

5 November 2014  
Our Ref: 10034 75W Submissions Response.docx

Mr Thomas Piovesan  
Planning Officer  
NSW Department of Planning & Environment  
GPO Box 39  
Sydney NSW 2001

By Email: [Thomas.piovesan@planning.nsw.gov.au](mailto:Thomas.piovesan@planning.nsw.gov.au)

Dear Mr. Piovesan,

### **Lakes Estate Residential Subdivision – Submission Report**

We refer to your email of 22 August 2014 in relation to the fifteen submissions received during the exhibition of the Section 75W Modification for the above project.

This letter provides our comments in relation to these submissions to assist the Department in finalising its report for the determination of the application.

A total of three responses were received from the following state government agencies:

- Rural Fire Services (**RFS**)
- NSW Office of Environment and Heritage (**OEH**)
- NSW Roads and Maritime Services (**RMS**);

The remaining submissions received were from Coffs Harbour City Council (**Council**) and surrounding land owners.

We also refer to our meeting with the Department of Planning and Environment (**DPE**) on 24 September 2014. At that meeting the DPE undertook to clarify some comments from Council. As at 31 October 2014, clarification from Council was yet to be provided and consequently it was accepted that this response should be finalised and submitted.

Condition E17 of the Project Approval requires the transfer of proposed Lot 141 to Council. However some of the land within proposed Lot 141 is also required to be transferred or dedicated to Council under DA575/03. The S75W modification, in part, seeks to exclude from the Project Approval that land that is already required to be transferred or dedicated to Council under DA575/03.

At the 24 September 2014 meeting with DPE it was proposed that the applicant provide a plan showing the staged transfer or dedication of land as required by either DA575/03 or the Project Approval (as modified). The applicant has not been able to provide such a plan.

The reason is that there could be numerous permutations arising from variations to staging to suit market conditions as provided for by condition A4, and negotiations yet to occur with Council regarding the transfer of lands and compensation payable.

The amended plan of subdivision included in the S75W application provides for an additional 20 lots. As outlined in the S75W report the applicant has sought to include the additional 20 residential allotments within Stage 1 and 2 as required by condition B1 of the Project Approval. However, the 20 additional residential allotments within these stages alone were found to be unfeasible given the environmental constraints including; topography, and market demands. The Proponent therefore modified the plan of subdivision to include an additional 10 residential allotments within Stages 1 & 2 and an additional 10 residential allotments within Stage 3. A total of 160 residential allotments will be provided, which is consistent with the Project Approval and what has been deemed an acceptable density.

The attached table provides detailed responses to all issues, including the above, raised in the submissions.

It is considered that the attached comments satisfactorily address the matters raised in the post PPR submissions and that the application may now be determined by granting consent.

If you have any further questions in relation to the matters in this report please contact Josh Eagleton or Paul Grech at GLN Planning on (02) 9249 4100.

Yours faithfully  
**GLN PLANNING PTY LTD**

A handwritten signature in black ink, appearing to read 'Paul Grech', written in a cursive style.

**PAUL GRECH**  
**DIRECTOR**

**Attachment 1** – Detailed response to submissions.

**Attachment 2** – Approved Amended Master Plan – DA 575/03.

**Attachment 3** – Map 5 of the 2003 Contributions Plan.

**Attachment 4** - Response from Building Code & Bushfire Hazard Solutions.

cc Mr Kevin Shanahan (Astoria Group)

Submission	Response
<b>1.0 Coffs Harbour City Council</b>	
<p><b>1.1 Land Dedication and Acquisition</b></p> <p><b>1.1.1 Section 2.0 Modified proposal</b></p> <ul style="list-style-type: none"> <li>• Council refutes the applicant's statement that Development Consent No.575/03 is operational and that the current modification application is required to allow Development Consent No. 575/03 to be finalised. Council submits that any reference to this consent in the conditions and plans should not be supported.</li> <li>• Council submits that proposed Lot 162 (land zoned E2 Environmental Protection) was not proposed to be dedicated to Council under Development Consent No. 575/103.</li> <li>• Council refers to various purported actions of the applicant, including a Deed entered into with Council, that are said to imply that no further land dedications under Consent No.575/103 are outstanding.</li> </ul>	<ul style="list-style-type: none"> <li>• Consent No.575/03 commenced (and indeed is substantially completed) and therefore is preserved in perpetuity for the purposes of the EP &amp; A Act (see S95(4)).</li> <li>• Consent No. 575/103 approved plan dated 11.04.03 outlined land zoned “7A” by heavy black line (see <b>Attachment B</b>). Note this land has subsequently been zoned E2 under Coffs Harbour LEP 2013 but this cannot affect the terms of the already granted Consent No.575/03.</li> <li>• Condition 1 of Consent No.575/103 as modified under S96 of the Act on 25 September 2006 provides that:   <i>The applicant must transfer or dedicate the lands set aside for acquisition within the approved plan of subdivision the subject of the development application, being those lands identified in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan for koala management, traffic management, water quality and community facilities.</i> </li> <li>• Those lands outlined and marked “7A” on the plan approved by Consent 575/03 coincide with the lands identified for acquisition for Koala management on Map 5 of the 2003 Contributions Plan (see <b>Attachment C</b>).</li> <li>• The approved plan under Consent 575/03 notes over lots shown dotted “FUTURE RESIDENTIAL DEVELOPMENT (D/A UNDER PREPARATION)” which does not imply the retention of land</li> </ul>

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	<p>zoned 7A or alter the conditions of the consent.</p> <ul style="list-style-type: none"> <li>• It is not clear what correspondence Council refers to but this or a Deed cannot change the terms of Consent 575/03.</li> <li>• The proposed Modification does seek changes to the development approved under MP 05_0129 as provided for under the saved provisions of S75W of the EP&amp;A Act.</li> <li>• The S75W will not change the planning outcome provided by either the current Project Approval or Consent 575/03, being the reservation of land to be acquired by Council on a staged basis for conservation purposes as provided for by North Boambee Developer Contributions Plan. The Proponent seeks to rely on Consent 575/03 because it has become aware of the obligation to do so.</li> </ul>

### 1.1.2 Condition A4 – Staging &

### 1.1.3 Condition B1 – Subdivision Design Modifications

- Council submits that offset of [S94] contributions would only be considered after transfer of lands.
- However Council also submits that the value of the land should be established prior to offsets being agreed and Council is not obliged by the Act to accept the dedication in lieu of cash contributions in any case.
- Council refers to its Works in Kind Policy.

- Council's position is unreasonable.
- Council effectively submits that the land should be transferred after which the value of that land can be negotiated but Council could at that stage decide to not accept it as dedication in lieu of cash contributions required by its S94 Contributions Plan.
- The land required to be dedicated is the same land identified for acquisition by North Boambee Developer Contributions Plan.
- S94 of the Act provides:

*(1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*

*(a) the dedication of land free of cost, or*

*(b) the payment of a monetary contribution,*

*or both.*

*(2) A condition referred to in subsection (1) may be imposed only to **require a reasonable dedication or contribution** for the provision, extension or augmentation of the public amenities and public services concerned. (Bold is our emphasis).*

- We fail to understand how it could be reasonable to require both the dedication of land and the payment of a cash contribution towards the acquisition of the same land.
- Clause 1 of Council's Works in Kind Policy states:

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	<p><i>This policy has been developed to provide a standard procedure and criteria for processing applications where a developer makes an application for works in kind or a material public benefit <b>in lieu of partial or full payment of Section 94 developer contributions</b> or Section 64 Developer Contributions that have been applied to a development consent. (Bold is our emphasis).</i></p> <ul style="list-style-type: none"> <li>• That is the Works in Kind Policy applies in situations where a consent requires a cash contribution and post consent a proponent seeks to offset the cash payable by the dedication of land or the undertaking of a work. We fail to understand how the S75W application is contrary to this Policy.</li> <li>• The S75W application seeks to clarify that there is no doubling up cash contributions and land dedication for the same land.</li> </ul>
<p><b>1.2 Open Space/Biodiversity</b></p> <p><b>1.2.1 Condition B1 - Pathways and Connections</b></p> <ul style="list-style-type: none"> <li>• Council does not support the proposal to modify part b) of Condition 'B1 _Subdivision Design Modification', which requires the provision of a 3 metre wide corridor to the north of Lot 120 to allow for a future pathway link to Halls Road.</li> </ul>	<ul style="list-style-type: none"> <li>• A 3 metre wide corridor had not been included or accounted for under applicable Contributions Plan and is not required as a consequence of the proposed development. Therefore the imposition is generally beyond what has been found to be reasonable and/or acceptable (see for example <i>Australian International Academy of Education Inc v The Hills Shire Council [2013] NSWLEC 1</i>).</li> <li>• Notwithstanding, the proposed extension of Amadeus Drive in Stage 3 abuts the adjoining property to the east for a distance of over 160m. This provides ample opportunity for pedestrian access to the future adjoining development.</li> </ul>

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	<ul style="list-style-type: none"> <li>In light of the above, we are unclear why Council raised the concern. Through the DPE, clarification was sought but as at 31 October 2014, Council failed to respond.</li> </ul>
<p><b>1.2.2 Condition B1 - Additional Lots</b></p> <ul style="list-style-type: none"> <li>The additional lots and resized lots proposed for stage 3 (required by Condition B1 a), in what was to be public reserve, are not supported.</li> </ul>	<ul style="list-style-type: none"> <li>Council insisted on the creation of additional lots in their submission on the original Project Application. The DPE accepted their submission and required this as a condition of consent. This necessitated a redesign and increased densities.</li> <li>The resizing of lots in Stage 3 is proposed to provide larger lots to compensate for the increased density. The resized lots take up the whole of the land zoned residential 2(a) under CH LEP2000 (and now R2 under CH LEP 2013). While the approved Project Plan included parts of these lots as land to be dedicated at no cost to Council, there is no statutory basis for Council to demand this. The land is not zoned or reserved for acquisition for a public purpose and is not included within Council's S94 Contributions Plan.</li> <li>The revised lot boundaries are consistent with the 7A Environmental Protection Habitat and Catchment mapping as detailed in A003 'Zoning Plan' submitted as part of the 75W report and the current E2 zone boundary under CH LEP 2013.</li> </ul>

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<p><b>1.2.3 Condition B11</b></p> <ul style="list-style-type: none"> <li>Vegetation Management &amp; Landscaping: The proposed changes to Condition B11 are not supported by Council. The Vegetation Management Plan should apply to all conservation lands being acquired by or dedicated to Council and include the requirement to mitigate in accordance with the environmental impacts proposed.</li> </ul>	<ul style="list-style-type: none"> <li>See comment in regard to Council submission 1.1.1.</li> <li>The land is to be acquired for conservation purposes under Council's S94 Contributions Plan. The reason for the acquisition is broader than any need generated by the approved development. Council is to be responsible for the on-going management of the land.</li> <li>Until the land is transferred to Council it remains in the ownership of the proponent. The proponent continues to propose some works within this land as part of the modified Project Application. The works primarily relate to bushfire hazard management and are the equivalent to those works within the approved Project Application.</li> <li>Despite the above, the condition of the land to be transferred to Council is specified by Condition 1 of DA Consent 575/03.</li> </ul>



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<p><b>1.2.4 Condition E11 [E18] - Transfer of Lot 141</b></p> <ul style="list-style-type: none"> <li>The removal of Condition E18 is not supported by Council. The subject land forms part of a minor corridor and watercourse. The land should be managed and enhanced in perpetuity as a natural feature either through dedication to Council or by ongoing management by the developer in accordance with an approved Vegetation Management Plan.</li> </ul>	<ul style="list-style-type: none"> <li>We have interpreted Council's submission to relate to Condition E18.</li> <li>While the approved Project Plan included parts of Lot 141 as land to be dedicated at no cost to Council, there is no statutory basis for Council to demand this. The parts of Lot 141 in question have not been zoned or reserved for acquisition for a public purpose and are not included within Council's S94 Contributions Plan.</li> <li>The revised lot boundaries are consistent with the 7A Environmental Protection Habitat and Catchment mapping as detailed in A003 'Zoning Plan' submitted as part of the 75W report and the current E2 zone boundary under CH LEP 2013.</li> <li>The revised lot boundary retains the contended part of approved lot 141 (now part of proposed lot 161) within land previously zoned 2(a) under CH LEP 2000. The planned intention for this land has recently been reaffirmed by its rezoning to R2 under CH LEP 2013.</li> <li>While this land will be retained as part of a residue lot at this stage, some bushfire hazard Management works will be undertaken on the land in accordance with the Project Approval.</li> </ul>
<p><b>1.3 Subdivision Design</b></p> <p><b>1.3.1 Condition B1 - Road link</b></p> <ul style="list-style-type: none"> <li>Council does not support the proposal to modify part e) of Condition 'B1 Subdivision Design Modification', which requires the provision of a road link from Amadeus Place to the adjoining</li> </ul>	<ul style="list-style-type: none"> <li>The road link is not infrastructure which is required by the development. Therefore the imposition is generally beyond what has been found to be reasonable and/or acceptable (see for example <i>Australian International Academy of Education Inc v The</i></li> </ul>

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<p>residentially zoned lands to the northeast of the site.</p> <p>-</p>	<p><i>Hills Shire Council [2013] NSWLEC 1).</i></p> <ul style="list-style-type: none"> <li>• Traffic impact assessments were completed with the Environmental Assessment (EA) and PPR. Both traffic reports found the proposed road delivery and design suitable in its current form. Given the adjoining land is not currently being developed, the provision of a road link at this stage to the undeveloped land is not usual practice and is considered uneconomic and disorderly development.</li> <li>• Despite the above, the development as modified would allow a future development application for the adjoining to the northeast, to construct a connecting road from Amadeus Place.</li> </ul>

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<p><b>1.3.2 Condition B2 - Cut and Fill</b></p> <ul style="list-style-type: none"> <li>In relation to the applicant's proposal to modify Condition 'B2 - Cut and Fill' Council provides the following comments: <ul style="list-style-type: none"> <li>Paragraph one should include the wording 'plans to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate'.</li> <li>Paragraph two should include the wording '... proposed cut and fill depths and levels ...</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
<p><b>1.3.3 Condition B6 - Road Design</b></p> <ul style="list-style-type: none"> <li>In relation to the applicant's proposal to modify Condition 'B6 - Road Design' Council provides the following comments:</li> <li>Paragraph two proposes the deletion of the words 'in consultation with the owner(s)' and the addition of the words '.... with consideration of the adjoining site ...'.</li> </ul> <p>Council does not support this as this removes the responsibility of coordinating road design between adjoining developments from the developers to Council (by default).</p> <ul style="list-style-type: none"> <li>Paragraph three proposes the addition of the words '...consistent with the design of existing roads in the estate...'</li> </ul> <p>Council does not support this as the addition of this wording may remove Council's ability to apply design standards and specification as that are relevant at the time of design.</p>	<ul style="list-style-type: none"> <li>Council, being the responsible local planning authority has the primary role for coordinating the delivery of local infrastructure. Despite this, the proposed wording does allow for coordination of road construction between neighbours but removes ambiguity with the condition and avoids the applicant being beholden to a third party which would be unreasonable.</li> <li>It is only reasonable and appropriate for the road designs to match up. It is unreasonable for a consent to allow Council the potential to impose design standards not yet formulated. A condition of a consent must provide certainty.</li> </ul>

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<p><b>1.3.4 Fire Trails</b></p> <ul style="list-style-type: none"> <li>• Fire trails are proposed to be located within the middle of individual blocks which is likely to result in addition[al] clearing requirements and duplication of management areas for public and private.</li> <li>• The functionality of a fire trail transecting multiple lots is problematic, particularly under emergency conditions, due to the high likelihood of multiples gating/fencing by various individual landowners and questions around the long term management of the trail as it will no longer be under Council management. Both fire trail relocations are not supported.</li> <li>• In addition Council will need to duplicate a management trail at the Reservation/allotment interface.</li> </ul>	<ul style="list-style-type: none"> <li>• The fire trails proposed under the S75W locations are in exactly the same location as in the Project Approval. Therefore we fail to understand how there will be additional clearing or duplication of management areas.</li> <li>• This is already contemplated in conditions of the Project Approval such as E8, which are not proposed to be modified.</li> <li>• The consent requires the construction of the fire trail which is built to the RFS standard. The lots when registered contain a Right of Carriageway that reciprocally benefits each of the lots providing access for all. They each have a responsibility to maintain that part of the ROW on their land and that can be assured by the conditions of the consent. This issue is addressed further in the response from Building Code &amp; Bushfire Hazard Solutions (<b>Attachment D</b>).</li> <li>• It is not understood how the same fire trail as that in the Project Approval duplicates Council's management responsibilities.</li> </ul>
<p><b>2.0 NSW Rural Fire Service Submission</b></p>	
<p><b>2.1 Proposed modification to the subdivision plan:</b></p> <ul style="list-style-type: none"> <li>• Proposed Lot 162 includes land to the east of Stage 2d and south of proposed Lot 131 (stage 2c) that is identified under the currently approved plans for MP05_0129 as 'Reserve managed</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed 75W report does not seek to alter approved bushfire hazard management measures. No modification to conditions E2 to E11 of the Project Approval, which also deal</li> </ul>

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<p>as APZ' and 'managed open space'. The Section 75W Modification report does not identify how this land is to be managed and whether there are provisions under DA 575/03 for it management as an asset protection zone as currently approved. The applicant is required to demonstrate that adequate asset protection zones are provided to the east of Stage 2d and south of proposed Lot 131 under the conditions of consent for DA 575/03 for these areas of proposed Lot 162</p> <ul style="list-style-type: none"> <li>• The amended plans have deleted an area of proposed 'managed open space' to the south of Stage 2(d) (i.e. south of proposed Lots 119-123). The applicant is required to demonstrate that adequate asset protection zones are provided for Lots 119-123.</li> <li>• The amended lot layout for Stage 3 results in certain sections of proposed fire trails being located within proposed Lots 143 and 145-155 .The provision for trails over privately owned lots with multiple ownership is contrary to the requirements of section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' and is not supported by the Service .</li> </ul>	<p>comprehensively with bushfire hazard management, are proposed.</p> <ul style="list-style-type: none"> <li>• However, the modified consent will need updating so that the lots numbers in these conditions are changed to reflect the amended plans. These amendments are specified in the submission from the RFS and are agreed to.</li> <li>• The S75W plans (see Dwg A013 Rev G) retains the words "Managed Open Space" across both proposed lots 161 and 162 immediately south of proposed lot 131. If the DPE considers that any uncertainty exists this could be clarified by a further condition of consent.</li> <li>• The S75W plans (see Dwg A013 Rev G) have inadvertently omitted the words "Managed Open Space" from that part of proposed Lot 161 immediately south of proposed lots 119-123. The proponent is committed to provide for the management of this land while required. This could be confirmed by a further condition of consent.</li> <li>• Refer to response to Council comment 1.3.4 regarding fire trails.</li> <li>• These issues are addressed further in the response from Building Code &amp; Bushfire Hazard Solutions (Attachment D).</li> </ul>
<p><b>2.2 Proposed deletion of link road from Amadeus Place to the undeveloped residential land to the north-east:</b></p> <ul style="list-style-type: none"> <li>• Should the link road be deleted, the asset protection along the eastern boundary of proposed Lot 160 is to extend for the full length of the eastern boundary should be shown as such on the proposed plans.</li> </ul>	<ul style="list-style-type: none"> <li>• Agreed. This is an oversight and can be addressed by a by a further condition of consent.</li> </ul>

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<p><b>2.3 Condition B10 should require fire trails to be constructed and maintained in accordance with section 4.1.3(3) of 'Planning for Bushfire Fire Protection 2006'.</b></p>	<ul style="list-style-type: none"> <li>This is an additional requirement not arising from the proposed S75W modification. Despite this, the proponent does not object to the addition.</li> </ul>
<p><b>2.4 Condition E3 should be amended as follows to reflect the proposed lot layout and new lot numbers</b></p>	<ul style="list-style-type: none"> <li>Agreed. See above.</li> </ul>
<p><b>2.5 Condition E5 should be amended as follows to reflect the proposed lot layout and new lot numbers:</b></p> <ul style="list-style-type: none"> <li>E5 Prior to the issue of a subdivision certificate for Stage 1, a fire management plan shall be proposed with respect to the future undeveloped stages and proposed Lot 161 that addressed the following requirements: <ul style="list-style-type: none"> <li>a) Contact person/department and details; and</li> <li>b) Schedule and description of works for the construction of asset protection zones and their continued maintenance.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Agreed, except reference to proposed Lot 161 should be corrected to proposed Lot 163.</li> </ul>
<p><b>2.6 Emergency access from the northern end of Amadeus Place to Kratz Drive in Stage 3b has not been addressed in the proposed modification application.</b></p>	<ul style="list-style-type: none"> <li>There is no proposed change to the proposed plan or to condition E9 which is intended to achieve this outcome. Both existing and proposed plans include the note at the northern end of Amadeus Place 'Link to exist. access road to Kratz Drive.'</li> </ul>

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<b>3.0 NSW Office of Environment and Heritage Submission</b>	
No objections.	Noted.
<b>4.0 NSW Transport: Roads and Maritime Services</b>	
<p>RMS has noted that Lot 10 DP 1071628 is directly affected by Coffs harbour Bypass and Lot 164 DP 1170833 adjoins the proposed project. The boundaries of the proposed Coffs Harbour Bypass will have access restriction in place that will deny direct access to the highway corridor and carriageway. Future lots will possibly be subject to future road traffic noise and dwelling design location should any road traffic noise impact</p>	<ul style="list-style-type: none"> <li>• Comments provided by the RMS are noted but do not relate to matters arising from the S75W modification.</li> <li>• We observe that the part of Lot 10 DP 1071628 directly affected by Coffs harbour Bypass is retained in Lot 163 and is not proposed to be subdivided. This is the subject of future acquisition by the RMS.</li> </ul>
<b>5.0 Other Submission</b>	

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<p><b>5.1 G. Slattery North Boambee Estate</b></p> <ul style="list-style-type: none"> <li>Liaison with adjoining developments.</li> </ul>	<ul style="list-style-type: none"> <li>See response 1.3.3.</li> <li>In addition we note that the proposal as modified would allow for the orderly integration with the adjoining land. However, this does not extend to the construction of infrastructure beyond that required by the proposed development or providing rights of access to adjoining land owners without compensation. This would be unreasonable and contrary to the principles established for the imposition of conditions of development consent in the often cited decision of the House of Lords in <i>Newbury District Council -v- Secretary of State for the Environment (1980) 1 All E R 731</i>.</li> </ul>
<ul style="list-style-type: none"> <li>Condition B6</li> </ul>	<ul style="list-style-type: none"> <li>See response 1.3.3.</li> </ul>
<ul style="list-style-type: none"> <li>Consequence of no liaison</li> </ul>	<ul style="list-style-type: none"> <li>See response 1.3.3.</li> </ul>
<ul style="list-style-type: none"> <li>Council Requirements (liaison)</li> </ul>	<ul style="list-style-type: none"> <li>See response 1.3.3.</li> </ul>



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<p><b>5.2 Mr John 'Doug' Simpson</b></p> <ul style="list-style-type: none"> <li>Two future lots (114 and 115) fronting the cul-de-sac will "landlock" the nature reserve in adjacent to Barrington Close.</li> </ul>	<ul style="list-style-type: none"> <li>The S75W amendment includes the creation of 2 additional lots at the end of Barrington Road, over part of the residue lot shown as Lot 141 on the Project Approval (now proposed part Lots 161 and 162). The change is a consequence of the condition of the approval requiring an increase in lot numbers.</li> <li>The subject proposed part Lots 161 and 162 will not be land locked rather the access point will be from Lakes Drive.</li> <li>The revised lot configurations at the end of Barrington Road conform to the boundary of the land zoned residential 2(a) under CH LEP2000 (and now R2 under CH LEP 2013).</li> </ul>
<ul style="list-style-type: none"> <li>Koalas and wallabies are frequently seen on this block.</li> </ul>	<ul style="list-style-type: none"> <li>The S75 W modification would not have a significant effect on fauna habitat.</li> <li>The changes are relatively minor and arise as a consequence of the condition of the approval requiring an increase in lot numbers. However, all proposed lots remain within the extent of land zoned residential 2(a) under CH LEP2000 and recently reaffirmed for residential development with a R2 zone under CH LEP 2013).</li> </ul>
<ul style="list-style-type: none"> <li>A drainage swale presently takes heavy rain runoff from the hill above the small waterway at the end of Fidler Way. An extra block will change the contour.</li> </ul>	<ul style="list-style-type: none"> <li>Drainage will be designed in accordance with Council specifications at the CC stage.</li> </ul>

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<p><b>5.3 Moon, B &amp; E</b></p> <ul style="list-style-type: none"> <li>Object to the proposed modification to delete the requirement to provide a 3 metre wide corridor for a future pathway link to Halls Road, because:             <ol style="list-style-type: none"> <li>The corridor was included on the original site plans and was incremental to our decision making that as grandparents we could access a playground without having to use a vehicle.</li> <li>This is the only walkway between the Lakes area and that of the Halls Road region.</li> <li>If was deleted it would stop all the children from Halls Road area to go to the playground in the Lakes.</li> <li>It would also stop school children wanting to walk to Bishop Druitt College in North Boambee Road.</li> <li>Without a walk way it would be an approximately 4km trip to the playground and the college</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>
<p><b>5.4 Finnie, K &amp; B</b></p> <ul style="list-style-type: none"> <li>This submission is the same or similar to 5.1.3.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>

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<p><b>5.5 Submitters name not provided</b></p> <ul style="list-style-type: none"> <li>This submission is the same or similar to 5.1.3.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>
<p><b>5.6 Submitters name not provided</b></p> <ul style="list-style-type: none"> <li>This submission is the same or similar to 5.1.3.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>
<p><b>5.7 Submitters name not provided</b></p> <ul style="list-style-type: none"> <li>This submission is the same or similar to 5.1.3.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>
<p><b>5.8 Vicki Birmingham</b></p> <ul style="list-style-type: none"> <li>This submission is the same or similar to 5.1.3.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 1.2.1.</li> </ul>

**ATTACHMENT 1**  
**Detailed response to submissions**

Submission	Response
<p><b>5.9 Leslie Juhasz</b></p> <ul style="list-style-type: none"> <li>It was always our understanding and represented to us via the listing agent and marketing material that the estate would have one entry and exit road namely Lakes Drive. The proposed modifications have access to the estate via Highlands Estate (which is not part of the Lakes Estate) and potentially Halls Road. The effect of this will undoubtedly be excess traffic which will place residence including young children, the elderly and visitors to the park and great cycle paths at risk. Presently in peak times traffic flow is congested in Lakes Drive particularly in front of the aged care facility where the employees and visitors park on both sides of the road which makes the road in essence a single carriage way for both directions. In the modifications, council should consider placing requirements/conditions on the developer for parking for the employees and visitors of the aged care facility as it is only a matter of time until the accident occurs.</li> </ul>	<ul style="list-style-type: none"> <li>The S75W application does not change the fundamental nature of the planned and approved road hierarchy for the overall north Boambee release area. The proposed subdivision pattern still proposes one 'main' entry and exit point via Lakes Drive.</li> <li>Assessment and approval of the original Project Application confirmed that no unacceptable traffic impacts are anticipated.</li> </ul>
<ul style="list-style-type: none"> <li>We note that the proposed modifications provide for Lot 74 to contain townhouse developments. This is in total contrast to the current developments within the estate and the open nature of it. The construction of town houses, which are adjacent to koala habitat, and residential homes will have a significant impact on not only the standard of the overall estate and will reduce the value of the current dwellings in the estate.</li> </ul>	<ul style="list-style-type: none"> <li>Varying housing forms such as attached dwellings or dual occupancies (on further subdivided lots) are permissible within the R2 zone under the recently made Coffs Harbour Local Environmental Plan 2013.</li> <li>Notwithstanding the above, development of this lot for other than a single detached dwelling house will require consent. Any future Development Application seeking consent for development of proposed Lot 74 will be required to address the appropriate</li> </ul>

**ATTACHMENT 1**  
**Detailed response to submissions**

Submission	Response
	statutory planning requirements.
<ul style="list-style-type: none"> <li>During our consideration of purchasing Lot 106 we considered future developments within the area and note the modification seeking to have 3 land parcels at the end of Barrington Close as opposed to 2. This will not only increase traffic flow but cause parking problems</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 5.1.2.</li> </ul>
<ul style="list-style-type: none"> <li>We note that the modifications omit any consideration to the construction of access ways (non-vehicular) including footpaths from the intersection of North Boambee Road and Lakes Drive to Bishop Druitt College where a number of children who reside in the Lakes Estate attend.</li> </ul>	<ul style="list-style-type: none"> <li>This issue is not relevant to the S75W modification application.</li> </ul>

**ATTACHMENT 1**  
**Detailed response to submissions**

Submission	Response
<p><b>5.10 Karen Jerrett</b></p> <ul style="list-style-type: none"><li>• This submission is the same or similar to 5.1.3.</li></ul>	<ul style="list-style-type: none"><li>• See response to Council comment 1.2.1.</li></ul>


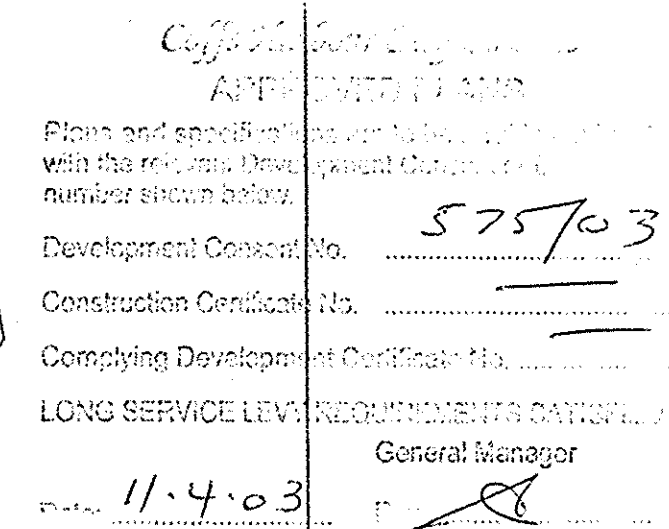
**ATTACHMENT 1**  
**Detailed response to submissions**

Submission	Response
<p><b>5.11 Christopher Forsyth</b></p> <ul style="list-style-type: none"> <li>I am concerned about the proposed possible townhouse site known as Lot 74 on the modified plans PM05_0129MOD1 believing that this is not compatible for the overall estate and it's high standards. I have seen townhouses in other quality subdivisions in other towns and always found that it reduces the standard and the value of the asset.</li> <li>The proposed Lot 131, 132 and 133 off Barrington Close. When I purchased my property on the corner of Barrington Close and Torrens Way, I was advised that there were only 2 developments lots in Barrington Close, now there are 3</li> <li>Lot 131 should be left as part of the reserve which you indicate on your plan as green space. If lot 103 goes ahead, there is no access to this green space from Barrington Close. Lot 133 does not indicate if the access is from The Lakes Drive or Barrington Close.</li> <li>I am a concerned resident and I know there are many more concerned that the originally plans of the estate are being considered for major changes. I have purchased in this quality estate for it's standard, peace of quiet and overall visual effect all of which are now being eroded.</li> </ul>	<ul style="list-style-type: none"> <li>See response to Council comment 5.9.</li> </ul>

**ATTACHMENT 2**  
**Approved Amended Master Plan – DA 575/03**



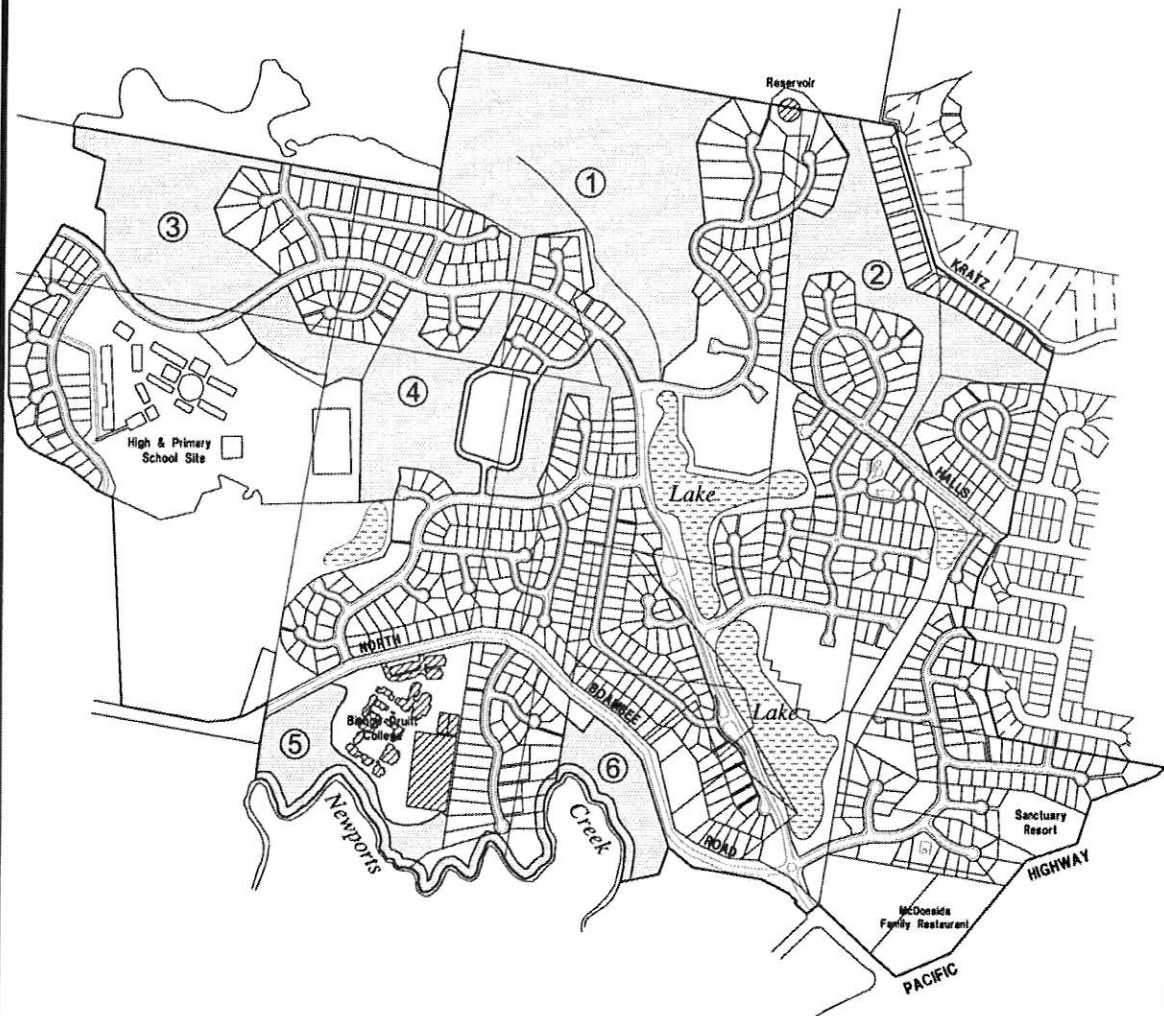
APPLICANT



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**ATTACHMENT 3**  
**Map 5 of the 2003 Contributions Plan**

# NORTH BOAMBEE VALLEY STAGE 1



**MAP 5**  
**KOALA MANAGEMENT**

**ATTACHMENT 4**

**Response from Building Code & Bushfire Hazard Solutions**



# Building Code & Bushfire Hazard Solutions

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PO Box 124, Berowra NSW 2081  
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Astoria Group  
PO Box 6215  
PYMBLE NSW 2073

5<sup>th</sup> November 2014  
Our Ref. 130580

Attn: Mr Kevin Shanahan

**Re: APPROVED RESIDENTIAL DEVELOPMENT  
LAKES ESTATE - NORTH BOAMBEE ROAD, NORTH BOAMBEE VALLEY  
75W APPLICATION DESIGN RESPONSE - BUSHFIRE**

Dear Kevin,

We thank you for allowing us to undertake this assessment for you.

The purpose of this statement is to provide a direct design response to the correspondence issued to the NSW Department of Planning and Environment from the NSW Rural Fire Service (dated 15<sup>th</sup> August 2014, ref: S09/0034) for the subject application.

The following details the specific comments from the NSW Rural Fire Service and our corresponding comment on how compliance can be achieved.

*proposed Lot 162 includes land to the east of Stage 2d and south of proposed Lot 131 (Stage 2c) that is identified under the currently approved plans for MP05\_0129 as 'Reserve managed as APZ' and 'managed open space'. The Section 75W Modification report does not identify how this land is to be managed and whether there are provisions under DA 575/03 for its management as an asset protection zone as currently approved. The applicant is required to demonstrate that adequate asset protection zones are provided to the east of Stage 2d and south of proposed Lot 131 under the conditions of consent for DA 575/03 for these areas of proposed Lot 162.*

I agree with the RFS comments – The areas previously identified as managed APZ must be maintained in accordance with an Asset Protection Zone as detailed in the NSW Rural Fire Service document 'Standards for Asset Protection Zones'. It is requested that this be conditioned as part of the RFS approval.

*the amended plans have deleted an area of proposed 'managed open space' to the south of Stage 2( d) (i.e. south of proposed Lots 119-123). The applicant is required to demonstrate that adequate asset protection zones are provided for Lots 119-123.*

I agree with the RFS comments – The areas previously identified as managed open space must be managed to a state that is not conducive to bushfires. It is requested that this be conditioned as part of the RFS approval.



*the amended lot layout for Stage 3 results in certain sections of proposed fire trails being located within proposed Lots 143 and 145-155. The provision of fire trails over privately owned lots with multiple ownership is contrary to the requirements of section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' and is not supported by the Service.*

The applicant proposes the establishment of right of carriageway over the private residential allotments to ensure unobstructed access is provided for attending fire services utilising the fire trail at any time they considered appropriate (i.e. during an emergency or for trail inspections).

We ask that the RFS consider the following:

- The consent requires the construction of the fire trail which is built to the RFS standard.
- The lots when registered contain a Right of Carriageway that reciprocally benefits each of the lots providing access for all.
- The respective property owner has a responsibility to maintain that part of the ROW on their land and that can be assured by the conditions of the consent. Alternatively positive covenants can be established that impose conditions for the benefit of a prescribed authority (in this case council or the RFS) requiring maintenance and/or repair of land, and must be in terms that require the owner of the land to do some positive action.

*2. proposed deletion of link road from Amadeus Place to the undeveloped residential land to the north-east:*

- *should the link road be deleted, the asset protection zone along the eastern boundary of proposed Lot 160 is to extend for the full length of the eastern boundary and should be shown as such on the proposed plans.*

I agree with the RFS comments – The APZ along the eastern boundary of proposed Lot 160 should be extended. It is requested that this be conditioned as part of the RFS approval.

*In addition to the modifications proposed by the applicant, the Service has identified the following matters as requiring modification in the current Project Approval for MP05\_0129 to ensure consistency with the conditions recommended by the Service in its letter to the Department on 15 April 2013:*

*3. condition B10 should require fire trails to be constructed and maintained in accordance with section 4.1.3(3) of 'Planning for Bush Fire Protection 2006'.*

*4. condition E3 should be amended as follows to reflect the proposed lot layout and new lot numbers:*

*E3 At the issue of subdivision certificate for each Stage, a restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed on relevant lots within the subdivision requiring the provision of asset protection zones (APZ), to be managed as an inner protection area (IPA) as outlined within section 4.1 .3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones', as identified on the 'approved plans' and as follows:*

- i) APZ over southern portion of Lot 75 to increase to 9 metres;*
- ii) APZ over southern portion of Lots 82, 83, 84 and 85 be increased to 21 metres;*
- iii) include a 10 metre wide APZ along the eastern boundary of Lot 101 - measured from the western edge of the unmanaged vegetation;*
- iv) include a 10 metre wide APZ over Lot 163 along the western edge of Lot 86;*
- v) APZ over the eastern portion of Lots 137 and 138 being increased to taper from 9 metres wide at the south to 12 metres wide at the north;*
- vi) APZ to the north-west of Lots 143, 145 and 146 being increased to 21 metres; and*
- vii) APZ over the northern portion of Lot 147 being increased to 13.5 metres.*

*It is also noted that the modified subdivision plans do not include the above asset protection zone requirements. The Services recommends that these amendments be shown on the modified subdivision plans to correctly reflect the approval conditions and to avoid potential confusion due to the discrepancy between the approved plans and approval conditions.*

Point 3 & 4 made are corrections so the consent is consistent with the new plans (i.e. making sure the conditions reference the correct new lot numbers). I have reviewed these comments and they are consistent with the original approval.

*5. condition E5 should be amended as follows to reflect the proposed lot layout and new lot numbers:*

*E5 Prior to the issue of a subdivision certificate for Stage 1, a fire management plan shall be prepared with respect to the future undeveloped stages and proposed Lot 161 that addressed the following requirements:*

- a) contact person / department and details; and*
- b) schedule and description of works*

It is of my opinion that the above should reference Lot 163 not Lot 161.

*Finally, it is also noted that the issue of proposed emergency access from the northern end of Amadeus Place to Kratz Drive in Stage 3b has not been addressed in the proposed modification application. As such, the Service maintains its objection to this stage of the development as outlined in its letter to the Department on 15 April 2013.*

It was noted in the bushfire assessment which formed part of the supportive documentation for the previous approval included the following:

*It is also proposed to link the fire trail off Amadeus Place in Stage 3 into the road servicing Roberts Hill Reservoir. This would be intended to provide additional access for attending fire services. Coffs Harbour Council has made the same suggestion in their response and therefore this will be a recommendation of this assessment.*

It is of my understanding that the Council position hasn't changed on this matter and therefore it remains a valid component of the development.

Should you require any further information or clarification please do not hesitate to contact the under signed.

Prepared by  
Building Code & Bushfire Hazard Solutions



**Stuart McMonnies**

G. D. Design in Bushfire Prone Areas.  
Certificate IV Fire Technology  
Fire Protection Association of Australia BPAD – L3 Certified Practitioner  
Certification number – BPD – PA-09400