triggered the bush fire assessment in 2010) is no longer classified as a bush fire threat. Under contemporary planning processes through the EP&A Act, the development would not trigger a bush fire assessment as it is deemed that risk of bush fire is so low that specific bush fire construction or planning provisions are not warranted.

Notwithstanding the foregoing, the aims and objective of PBP should be considered for small scale fires within the vegetation surrounding the site.



Figure 1 Location of 147 Soldiers Point Road, Soldiers Point, NSW

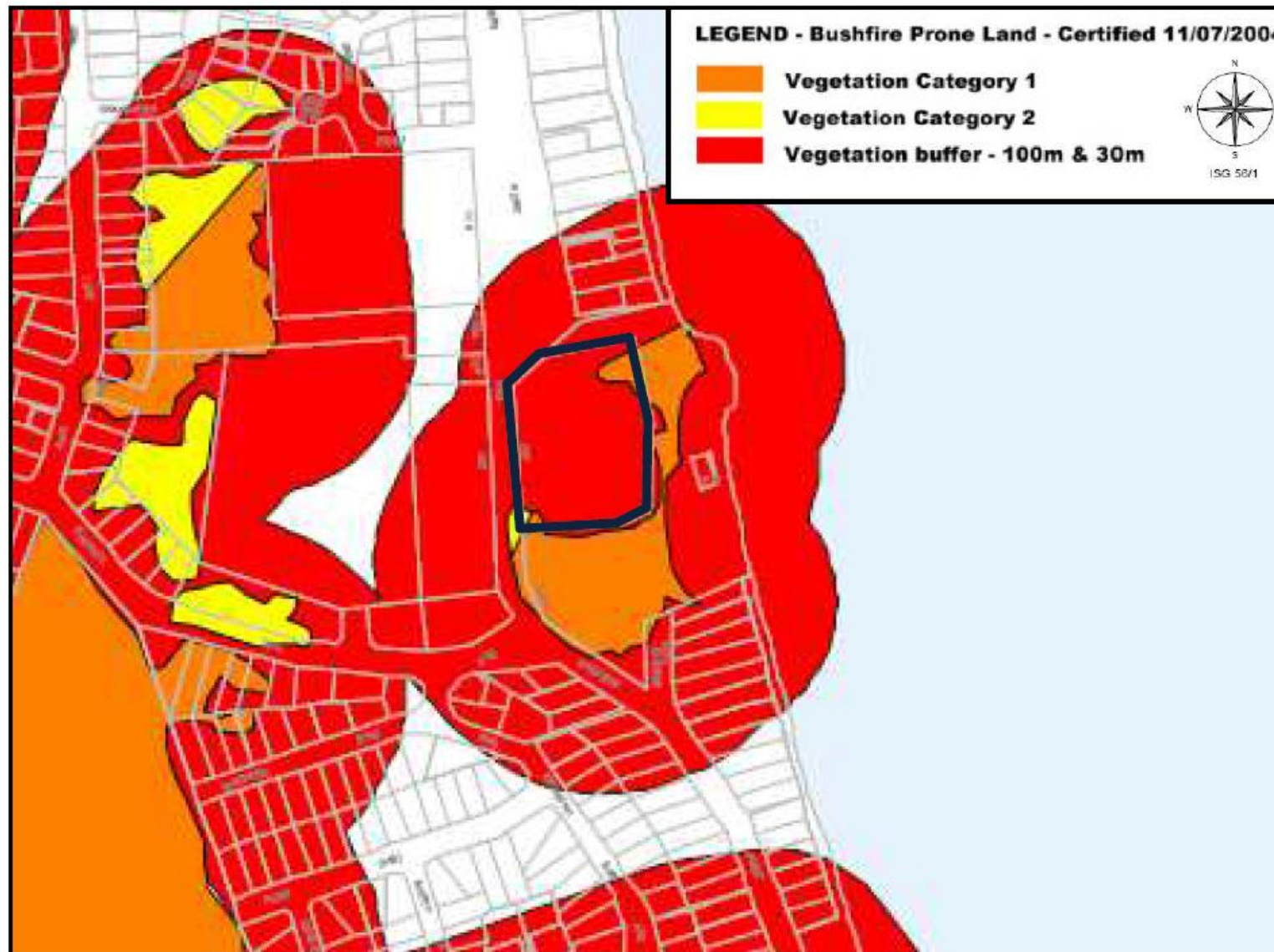


Figure 2 Extract from Bush fire Prone Area Map from Ecological Australia Bush fire Assessment Report (2010)

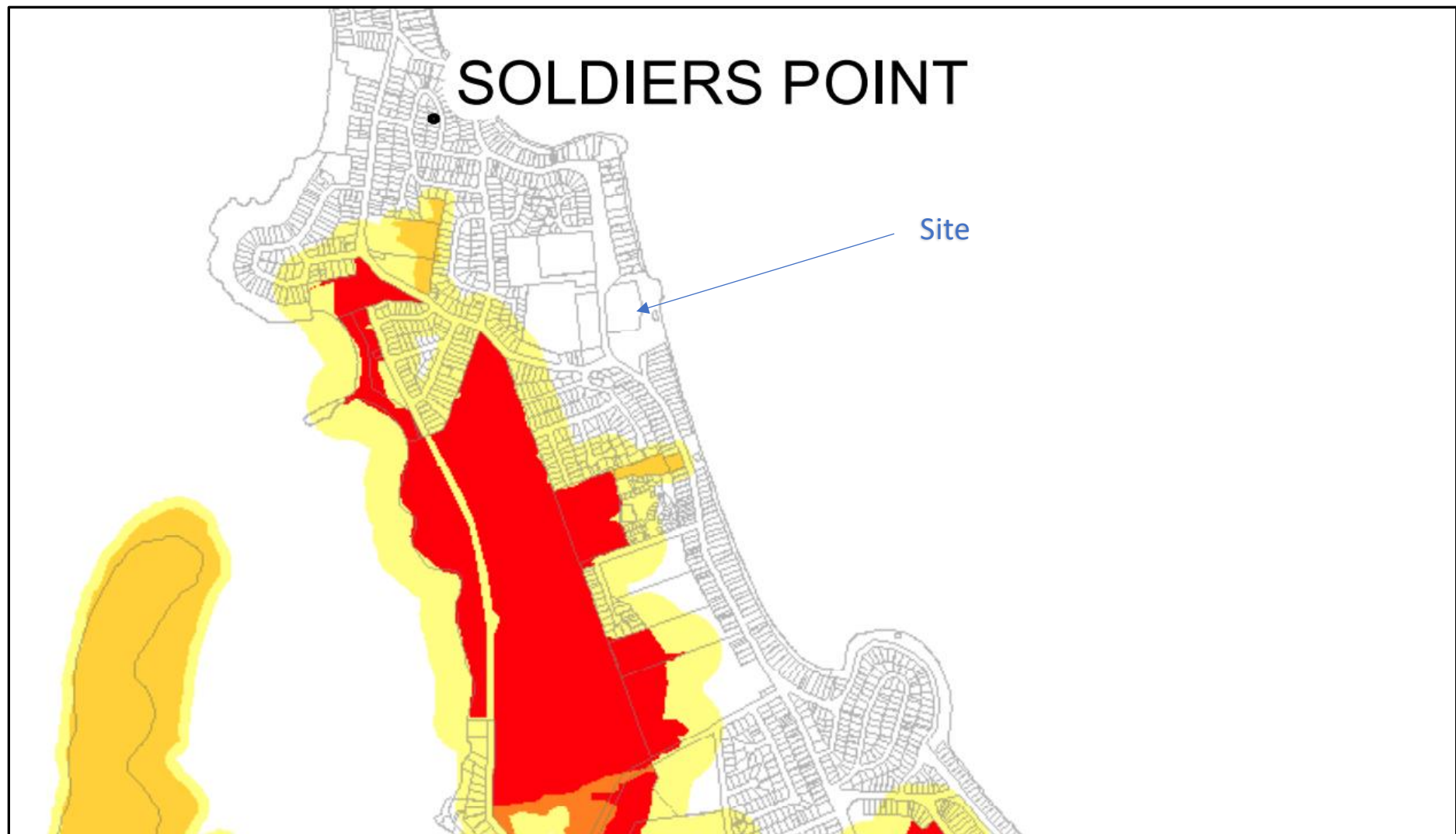


Figure 3 Extract from Port Stephen Bush fire Prone Map (2021)

The Proposal

The proposed modifications to the approved hotel redevelopment are as follows:

- Modifications to the hotel and apartment mix including the conversion of serviced apartments to permanent residential apartments.
- Increase to the maximum building height of the overall development by 400mm to ensure compliance with BCA floor to ceiling inclusion requirements.
- Relocation/shift and expansion of building envelopes; and
- Reconfiguration of car parking and basement levels.

From a bush fire perspective, the separation between the bush fire threat and building is a critical passive bush fire protection measure. This separation should provide the ability of emergency services to access the bush fire threat while protecting the built asset. Access to water and limiting hazardous utilities (gas and electricity) within this separation is also considered.

The following points are made:

- The proposed modified design increases the separation from the lot boundary from approximately 5m to 6.1m to the south and maintains approximately 5m separation to the east.
- The downslopes surrounding the site increase fire behaviour towards the building.
- The highly disturbed nature of the forested vegetation surrounding the development site will restrict fire behaviour.
- The restricted size and shape of the vegetation surrounding the site will restrict fire behaviour.

The following recommendations are provided in consideration of Clause 13 of the Notice of Determination No. MP06_0183 indicates the NSW Rural Fire Service conditions.

The first application for the first building shall be accompanied by evidence that a legally formed easement has been created over the Asset Protection Zone (APZ) on adjoining land to ensure that the APZ maintained in perpetuity, together with the adjoining landowners' consent.

- An Asset Protection Zone is required on the adjoining land remain relevant to protect the building from small fires within the forested reserve to the south and east.

If future environmental assessment requirement 13(a) cannot be met, future applications shall include further details of the developments compliance with the requirement of 'Planning for Bush fire Protection, 2006' such as the introduction of higher construction standards in accordance with AS3959 for relevant buildings.

- Under contemporary planning processes through the EP&A Act, the development would not trigger a bush fire assessment as it is deemed that risk of bush fire is so low that specific bush fire construction or planning provisions are not warranted.

Future applications must demonstrate that the NSW Fire Brigade emergency vehicles can adequately access the site, buildings and structures in the event of an emergency via the internal perimeter access road.

- Part 3A Concept Application No. MP06_0183 did not provided for internal perimeter access road. The proposed modification also does not provide for an internal perimeter road.
- Assessment for NSW Fire Brigade emergency vehicle access is outside the assessment process within PBP.

Recommendations

The lot is no longer identified as bush fire prone in accordance with s10.3 EP&A bush fire prone area mapping. Under current bushfire planning provision, no bushfire construction or planning requirements would be warranted. Notwithstanding the site is no-longer considered bush fire affected, the key bush fire risk considerations of APZ separations within Table 2 (page 11) of the Ecological Australia Bush fire Assessment Report (2010) remain relevant and are still acceptable. The provision of a 'vehicle perimeter road', as indicated within Clause 13 of the Notice of Determination No. MP06_0183 is not required due to low risk of bush fire. Although a vehicle perimeter road is not required, pedestrian access for fire fighters and appropriate placement of water hydrants is warranted.

This report forms a supplementary statement to demonstrate that the modified concept will be consistent with the current NSW Rural Fire Services Standards for Asset Protection Zones following the establishment of the APZ easement on the lands to the south and east of the proposed development.

It is recommended a further bush fire assessment applying Appendix B of AS3959:2018 should be considered to provide a performance-based approach to reduce the APZ to support the biodiversity values within the surrounding vegetation while mitigating small scale bush fire risk to acceptable levels.

Regards,

Duncan Scott-Lawson



BPAD Accreditation #: 47789

BUSH FIRE CERTIFICATION

The report has been prepared by Duncan Scott-Lawson, BPAD level 3 certifier BPAD 47789. I certify that the proposed development design conforms to the relevant specifications and requirements of PBP 2019 and AS 3959-2018 detailed in Section 4.14 (1) (b) of the *Environmental Planning and Assessment Act (1979)*.