

Submissions Report

Major Project 05-0038

Proposed Subdivision of Lot 542 DP113791, Lot 156
DP753202 and Lot 53 DP836998

Prepared For: or: **RTS Super Pty Ltd**

Date: 13 April 2022

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SUBMISSIONS REPORT

Major Project 05-0038

Proposed Subdivision of Lot 542 DP113791,

Lot 156 DP753202 and Lot 53 DP836998



Title:	SUBMISSIONS REPORT
Project:	Major Project 05-0038 Proposed Subdivision of Lot 542 DP113791, Lot 156 DP753202 and Lot 53 DP836998
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Prepared/Approved By:	Anthony Fish
Position:	Town Planner
Signed:	<i>A signed copy can be provided upon request</i>
Date:	13 April 2022

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Appendix A

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1 Introduction

1.1 Background

Major Project No. 05_0038 was approved by the Department of Planning on 5 April 2009. The approval was for a 133 Lot Residential Subdivision of Lots 53 and 54 DP 836998 and Lot 156 DP 753202, The Bucketts Way, Tinonee. The approval included the construction of roads, infrastructure and the provision of public foreshore access and was to be carried out in a number of stages.

The location of the subject land is shown in **Figure 1**.

The ownership details of the properties that are subject to the current approval are as follows:

Lot 542 DP 1113791 - RTS Super Pty Ltd

Lot 156 DP 753202 - Rodney and Jillian Illidge

Lot 53 DP 836998 - Joan Donnelly

Figure 1 – Site Location

Source: Midcoast Council Online Mapping



1.2 Proposed Modification

A Modification Report was prepared in response to proposed subdivision layout changes and further analysis of the site opportunities and constraints for development of the site. This Report was submitted to NSW Planning and Infrastructure for consideration.

The modifications to the development are proposed to:

- Take into account Council's request for restriction of access to the foreshore;
- Allow for the dedication of additional environmental protection land to Council;
- Incorporate changes to the layout required by condition of the original approval;
- Request modification of conditions of consent to reflect the new proposed subdivision layout; and
- Adjust roads and infrastructure to achieve an improved subdivision layout that will meet current market demands.

This report discusses the proposed changes to the development layout and provides an outline of the proposed changes to the conditions of the approval.

1.3 Exhibition of Modification Report

The Modification Report was exhibited for Public, Organisation and Agency comment by NSW Planning and Infrastructure from 11 November 2020 to 25 November 2020. The following submissions were received during the Exhibition Period.

- One (1) Public submission (name withheld);
- Two (2) Organisation submissions; and
- Six (6) Public Authority submissions.

A copy of each of the submissions is attached at **Appendix A**.

1.4 Scope of this Report

This Submissions Report has been prepared to provide a response to those submissions made during the Exhibition Period. This Submissions Report:

- Provides an analysis of the issues raised in the submissions;
- Describes what has been done to address those issues raised; and
- Outlines the changes to the proposal in response to those submissions.

2 Submissions Received

2.1 Public

1. Public Submission – Name Withheld

Specifically this Submission stated:

I am in support of the development and see that it complies with current standards. However, I feel consideration should be taken into the speed limit on The Bucketts Way as part of the traffic report. Could there be an extension of the 70km/hr speed limit for traffic heading westbound towards Tinonee due to the bend in the road near the development site. I feel this will minimise the risk of car accidents with potential car cueing to turn into the site from the westbound lane.

Traffic heading eastbound towards Taree should be able to remain at 80km/hr.

2.2 Organisations

1. Environment Protection Authority

Specifically this Submission stated in part:

Based on the information provided, the proposal does not appear to require an environment protection licence under the Protection of the Environment Operations Act 1997. Furthermore, the EPA understands that the proposal is not being undertaken by or on behalf of a NSW Public Authority nor are the proposed activities other activities for which the EPA is the appropriate regulatory authority. In view of these factors, the EPA has no comments to provide on this project and no follow-up consultation is required.

2. Koalas in Care

Specifically this Submission stated:

As considerable time has passed since we made comment on the original Builddev/Illidge application we wish to advise you that KIC has considerably more understanding of koala usage & data of the surrounding landscape of this proposed subdivision.

The years of drought conditions followed by the horrendous fires 2019/2020 in the area, including the State Forest adjacent the proposed site, have undeniably had a detrimental impact on the koala population using the area. The loss of habitat/recovering habitat in this area has displaced koalas putting them in harm's way looking for food & shelter.

The Bucketts Way near the Illidge property has been a site that several koalas have been reported crossing in this current Koala Breeding Season. It is imperative that Koala Habitat in this area is protected for the ongoing future of the koalas who survived the fires.

2.3 Public Authorities

1. Transport for NSW

Specifically this Submission stated in part:

- *TfNSW notes that the TIA submitted with the modification application was prepared in 2007 due to which current (2020) traffic volume on The Bucketts Way is unknown. The TIA indicates that two-way traffic volume on The Bucketts Way was 317 vehicles/hour (AM) and 273 vehicles/hour (PM) in 2007. TfNSW recommends that DPIE consider requiring an updated TIA with current traffic volumes on The Bucketts Way.*
- *TfNSW notes condition 'E35 (2) – Civil Works' of the current approval (MP05_0038) requires Channelised Right-Turn (CHR) / Basic Left-turn (BAL) treatments on The Bucketts Way intersections with the proposed subdivision main entry road and Urray Road. The intersection treatments were conditioned upon consideration of previous TfNSW (then RTA) response letters dated 3 July 2008 and 13 September 2007.*
- *The proposed modification report however appears to nominate an Auxiliary Right-Turn (AUR) intersection treatment noting the minor reduction in the number of proposed lots. TfNSW highlights that RMS Supplement to Austroads Guide to Road Design Part 4A (RMS17.336, Version 2.1, dated 31 August 2017) does not permit the use of an AUR treatment in NSW.*
- *TfNSW advises that The Bucketts Way is now classified as a local road, unlike a classified Regional road at the time of previous TfNSW responses. The intersection treatments on The Bucketts Way is therefore a matter of consideration for MidCoast Council (Council). It is recommended that Council determines the required intersection treatments in accordance with Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings (2020).*

2. Planning, Industry and Environment (Biodiversity and Conservation Division)

Specifically this Submission recommended:

1. *BCD recommends that a Biodiversity Development Assessment Report (BDAR) is prepared for the modification application to ensure additional impacts have been properly assessed and any required offset credits calculated.*
2. *The proponent should undertake a targeted survey for *Diuris flavescens* for the proposed modification or provide an expert report in accordance with 6.5.2 of the BAM. Alternatively, the species can be assumed present on the development lands only.*

3. Planning, Industry and Environment (Natural Resources Access Regulator)

Specifically this Submission recommended:

- *The proponent should show due consideration to the Guidelines for Controlled Activities on Waterfront Land (NRAR 2018). The proponent should detail how the project is compliant with the guideline and detail locations where the subdivision lot layout encroaches upon the outer 50% riparian zone and where appropriate offsetting is proposed, in particular for the 1st and 3rd order watercourses in the eastern section of the site.*

- *The proponent should detail how the Asset Protection Zones (APZ) locations are in accordance with the NRAR Guidelines for controlled activities on waterfront land. APZs are considered to be a non-riparian use and should only be located in the outer riparian zone with appropriate offsetting as per the NRAR Guidelines for Controlled Activities on Waterfront Land* https://www.industry.nsw.gov.au/__data/assets/pdf_file/0004/156865/NRAR-Guidelinesfor-controlled-activities-on-waterfront-land-Riparian-corridors.pdf.
- *The proponent should detail how the vegetated riparian zones for the watercourses within the subject boundary will be managed and re-established. The watercourses within the subject boundary should be established and managed in accordance with a Vegetation Management Plan (VMP) prepared showing due consideration to NRARs guidelines for VMPs* - https://www.industry.nsw.gov.au/__data/assets/pdf_file/0006/160467/licensing_approvals_controlled_activities_veg_mgt_plans.pdf. *The establishment of the VRZs should be considered in the bushfire assessment.*

4. NSW Rural Fire Service

Specifically this Submission stated in part:

The NSW RFS cannot support the Modification application in its current form. The modification application and supporting documentation do not adequately justify how the road layout for stage 1 will provide safe access for fire fighters, and residents, when the main singular public access road will traverse a riparian corridor. It is also assumed that this riparian reserve will be revegetated with koala vegetation species, further adding to the un-managed bush fire threat therefore a potential access constraint into the northern component of the estate.

5. Heritage NSW

Specifically this Submission recommended:

Heritage NSW recommends that the Aboriginal cultural heritage assessment report (ACHAR) be updated as follows:

- 1. Consultation with Aboriginal stakeholders should be undertaken in accordance with the Aboriginal Cultural Heritage Consultation Requirements for Proponents (DECCW 2010) and the results of this process be documented in the ACHAR.*
- 2. A site visit should be undertaken by a suitably qualified archaeologist and representatives of the registered Aboriginal parties (RAPs), as identified through the consultation process at 1, to ascertain the current condition and location of the Aboriginal sites identified in the ACHAR. The AHIMS site cards should be updated as necessary.*
- 3. The proposed mitigation measures, including the conservation and protection of the scarred tree, should be discussed with the RAPs and an Aboriginal cultural heritage management plan agreed to for its ongoing protection.*

6. Midcoast Council

Specifically this Submission stated in part:

We have identified a number of issues and concerns in respect of biodiversity and threatened species matters associated with the proposed modification. These are summarised below:

- The proposed modification report (PDA planning 2020) suggested that discussions had occurred with MidCoast Council officers in relation to the modifications sought. We can confirm that there were extensive consultations between the Applicant and MidCoast Council officers in respect of the development over Lot 542 DP113791. Consequently, we are generally satisfied for the approval of the modification application for the Stage 1 lands. However, the nature of the changes proposed that apply to Lot 53 DP836998 and Lot 156 DP753202 were not the subject to consultations with Council staff. We would suggest that further consultations are required to discuss issues arising from the modification that relate to these two lots.*
- The original Ecological Assessment identified that an updated survey of the critically endangered Pale Yellow Doubletail was required to be undertaken in September 2020 during the flowering season. There is no evidence that this survey has been undertaken. Council staff are indeed aware of several individuals of this critically endangered species being present in the road reserve over which the access road to Stage 2 is proposed to be constructed. This survey is **critical** to informing the finalisation of the Stage 2 subdivision layout boundaries, building envelopes and conservation areas. We would respectfully ask that additional surveys are required and that additional consultations with both NSW and Australian Government*
- environmental agencies prior to determining any modification application for Stage 2. This requires significant re-evaluation because the proposed Stage 2 development could, in our opinion, significantly endanger *Diurus flavescens*, and needs further assessment (under the EPBC Act 1999 for instance). Additional surveys and focussed consultations would be able to define the most appropriate subdivision arrangement for Lot 156 and should frame the dedication of all conservation important land to a public authority rather than rely on private conservation instruments over several lots. This may have implications for proposed Lots 902, 903, 904, 924 and 925, in particular.*
- The amended plans provide additional lots over 916 / 917 and 924. In our opinion, there is inadequate justification provided for these lots. The proposed Lot 917 appears to be divided into two separate areas. This appears impractical. The northern part of proposed Lot 917 should be deleted and incorporated into the dedicated public foreshore reserve.*
- One foreshore area is proposed to be dedicated to Council as a public reserve. This is appropriate. It was agreed that the landform and ecology of this dedicated area did not suit a constructed accessway (boardwalk). To the foreshore, in Stage 2, there is legal access over the road reserve and then into the dedicated land north of proposed Lot 916 and east of proposed Lot 917. There is also a corridor for foot-based access between proposed Lots 921 and 922. There is no detail of how low-level recreation access in these corridors in Stage 2 is to be provided, regulated and managed.*

Further, there appears no legal or physical access provided for the benefit of the public or public authorities to the Crown Land Lot 7008 DP96763 and the river foreshore on the proposed Lot 333 in Stage 3. This needs to be rectified for this proposed Lot.

There is no public foreshore reserve proposed to be created on in Stage 3 over certain parts of proposed Lots 332, 333 and 334 (and in the same manner in which the public foreshore reserve is provided for within the Stage 2 lands). This needs to be rectified.

- *Plans of Management and Habitat and Vegetation Management Plans and initial works such as weed control undertaken as per standard practice are required to be prepared for the foreshore dedication lands. All ongoing costs can be waived. There is no requirement for management plans or initial works on proposed Lot 189, as per previous Council discussions.*

- *We raise the following issues associated with **Figure 8: Vegetation removal / retention plan**:*

- *Proposed lot 924 is a new lot and contains vegetation previously approved and still proposed to be retained. Creation of this Lot is sub-optimal and would result in a loss of significant vegetation that was originally proposed for retention / private conservation,*

- *An APZ is proposed over the road reserve to the dedicated public foreshore reserve. This is inappropriate and can be avoided by a building envelope and APZ on the proposed lot,*

- *The road access to the western side of the development from Urray Rd has shifted slightly to the east and now includes a significant area of vegetation (an IPA APZ is also proposed in this area – see APZ map). Is this a mapping error or is this vegetation now proposed to be removed? If so, this vegetation has not been accounted for in the clearing calculations on page 23 and could result in a greater impact than the approved subdivision layout and thus trigger the requirement to prepare a BDAR.*

Several new threatened species have been listed since the 2007 ecological assessment. On page 33 it states that the modified development would not have a significant impact on these species. There should be a further supplementary Assessment of Significance or other relevant commentary for these species to support this statement.

- *Foreshore land in proposed lots 332 and 334 should be dedicated to Council for public access purposes*

- *Proposed Lot 924 is not considered a suitable lot given its numerous constraints.*

- *Plans of Management should be prepared for all land to be dedicated to Council.*

3 Responses to Submissions

3.1 Consultation

Direct consultation was undertaken with the Public Authorities that provided submissions during the exhibition period. The aim of this consultation was to better understand the issues raised and identify improvements to the Modification that would address those issues. Details of this consultation and actions undertaken in the responses to the submissions are described further below.

3.2 Public Submission

This submission was in support of the proposed modification. It did however raise a desire to have the speed limit on The Bucketts Way fronting the proposed development reduced from 80km/hr to 70km/hr.

The proposed modification cannot make changes to road speed limits and this is a matter for the local road authority being Midcoast Council.

3.3 Environment Protection Authority

This submission had no comments to provide.

3.4 Koalas in Care

This submission emphasises the need to protect Koala habitat.

The protection of Koala habitat is a key consideration of the proposed modification. The extent of clearing for the proposed modification has been reduced as discussed further in this report.

3.5 Transport for NSW

This submission identified that Council had responsibility for the road infrastructure fronting the development however it did recommend that a revised Traffic Impact Assessment (TIA) be prepared for the proposed modified subdivision.

A letter in response to this submission was provided to Transport for NSW. A response to this letter was provided by email on 6 April 2021. Copies of this correspondence is included at Appendix B.

The email response deferred the requirement for the TIA to Council as the Road Authority. Consultation with Council was undertaken in relation to road matters and copies of this correspondence is included at Appendix B.

Council has advised:

Reviewing the conditions of consent and outstanding requirements including the upgrade of the Urray Road / Bucketts Way intersection to the second access point, it does not appear that a reduction in lots warrants a further traffic study given that the original conditions for road works remain unchanged.

Our only requirement would be that a Safety Audit on the intersection as built is provided to confirm that it complies with the original conditions and traffic report before release of the subdivision certificate. This audit can be completed and provided in conjunction with the other intersection works on Urray Road and submission of WAE documentation as required.

Consequently, as the authority for responsibility for The Bucketts Way, Council has advised that an updated Traffic Impact Assessment is not required.

Further discussion of this issue is provided in Chapter 4.

3.6 Planning, Industry and Environment (Biodiversity and Conservation Division)

This submission raised primary issues of with the proposed modification as being:

- Concern about the extent of clearing and that the area to be retained for under covenant is less than that originally approved; and
- Concerns of additional impacts on *Diuris flavescens*.

A letter in response to this submission was provided to the Biodiversity Conservation Division. A response to this letter was provided by letter dated 10 May 2021. Copies of this correspondence is included at Appendix B.

Our response to the concerns is provided below.

Vegetation to be cleared and retained

We have been in ongoing consultation with RFS and Council in relation to the extent of Asset Protection zones and consolidation of some lots to reduce ecological impacts. This consultation has resulted in minor changes to the lot layout.

Amended plans of the proposed lot layout which indicates the extent of vegetation clearing and vegetation retention are included at Appendix C.

The vegetation clearing for the proposed subdivision is now:

70% - 0.96 ha

85% - 1.85 ha

100% - 0.20 ha

Total – 3.01ha

This compares to 4.36ha proposed to be cleared for the approved subdivision.

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In addition, the area of retention of vegetation under covenant is now 29.57 ha compared to 29.06 ha for the approved subdivision.

It is submitted that the proposed modification has less impact on threatened species and ecological communities on the site than the original approval and as such a Biodiversity Development Assessment Report (BDAR) is not required.

A letter from Wolfpeak Pty Ltd has been prepared and is attached as Appendix D. The letter identifies the Ecological Assessment pathway for the proposed modified subdivision and concludes:

The above assessment has demonstrated that the proposed subdivision modification will have less impact on biodiversity than the approved development. As such, it does not require entry into the Biodiversity Offset Scheme and preparation of a BDAR as no greater or additional impact will result. Recorded and potentially occurring threatened species that were not listed during the previous ecological report have been assessed and the modification would not result in a significant impact. The suite of mitigation measures including creation of reserves and vegetation enhancement in currently disturbed areas will provide a benefit to the local flora and fauna and provide greater protection.

Further discussion of this issue is provided in Chapter 4.

Potential impacts on the endangered flora species *Diuris flavescens*

The BCD letter refers to perceived additional impacts on former Lots 501, 503 and 508. Former Lots 502 and 508 are not in the vicinity of the endangered flora species *Diuris flavescens*. It is presumed that BCD meant to refer to former Lots 501, 510 and 522.

The revised layout, as a result of required changes to lots, has resulted in LESS potential impact on the endangered flora species *Diuris flavescens*.

It should also be noted that Condition B4 (6) of the Project Approval requires the preparation of an Orchid Habitat Management Plan (OHMP) for the Stage 2 lands and is proposed to be retained in the modified consent. The preparation of this plan will require further survey for the species at that time.

On this basis it is therefore submitted that no further survey is required for *Diuris flavescens* for this proposed modification and the Condition B4 (6) is adequate to ensure the protection and conservation of this species in the future.

Further discussion of this issue is provided in Chapter 4.

3.7 Planning, Industry and Environment (Natural Resources Access Regulator)

We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Consideration of Guidelines for Controlled Activities on Waterfront Land (NRAR 2018);
- Detail of how the riparian zones will be re-established and managed.

A letter in response to this submission was provided to the Natural Resources Access Regulator. A response to this letter was provided by email on 15 March 2021. Copies of this correspondence is included at Appendix B.

Details of the extent of the reduction in impact on the Vegetation Riparian Zone has been provided to NRAR and it is our understanding that they are now satisfied with outcomes of the proposed modification.

NRAR provided a response on 27 September 2021 advising that their requests have been addressed. A copy of this correspondence is included at Appendix B.

3.8 NSW Rural Fire Service

We understand from the review of the submission the primary issues of concern with the proposed modification are:

- Safe access for fire fighters and residents in Stage 1 of the proposed subdivision

A letter in response to this submission was provided to the NSW Rural Fire Service (RFS). A response to this letter was provided by email on 26 April 2021. Copies of this correspondence is included at Appendix B.

RFS issued their letter of concurrence to the proposed modified layout on 3 December 2021. A copy of this letter is attached at Appendix B.

Further discussion of this issue is provided in Chapter 4.

3.9 Heritage NSW

We understand from the review of this submission that the primary issue of concern with the proposed modification is the request for an updated Aboriginal Cultural Heritage Assessment to include:

- Appropriate consultation with Aboriginal Stakeholders;
- A site visit by a suitably qualified archaeologist; and
- Discussion of mitigation measures with RAP's and preparation and implementation of an Aboriginal Cultural Heritage Plan.

An Aboriginal Cultural Heritage Plan has been prepared for the proposed modification and is included at Appendix E.

3.10 Midcoast Council

We understand from the review of the submission and subsequent consultation with Council officers that the primary issues of concern with the proposed modification are:

- Inclusion of additional Lot 924
- Potential impacts on the endangered flora species *Diuris flavescens*
- Foreshore access in Stage 2
- Northern part of Lot 917
- Foreshore access in Stage 3 and access to Crown Lot 7008 DP 96763
- Extent of clearing in Stage 2 as shown on plans
- Supplementary Assessment of Significance
- Plans of Management

A letter in response to this submission was provided to the Midcoast Council. A response to this letter was provided by letter dated 1 June 2021 and further correspondence received on 9 November 2021. Copies of this correspondence is included at Appendix B.

Further consultation has been undertaken with Council following their response dated 1 June 2021 and subsequent change to the Stage 2 layout have been undertaken to reflect Council's concerns. In addition, a revised Five Part Test Ecological Assessment has been undertaken and provided to Council. This Assessment is included at Appendix F.

Email correspondence was received from Council on 9 November 2021 indicating:

I have read through your commentary embedded within my original memo.

I recognise the lot layout modifications to address the issues raised in the e-mail. The lot arrangement in the modified layout does appear to address my previously stated concerns (other than for the access road issue).

*The relevant contact for the Saving Our Species program for the *Diuris flavescens* is:*

Dr Mark Cameron

Conservation Assessment & Data Officer

Biodiversity Conservation Division | Department of Planning, Industry and Environment

T 02 6659 8241 | E mark.cameron@environment.nsw.gov.au

Level 4, 24 Moonee St, Coffs Harbour 2450

www.dpie.nsw.gov.au

Liaison with this contact would be valuable and would yield relevant data to support the EPBC Act referral for this species for this development stage. I still endorse consideration of possible relocation of the road to Stage 2 away from known individuals, but this issue would be resolved via the EPBC Act referral. I recognise that the Stage 2 development benefits from a current consent with the roadway in the road reserve as shown on the supplied plan.

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I concur that details of foreshore management can be resolved in the preparation and acceptance of the Stage 2 foreshore land dedication and management process.

I also concur that the need for plans of management for any lands to be dedicated to Council are provided for within the existing conditions of consent.

Finally, the supplementary threatened species assessments have been received.

Further discussion of this issue is provided in Chapter 4.

4 Issues Evaluation

The submissions raised some issues that have been considered for the proposed modified subdivision layout as evaluated further below.

4.1 Ecological Impact of Clearing

Further assessment of the location of Asset Protection Zones (APZ's) and areas of vegetation retention have been undertaken that have resulted in the further reduction of clearing for the proposed subdivision. In addition, a reduction in the number of lots in Stage 2 has also reduced the extent of vegetation clearing.

The impacts of the proposed clearing presented in the proposed amended lot layout has been undertaken by Wolfpeak Pty Ltd and is included at **Appendix G**.

Wolfpeak Pty Ltd has concluded:

This report has summarised results of updated and previous assessments relating to the proposed subdivision modification at Carters Creek development site, Tinonee. The approved development has been compared against the updated subdivision layout for the proposed modification. The new development layout has reduced the amount of vegetation to be cleared and the amount requiring removal is 1.35ha less than the approved development. Surveys have been undertaken over all proposed clearing and thinning areas and identified eight hollow-bearing trees and numerous Koala food trees. No threatened plant species have been found in the proposed APZ and road footprint areas.

Previous assessments have determined that the modification proposal does not require entry into the Biodiversity Offset Scheme as no greater or additional impact will result. Recorded and potentially occurring threatened species have been assessed via Five Part Test of Significance which determined that the modification would not result in a significant impact.

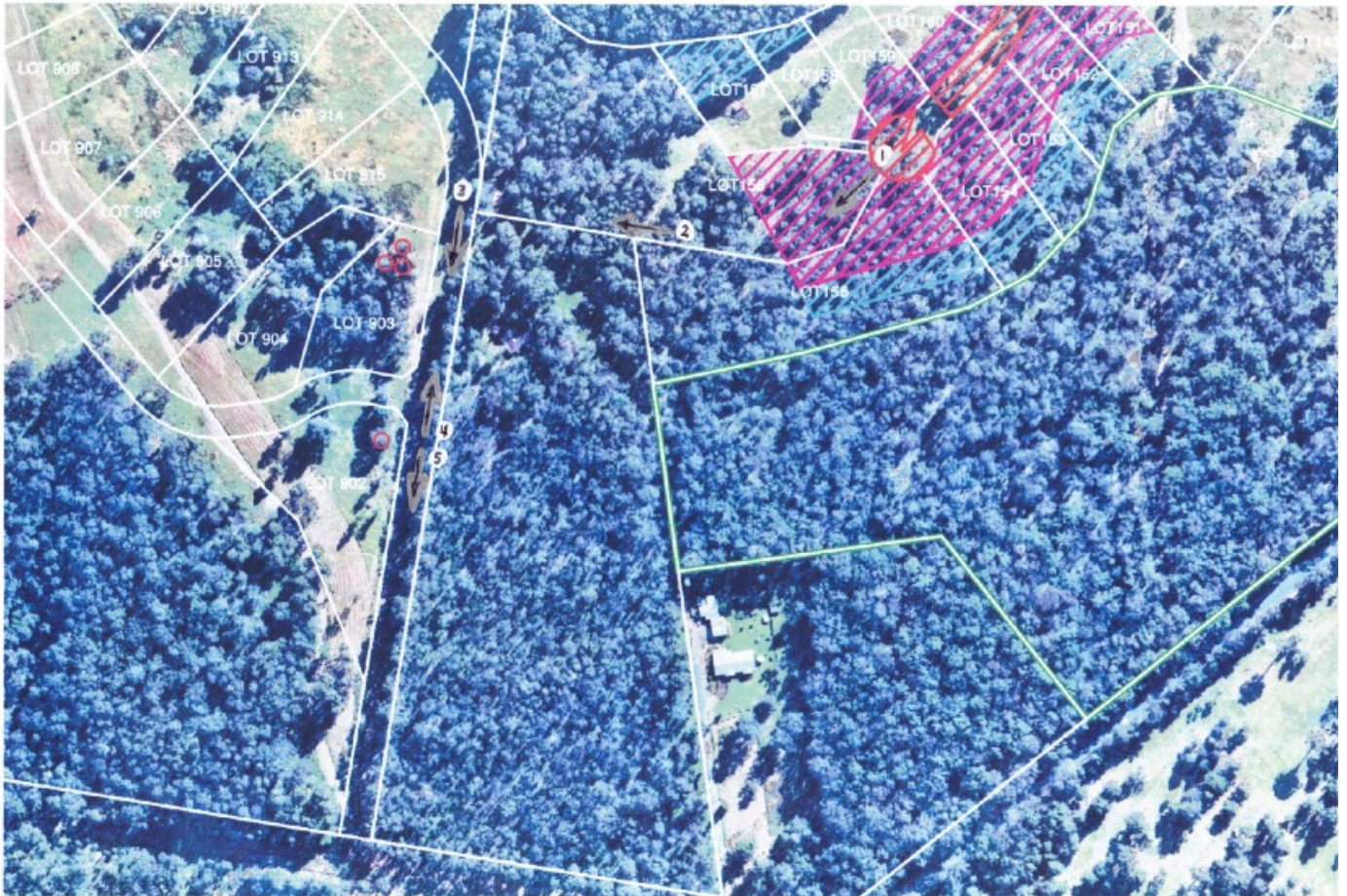
It has also been determined that no additional clearing is proposed for the access road in the Stage 2 subdivision, or for the provision of the fire trail connection between Stages 1 and Stage 2. Photos of these locations were taken in February 2022 as shown below. These photos demonstrate that the road reserve of the Stage 2 access is cleared of native vegetation and the fire trail connection will not require any additional clearing to achieve and 4 metre high by 4 metre wide corridor for emergency vehicles as required by Planning for Bushfire Protection 2019.

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Photo Locations



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Photo 1



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Photo 2



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Photo 3



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Photo 4



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Photo 5



4.2 Reduction in Lots

Requirements for Asset Protection Zones and following requests from Midcoast Council, there has been a reduction in the number of lots in Stage 2 of the proposed subdivision as follows:

- Deletion of former Lots 923 and 924;
- Consolidation of former Lots 916 and 917 into one larger lot; and
- Incorporation of part of the former Lot 917 into the future Public Reserve to be dedicated to Council.

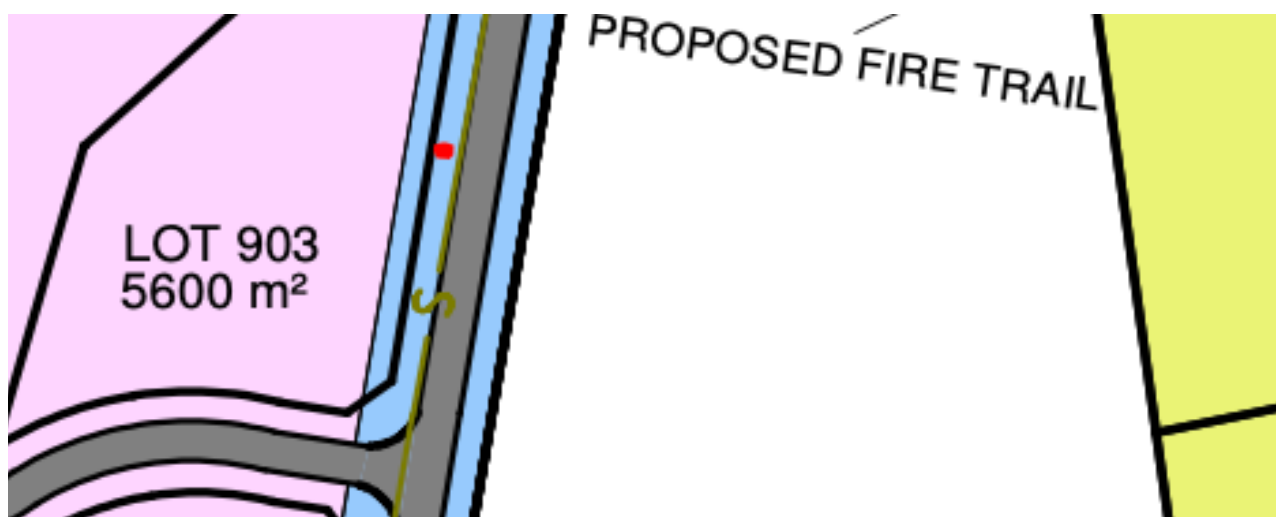
These changes to the Stage 2 lot layout are shown in the subdivision plans contained in **Appendix C**.

4.3 *Diuris flavescens* Protection

Condition B1 of the original project approval required adjustment to the lot boundaries in the then Stage 5 (now Stage 2) in order to protect the endangered flora species *Diuris flavescens*, specifically that:

- The known populations of *Diuris flavescens* orchid be retained within two lots.

This has been achieved for the modified layout with the orchid being retained within two lots, proposed Lots 902 and 904, instead of three lots, with the exception of one recorded location. This location is within the existing road reserve adjacent to Lot 903 as shown below.



The current requirements of the original Project Approval cannot be achieved given that this location is not on private land. A modification of the original condition of consent will be required to enable this location to be independently protected outside of being incorporated into a development lot.

Council has also advised that it would also be appropriate to contact the ***Saving Our Species program for the *Diuris flavescens****. This contact is proposed to be made at the time of development of Stage 2 of the subdivision, as recommended by Council, and is not required as part of this proposed modification.

4.4 Traffic Impact

In response to concerns from Traffic NSW about the validity of the original Traffic Impact Assessment for the subdivision as it relates to the proposed subdivision modification, a Supplementary Traffic Review was undertaken by Transport and Traffic Planning Consultants, The Review is included as **Appendix H**.

The Review concludes:

The assessment findings conclude that the originally envisaged and approved Bucketts Way intersection treatment (i.e. CHR) will continue to accommodate the development with no undue difficulty.

Having considered the BTF assessment and undertaken further SIDRA modelling analysis of the proposal using more current traffic data, it is my opinion that the proposal will have no adverse traffic impact on the local road network.

4.5 Riparian Corridor and Public Lands Management

Asset Protection Zones have been excluded from the Riparian Corridor and other proposed Public Lands in order to ensure that no conflict between the management of those APZ's and the protection of the Riparian Corridor and Public Lands. These changes are reflected in the amended plans included at **Appendix C**.

4.6 Aboriginal Heritage Protection

To ensure that Aboriginal Heritage is protected on the land the following recommendations of the Aboriginal Cultural Heritage Assessment should be included as conditions of consent for the proposed project modification.

- 1) The persons responsible for the management of onsite works will ensure that all staff, contractors and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance. Of particular importance is the National Parks and Wildlife Amendment (Aboriginal Objects and Aboriginal Places) Regulation 2010, under the National Parks and Wildlife Act 1974;*
- 2) A cultural heritage awareness induction program will be developed in consultation with the RAPs and all staff inducted as part of the overall project induction program; and*
- 3) Should any Aboriginal objects be uncovered during works, all work will cease in that location immediately and the Environmental Line contacted.*

SUBMISSIONS REPORT

Major Project 05-0038

Proposed Subdivision of Lot 542 DP113791,
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4) If the identified PADs (Tionee PAD 1 and Tionee PAD 2) will be impacted upon by any future development an archaeological subsurface investigation will be required in accordance with the Code of Practice for Archaeological Investigations of Aboriginal Objects in NSW;

5) If sites 30-5-0069 (isolated) and 30-5-0066 (artefact scatter) will be harmed by any future development an AHIP will be required prior to works at those locations; and

6) Scar 30-5-0068 & 30-5-0070 will be protected and will be fenced with high visibility fencing during construction works and a permanent, non-intrusive, non-obvious and culturally appropriate fence placed around the tree at the end of construction works.

5 Conclusion

The issues raised in the submissions received during the Public Exhibition of the proposed project modification have been evaluated and addressed through amendments to the proposed subdivision layout and proposed additional conditions of approval.

Extensive consultation with Public Authorities has occurred to initially understand the issues raised and to work pro-actively with those authorities to resolve such concerns. This process has resulted in improvements to the project and further reductions in the environmental impact of the development.

The proposed modified subdivision results in an improved outcome for the community and environment when compared to the original approved development.

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