

Ref: 15/12

Your Ref: MP05\_0129 PMA-9664210

14 October 2020

The Director General  
NSW Department of Planning & Environment  
GPO Box 39  
SYDNEY NSW 2001

Attention: Emma Butcher

Dear Emma

**Re: Section 4.55 (1A) Modification of Consent – MOD 4  
MP05\_0129 Stage 3A Lakes Estate Residential Subdivision, North Boambee  
Valley, Coffs Harbour Local Government Area**

Reference is made to the above Major Project. MP05\_0129 was approved in June 2013 and modified on 7 August 2015 (Mod 1) and 12 May 2020 (Mod 3).

Mod 3 altered Stage 3A of the project approval area and involved a change to the subdivision layout, increasing the lot yield from 5 lots to 10 smaller lots and replacement of an approved fire trail with a public road. Unfortunately, Mod 3 has proven not feasible and cannot be constructed as approved for the following reasons:

**1. Road Reserve Width**

Civil design for the Construction Certificate drawings has revealed that public road requirements for an 8 m wide pavement with a 4m wide verge for footpath and services. This requires a 16m wide and variable road reserve. The required clearances to trees cannot be achieved whilst meeting Consent Condition A5A:

***Any amendments to road or lot layout to meet the above road design requirements must not require the removal of any additional trees or koala habitat and must not impact on the protection of Tree 34 (as shown on Proposed Subdivision Lot 10 DP 1240161, dated 27.03.20) as outlined in the Arborist Report.***

**2. Civil works**

Retaining walls are necessary to minimise excavation for road construction to avoid tree impact. Batters, rather than retaining walls, cannot be utilised without impact to Tree 34 and other native vegetation. Council will not accept retaining walls within the road reserve. Therefore, the approved public road cannot be built.

The 10 lot arrangement approved as Mod 3 will not proceed and we wish to revert to the previously approved 5 lot arrangements. A further modification of consent is necessary to achieve this outcome. Given a new application process is necessary, the previously approved layout (MP and Mod 1) has been adjusted to accommodate five (5) lots and to increase the area of Lot 9 DP1240161. Note that Lot 9 DP 1240161 (3 Amadeus Place) has an approved dwelling and is in the ownership of the proponents for the development.

The fire trail (now called a 'trafficable defendable space') is in the approximate location of the previously approved public road and is part of proposed Lot 1

Consultation with NSW Rural Fire Service (RFS) will be required. In anticipation of this, we conducted an onsite meeting with NSW RFS's Mr Alan Bawdin and Mr Brad Sellings on 20 August 2020 to discuss the fire trail arrangements. Both Bawdin and Sellings were in general agreement with the design specification of the originally approved Eyre Road culdesac and the proposed geometry and location of the fire trail as shown on the attached plans. The proposed fire trail will be managed within proposed Lot 1 in accordance with *Planning for Bushfire Protection 2019* requirements under a 'restriction on use' and management plan. This arrangement will alleviate Council responsibility for maintenance of the fire trail. We understand that these plans will be referred to NSW RFS and we ask that the referral is directed to Mr Alan Bawdin, as he is familiar with the proposal.

The proposed arrangements occupy the footprint of the Project Approval area and the Mod 3 approval area and does not necessitate any further tree removal. Construction impact for the 6 m wide fire trail will be significantly less than that of the approved 16 m wide public road formation resulting in a better environmental and visual outcome.

The general arrangements for the modified subdivision layout, including the road geometry, have been designed to correlate with actual site conditions in terms of the location of services in Eyre Road and Amadeus Place. This Modification Application presents an opportunity to make adjustments to Lot 9 DP 1240161.

If you require any further information, please contact Keiley Hunter on 0458 515963 or email [keiley@keileyhunter.com.au](mailto:keiley@keileyhunter.com.au).

Yours faithfully

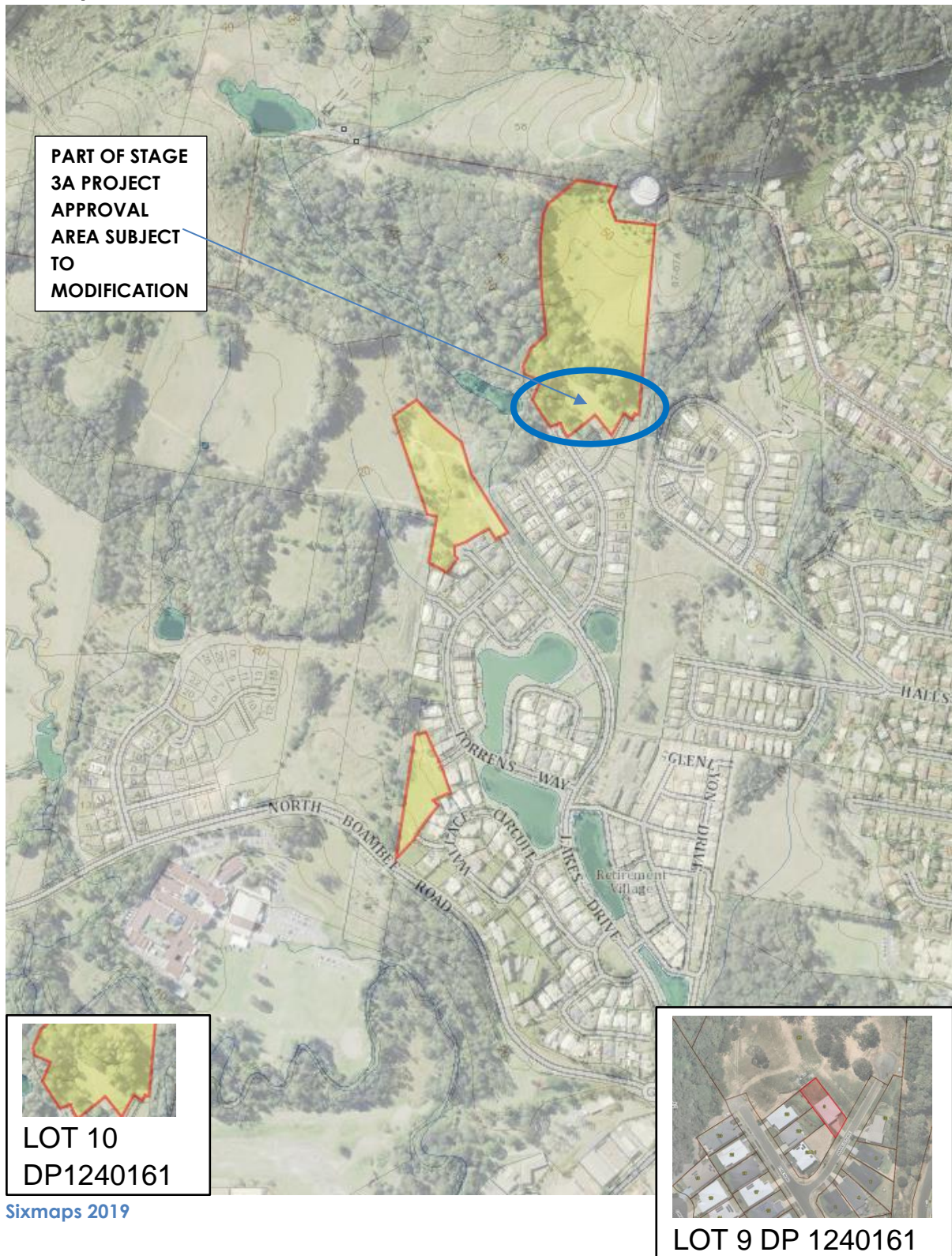


Keiley Hunter

**Keiley Hunter Urban Planner**

# PLANNING ASSESSMENT

## Locality



Sixmaps 2019

### The Proposal

The proposed modification involves part of Stage 3A of the project approval area. The proposal involves part of the land described as Lot 10 DP 1240161 and Lot 9 DP 1240161. All works for the first nine (9) lots, including Lot 9 DP 1240161, of Stage 3A have

been completed with resultant lots developed for residential housing. The proposed modification involves the following changes:

1. Amend lot layout from 10 low density lots to 5 lots and a residual 'development lot' inclusive of the fire trail.
2. Revert to 6 m wide fire trail linkage (trafficable defendable space) between Eyre Road and Amadeus Place.

### Lot Schedule

MOD 3 APPROVED LOTS		MOD 4 PROPOSED LOTS	
Lot #	Lot Area (m <sup>2</sup> )	Lot #	Lot Area (m <sup>2</sup> )
1	525	1	11,005
2	481	2	622
3	466	3	921
4	482	4	936
5	509	5	718
6	455	6	685
7	508.5		
8	575		
9	531.5		
10	594		

### Lot 9 DP 1240161

#### Current arrangements



#### Proposed arrangements



## **The provisions of any planning instrument:**

### **Environmental Planning and Assessment Act**

#### **4.55(1A) Modifications involving minimal environmental impact**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) *it is satisfied that the proposed modification is of **minimal environmental impact**, and*

The proposed modification is of minimal environmental impact. The modified development footprint is located within the previous development footprint approved in the original Project Approval, Mod 1 and Mod 3.

(b) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

The development as modified is substantially the same development for which consent was granted. The modified layout occupies the same development footprint and will deliver low density residential lots.

(c) *it has notified the application in accordance with:*

- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Notification of the proposal and consideration of submissions will be carried out by NSW DPIE.

### **Coffs Harbour Local Environmental Plan 2013**

The subject land is zoned R2 Low Density Residential. The objectives of the R2 Low Density Residential zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Consistent. The creation of low density residential lots will provide for the housing needs of the community. The land adjoins an established residential neighbourhood.

The modified subdivision layout would provide lots capable of accommodating compatible low density housing in accordance with Council's Development Control Plan.

## Development Control Plans

### Coffs Harbour Development Control Plan 2015

The following table indicates how the proposed modified layout meets current DCP controls.

	DCP CONTROL	RESPONSE
<b>C1</b>	<b>PART C SUBDIVISION CONTROLS</b>	
<b>C1.1</b>	<b>SUBDIVISION – GENERAL DESIGN REQUIREMENTS</b>	
1	<i>Lots are to be of regular shape and comprise a suitable frontage to depth ratio to enable future development that is responsive to the lands characteristics.</i>	<b>Complies.</b>
2	<i>Subdivisions are not to comprise an access handle where more than two access handles will directly adjoin.</i>	<b>Complies.</b>
8	<i>Subdivisions are to be designed to integrate with existing or proposed development on adjacent sites.</i>	<b>Complies.</b> <b>Each lot is over 400 m<sup>2</sup> in area and would integrate with surrounding development.</b>
<b>C1.2</b>	<b>SUBDIVISION - DESIGN REQUIREMENTS FOR CERTAIN RESIDENTIAL ZONES</b>	
1	<i>Subdivision proposals are to demonstrate that development can be accommodated on the resulting lot(s) in accordance with the Density Map and relevant built form controls contained within this Plan.</i>  <b>The proposed lots are of a suitable size and configuration to accommodate future dwellings with: Front setback 6 m; Side and rear 900 bdy 675 eave.</b>	<b>Complies.</b> <b>Density control is 1 dwelling per 400 m<sup>2</sup>.</b>
5	<i>The public road frontage of any resulting lot is not to be less than four metres, except for where requirement (6) of this control applies.</i>	<b>Complies.</b>
<b>C1.7</b>	<b>INFRASTRUCTURE REQUIREMENTS FOR CERTAIN SUBDIVISIONS</b>	
1	<i>The following infrastructure is to be provided as part of subdivision proposals in accordance with Council's Development Specifications:</i>  a) roads; b) busbays; c) cycleways;	<b>Complies.</b>

	<b>DCP CONTROL</b>	<b>RESPONSE</b>
	<ul style="list-style-type: none"> <li>d) footpaths;</li> <li>e) kerb and gutter;</li> <li>f) drainage;</li> <li>g) street lighting.</li> </ul>	
3	<p>The following services are to be extended to all resulting lots in accordance with Council's</p> <ul style="list-style-type: none"> <li>a) Development Specifications;</li> <li>b) Council's water main;</li> <li>c) Council's sewer main;</li> <li>d) Telecommunications;</li> <li>e) Electricity;</li> <li>f) National Broadband Network (where available).</li> </ul>	<b>Complies.</b>
4	<p>Separate water meters are to be provided to all resulting lots subdivided under community and strata title schemes in accordance with Council's <a href="#">Development Specifications</a>, including lots comprising existing development.</p>	<b>Complies.</b>
5	<p>Underground reticulated services are to be provided to:</p> <ul style="list-style-type: none"> <li>(a) greenfield subdivisions; and</li> <li>(b) infill subdivisions with existing underground services in accordance with Council's <a href="#">Development Specifications</a>.</li> </ul>	<b>Complies.</b>
<b>C1.9</b>	<b>WATER MANAGEMENT REQUIREMENTS</b>	
1	Stormwater drainage is to be provided in accordance with Council's Development Specifications.	<b>Complies.</b>
2	Development applications for subdivision proposals are to be supported by concept stormwater drainage designs.	<b>Complies.</b>
<b>C1.10</b>	<b>EROSION AND SEDIMENT CONTROL REQUIREMENTS</b>	
3	Basic Erosion and Sediment Control Plans are to be prepared in accordance with the principles of Best Practice Management for Small Areas of Disturbance.	<b>Complies.</b>
<b>C1.17</b>	<b>HERITAGE REQUIREMENTS</b>	
1	Subdivision proposals are to accord with the relevant controls of F2 Heritage Conservation of this Plan.	<b>Complies.</b>
<b>PART F</b>	<b>GENERAL DEVELOPMENT CONTROLS</b>	
<b>F1.1</b>	<b>VEHICULAR ACCESS AND MANOEUVRING - GENERAL</b>	
1	Where possible, driveways are to be provided from lanes and secondary roads rather than primary roads.	<b>Complies</b>

	<b>DCP CONTROL</b>	<b>RESPONSE</b>
3	<i>Driveway width and grades, vehicle circulation, passing bays and vehicular ramp width and grades are to accord with Australian Standard 2890.1.</i>	<b>Complies</b>
4	<i>Vehicles must be able to enter and leave the site in a forward direction.</i>	<b>Complies</b>
<b>G8</b>	<b>NORTH BOAMBEE VALLEY EAST – SPECIAL AREA CONTROLS</b>	
G8.1	<p><i>Development and subdivision proposals are to comply with the principles of the North Boambee Valley East Masterplan.</i></p> <p><b>The objectives of the masterplan are:</b></p> <p><i>To enable the coordination of public and private development within the release area.</i></p> <p><i>To provide for development on land that is free from environmental constraints.</i></p>	<b>There are no ‘principles’ shown on the North Boambee Valley East Masterplan.</b>
G8.2	<p><i>Infrastructure Requirements:</i></p> <p><i>Subdivision proposals are to accord with the requirements of relevant controls within Chapter C1 Subdivision of this Plan.</i></p> <p><i>Traffic calming measures are to be included on Lophostemon Drive and Halls Road to encourage a low speed traffic environment.</i></p> <p><i>Cycleways are to be provided at no cost to Council in accordance with Council's Development Specifications (unless otherwise specified in the North Boambee Valley East Developer Contributions Plan).</i></p> <p><i>Neighbourhood open space areas (including playgrounds) are to be provided at no cost to Council in accordance with the North Boambee Valley Masterplan (unless otherwise specified in the North Boambee Valley East Developer Contributions Plan).</i></p> <p><i>Bus bays (including bus shelters and bus stops) are to be provided within the urban release areas at no cost to Council in accordance with Council's Development Specifications and Chapter C1 Subdivision of this Plan (unless otherwise specified in the North Boambee Valley East Developer Contributions Plan).</i></p> <p><i>Reticulated water and sewerage services are to be provided within the release area by the developer in accordance with Council's Development Servicing Plans and Development Specifications.</i></p> <p><i>Where services identified in Council's Development Servicing Plans are not in place, it is the developer's responsibility to forward fund such services.</i></p>	<b>Complies</b>
G8.3	<i>Environmental Requirements</i>	

	<b>DCP CONTROL</b>	<b>RESPONSE</b>
	<i>Subdivision proposals are to comply with the relevant controls of E1 Biodiversity of this Plan.</i>	<b>Complies</b>
G8.4	<i>Land Dedication</i>	
	<p><i>Land that is unable to be developed due to significant environmental constraints or that is of public benefit may be dedicated to Council via a voluntary planning agreement or other suitable arrangement in accordance with Council's Dedication of Land Policy (unless otherwise specified in the North Boambee Valley East Developer Contributions Plan).</i></p> <p><i>Where land identified in requirement number (1) above is to be retained in private ownership, development applications are to be accompanied by sufficient information to demonstrate that the subdivision will not compromise the continued protection and long term maintenance of high conservation value land under Coffs Harbour LEP 2013.</i></p>	<b>Complies</b>

**Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and**

No such agreement.

**The regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates.**

The proposed modification is not inconsistent with the prescribed matters.

**Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*),**

None apply.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

The likely impacts of the development were considered in the Major Project assessment and determination. The modified arrangements do not increase the likely impacts of the development.

### **The suitability of the site for the development.**

The site is considered suitable for the proposed modified subdivision layout. The land is zoned for residential land use, is serviced cleared land adjoining an established low density residential neighbourhood.

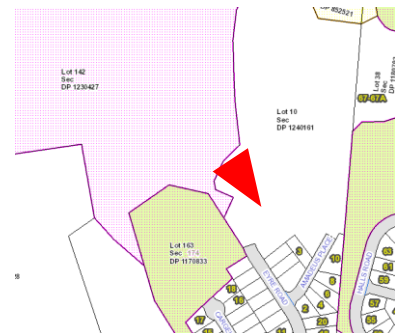
### **The public interest.**

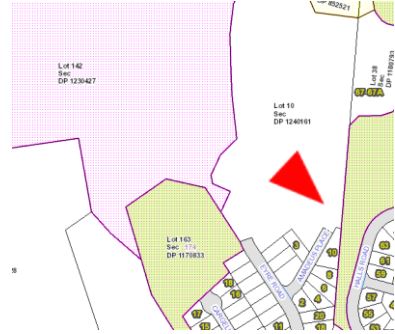
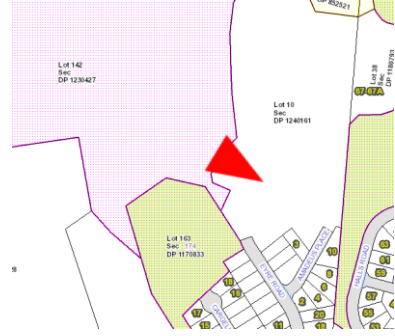
Approval of the modification is considered to be in the public interest. The modified layout meets Council's adopted planning objectives to deliver land housing for low density residential development. Reference is made to Council's recent support for increasing densities in the R2 Low Density Residential area as evidenced in the approval of DA106/18DA for dual occupancy development. Mod 4 will enable Lot 9 DP 1240161 (Proposed Lot 3) to be similarly developed. Proposed Lot 1, the development lot, may be developed for residential housing under a future Part 4 approval, subject to Council's DCP density requirements of one dwelling per 400 m<sup>2</sup>.

### **LAKES ESTATE STAGE 3A - SITE PHOTOS**

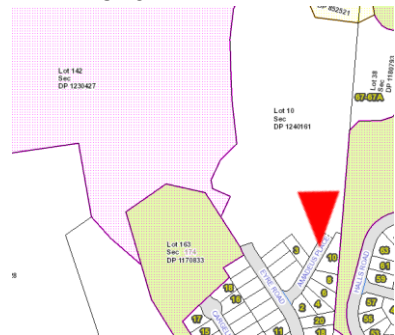


**Looking south east over cleared area of Lot 10 DP1240161**



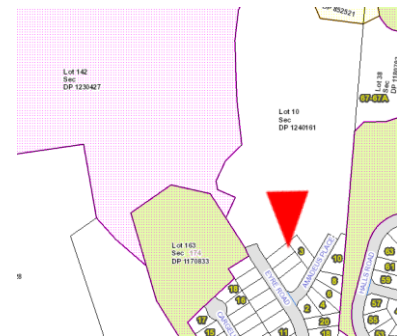
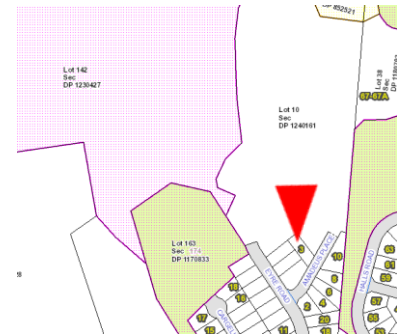


**Looking south over subject land towards Lot 9 DP1240161**





**Interface with adjoining residential lots**



**Looking west from site towards Eyre Road**

