

Our Reference 309553
Your Reference 5/2018/40

8 April 2024

Mr Travis Basham
Planning Coordinator
Moirra Shire Council

info@moira.vic.gov.au

Via Email (original not following in mail)

Dear Travis

**Planning Permit No. 5/2018/40
Grasso Drive, Cobram**

Spiire Australia is acting on behalf of Lemon Tree Rise Pty Ltd in relation to the above-mentioned planning permit.

In June 2018, Planning Permit No. 5/2018/40 was issued for the residential subdivision of land at Grasso Drive, Cobram, in stages. Pursuant to Condition 28 of the planning permit, an agreement under Section 173 of the *Planning & Environment Act 1987* must be entered into for the purpose of an exemption from a planning permit under clause 44.06-2 of the scheme for any dwelling constructed on the land in accordance with the Bushfire Management Plan approved under this permit. The condition states the agreement cannot be altered without the written consent of the CFA and the Responsible Authority.

On 15 September 2023, secondary consent was sought to amend the Bushfire Management Plan to alter the BAL rating for Lots 55-67 of the approved subdivision and to clarify the setback required for the Building Envelopes from Newham Road to meet the specified BAL rating. It is understood the amended plan has been referred to the CFA who have subsequently consented to the amended Bushfire Management Plan.

Council have requested Condition 28 on the permit be amended to reference the updated Bushfire Management Plan. As such this is an application to amend Condition 28 to make reference to the updated plan and to read:

The Bushfire Management Plan, Drawing no. 309553_1, Ver 1, dated 7/09/2023, must be endorsed to form part of the permit, be included as an annexure to the section 173 agreement and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

The current Section 173 has been registered on the Parent Title and has subsequently been registered on lots created in stage 1 of the subdivision. These being Lot 1-23 (inclusive) of PS823651S. However, it is noted only 4 of the lots in Stage 1 are within the Bushfire Management Overlay (BMO), please refer to the accompanying Land and Survey Spatial Information map. As such the application of current agreement only relates to lots 15-18 (inclusive) of PS823651S and the Balance Lot A, whilst being redundant to all other lots.

The proposed amendment to the Bushfire Management Plan does not affect those lots detailed above, that are already registered, and as such the current agreement will remain unchanged on those lots and we propose no amendment to the current agreement.

However, the proposed amendment does obviously alter the upcoming stages. As such this application also seeks to remove the current Section 173 agreement, AU508023M, applying to Lot A on PS823651 only, and apply a new section 173 agreement as per the proposed amended permit Condition 28. This will enable the amended BMP to be registered with the relevant lots in the future stages without altering the current agreement on those relevant lots in Stage 1.

In support of both applications, please find attached the following:

- ▶ Current Certificate of Title
- ▶ Copy of Section 173 Agreement AU508023M
- ▶ Application to Amend Planning Permit form
- ▶ Application for Preparation, Removal or Amendment to a Section 173 Agreement form
- ▶ Amended Bushfire Management Plan, Ver 1, dated 7/9/2023
- ▶ Land and Survey Spatial Information (LASSI) map, for information.

Spiire has worked on a number of residential estates in the Bushfire Management Overlay across Victoria, and it is common practice for the approved Bushfire Management Plan to be amended from time to time as Stages are developed and layouts altered. In these instances, the relevant Councils have used discretion when considering the appropriate execution of the mandatory condition. Given the amendments do not affect the previous stages these amendments are not put on public notice.

Given the timeframe since lodging the secondary consent application and that titles cannot be issued for Stage 2 until the new s173 agreement is applied, it is respectfully requested Council process these applications as a priority.

Should you have any questions please do not hesitate to contact me on 0417 690 677.

Yours sincerely



Casey Collins
Senior Associate - Planning

Enclosure: As above