

**Submission Regarding Modification of Consent**  
**Board of Fire Commissioners**  
**Re: Barbara Hughes**  
**Pty: Subdivision 39 Devlin Road, Castlereagh 2749**

On behalf of our client, Ms Barbara Hughes, we respectfully seek a variation of the general terms of approval as previously set out by the Board of Fire Commissioners. The modification sought is a deletion of the requirement to remove the bamboo at the front and side of our client's premises. The reasons justifying the aforementioned modification, as will be discussed, include the relative unlikely nature of a bushfire caused by the bamboo, the low safety risk, and the comparative environmental benefit for the colony of frogs that resides therein.

In accordance with the interests of the NSW Rural Fire Service, the likelihood and consequence of bush fire incidents, in and around our client's property, must be taken into account. Apart from the vegetation immediately surrounding the house (including the bamboo) there is a substantial cleared gap between the vegetation and the location of the house. It is arguable that the likelihood of a fire igniting, and spreading to reach our client's property, is slim. Within the vicinity of the property there lies no immediate danger – no fine fuels, combustibles, open flames or electric equipment exist.

Therefore, given the low likelihood of ignition and spreading, and the moderate consequences that would eventuate in the case of a fire, the risk is relatively low. The retention of only a small area of bamboo in the interests of an environmental and species protection, poses a limited fire danger threat given its restriction to one side of the house.

In light of the *Environmental Planning and Assessment Act 1979*, matters of environmental importance fall under consideration. Given the colony of frogs that reside therein, it is integral to their habitat and survival that the impacts of such a requirement, as set out by the NSW Rural Fire Service, be evaluated accordingly.

According to the Australian Government Department of Environment and Heritage, many of Australia's frogs are found nowhere else in the world. Fifteen of Australia's frogs are endangered, twelve are vulnerable and four extinct. Given the importance of maintaining their habitat and their existence, the relatively low bush fire hazard is arguably outweighed by the compelling environmental benefits.



DA 13/04 96

The bamboo plant itself faces excessive deforestation and destruction which threatens its continuation.

The associated benefits, both for the foliage and the fauna therein, appear preferable to the arduous and time consuming process that eradication of bamboo demands, especially in light of the limited fire threat the plant poses.

A combination of the risk priority, and the inconvenience posed by the works, suggests the risk is acceptable. According to the Rural Fire Service, within the Castlereagh BFMC, there is a high level of acceptability. The low risk in this situation demands routine procedures, as opposed to a complete eradication of the bamboo and frogs.

31 July 2014

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DA

13 / 04 96

**Environmental Impact Statement**  
**Re: Barbara Hughes**  
**Pty: Subdivision 39 Devlin Rd, Castlereagh 2749**

On behalf of our client, we seek to assess the environmental impact of the proposed activity of subdivision of 39 Devlin Rd, Castlereagh. In order for the subdivision to comply with the requirements of the Board of Fire Commissioners, our client seeks to remove part of the bamboo on the side of her house, whilst preserving the section at the front which contains a colony of frogs.

This proposed act of subdivision is arguably free from any negative environmental consequences as part of the plant will be retained, thus preserving and protecting the bamboo. Further, by maintaining the bamboo at the front of the house, the colony of frogs that resides therein is protected from endangerment.

Thus, it is evident that the proposed subdivision of the aforementioned property contains no negative environmental impacts. Instead, it appears that the preservation of the plant and the protection of the animals provide evidence of positive environmental consequences.

Please find attached a copy of our submission to the Board of Fire Commissioners, requesting a variation of the requirements.

  
DN 13/0496



PARTNERS

**JOSEPH J. GILLES**

LL.B (SYD) F.T.I.A. (1982) C.T.A. (2012)  
ACC.SPEC. (BUS LAW)  
ACC.SPEC. (PROPLAW) (1994)

**GREGORY G. ELIADES**

LL.B. (SYD.) PUBLIC NOTARY

ASSOCIATES

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Our Ref: GGE:MW:G8864

September 03, 2014

The Senior Environmental  
Planner

Penrith City Council  
PO Box 60

**PENRITH NSW 2751**

**FAX: 4732 7705**



Dear Sir/Madam

Re: **Barbara Hughes & David Ballard**  
Pty: **39 Devlin Road, Castlereagh DA 1310496**

We refer to your letter of 28<sup>th</sup> February 2014, a copy of which is enclosed.

It has taken some time to liaise with the Board of Fire Commissioners in respect of the Section 96 Application, particularly in respect of the request to allow retention of bamboo at the front and side of 39 Devlin Road to protect a colony of frogs.

On this basis, in light of your previous recommendations, we enclose the following:-

1. Statement of Environment Effects in respect of the Subdivision.
2. Submission regarding modification of Consent to be submitted to the Board of Fire Commissioners with the Application for variation of the above consent.
3. Cheque for Penrith City Council for \$320.00.
4. Cheque for Penrith City Council for \$140.00.
5. Cheque for Penrith City Council for \$191.50.

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Further, we enclose for completeness, the Consent of David Bruce Ballard which is attached to Annexure "A" to the Application for Development or Construction (Section 96 Variation Application) as Mr Ballard is the joint property owner.

Please if you could consider the Application and advise as soon as possible of your decision.

We would appreciate any comments you might have about the strength of the submissions once you have read them.

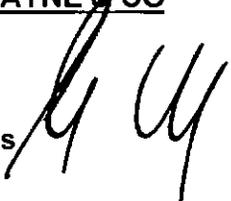
Yours Faithfully

**GILES PAYNE & CO**

Per:

Joe Gilles

ENCL

A handwritten signature in black ink, appearing to be 'J Gilles', written over the printed name 'Joe Gilles'.



Ref: DA13/0496  
Contact: Kate Smith  
Telephone: 4732 7705

Joe sent to me  
from Council

THANKS  
BARBARA

COPY

Barbara Hughes  
39 Devlin Road  
CASTLEREAGH NSW 2749

28 February 2014

Dear Barbara,

**Proposed Section 96 Development Application  
Development Application No. DA13/0496  
Lot 7 DP 17231, 39 Devlin Road, CASTLEREAGH NSW 2749**

Please find enclosed return of all documentation and fees submitted to Council for the above application. Before your application is lodged and registered it is recommended that you review and address the following matters:

1. Council's records indicate that there are two owners of the above property and as such the application form must be signed by both property owners.
2. Your application is to include a statement of environmental effects which addresses Section 96 of the Environmental Planning and Assessment Act 1979. Your statement of environmental effects should also include what aspects of the approved development you are seeking a modification.

From discussions with the assessment officer on the original development application, it is understood you may be seeking a modification to the general terms of approval as issued by the Rural Fire Service (RFS). It is recommended that prior to lodgement of your application you liaise with the RFS to determine any additional information your application may need to include for their assessment.

An assessment of your proposal has not been carried out. The above information has been provided to assist you with your submission.

You should not assume Council's support to a proposal based on this information only as Council's full assessment and determination can only be made after lodgement and registration of the application.

Should you have any questions or would like to discuss this matter further please contact Kate Smith on (02) 4732 7705.

Yours faithfully

Kate Smith  
Senior Environmental Planner

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PENRITH  
CITY COUNCIL