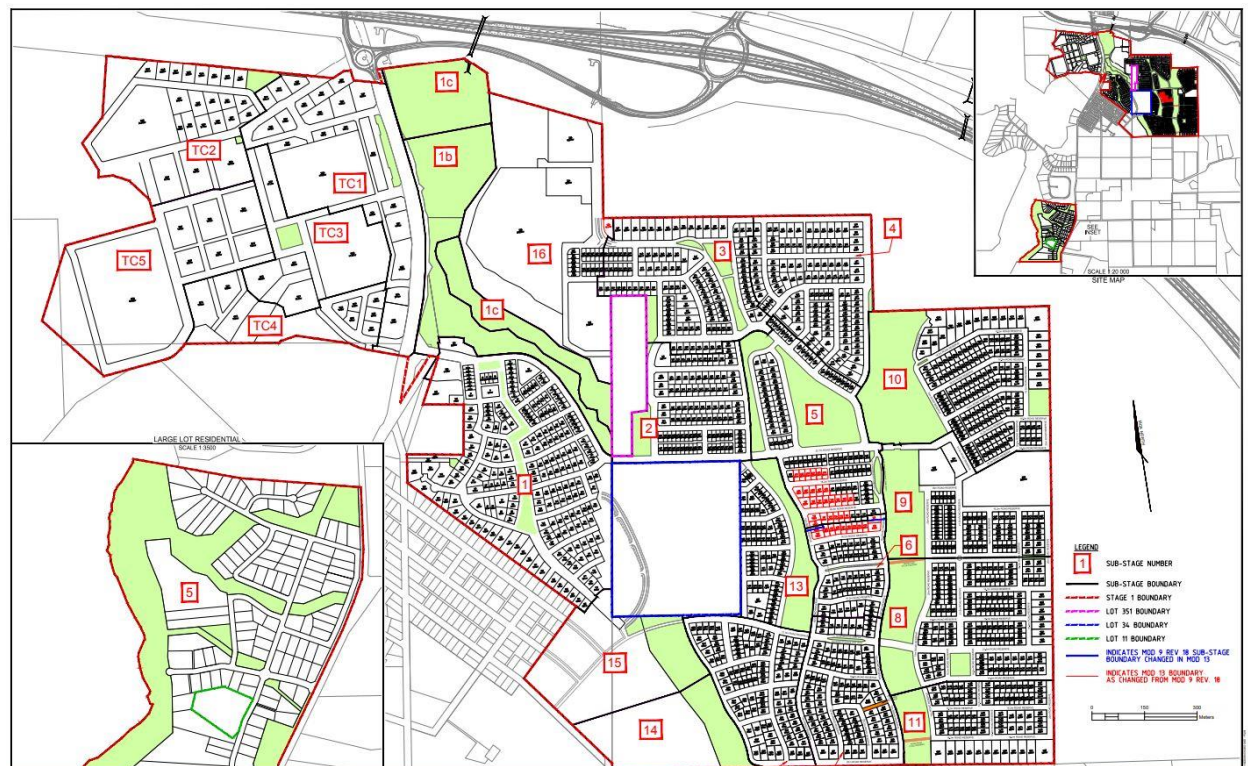


Huntlee New Town (Stage 1) Modification 13

Modification to remove seven lots within residential Stages
5 and 6
State Significant Development Modification Assessment
(MP 10_0137 MOD 13)



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Glossary

Abbreviation	Definition
Council	Cessnock City Council
Department	Department of Planning, Industry and Environment
DPI	Department of Primary Industries, DPIE
DRG	Division of Resources & Geoscience, DPIE
EESG	Environment, Energy and Science Group, DPIE
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environnemental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SSD	State Significant Development

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1 Introduction

1.1 Introduction

This report provides the Department of Planning, Industry and Environment's assessment of an application to modify the development consent for the subdivision of the Huntlee New Town – Stage 1 (MP 10_0137). The application seeks approval to remove seven lots within residential Stages 5 and 6 (R5 and R6) to increase the size of several surrounding lots.

The application was lodged by Huntlee Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1.2 Background

The site comprises Stage 1 of the broader Huntlee New Town redevelopment area (approximately 1,700ha) and covers an area of approximately 355ha, within the Cessnock local government area (**Figures 1 and 2**).

The site is located immediately south of Branxton in the NSW Hunter Valley. Cessnock is located approximately 20km to the south, Singleton is 23km to the north-west, Maitland is 25km to the east and the Newcastle Central Business District (CBD) is approximately 55km to the south-west.



Figure 1 | Regional Context Map (Source: Huntlee DCP 2013)

Wine Country Drive is the main road running through the site (north/south) between the town centre on the western side and the residential subdivision on the eastern side (**Figure 2**). Wine Country Drive connects the site with Cessnock to the south and the New England Highway and M15 Hunter Expressway to the north.

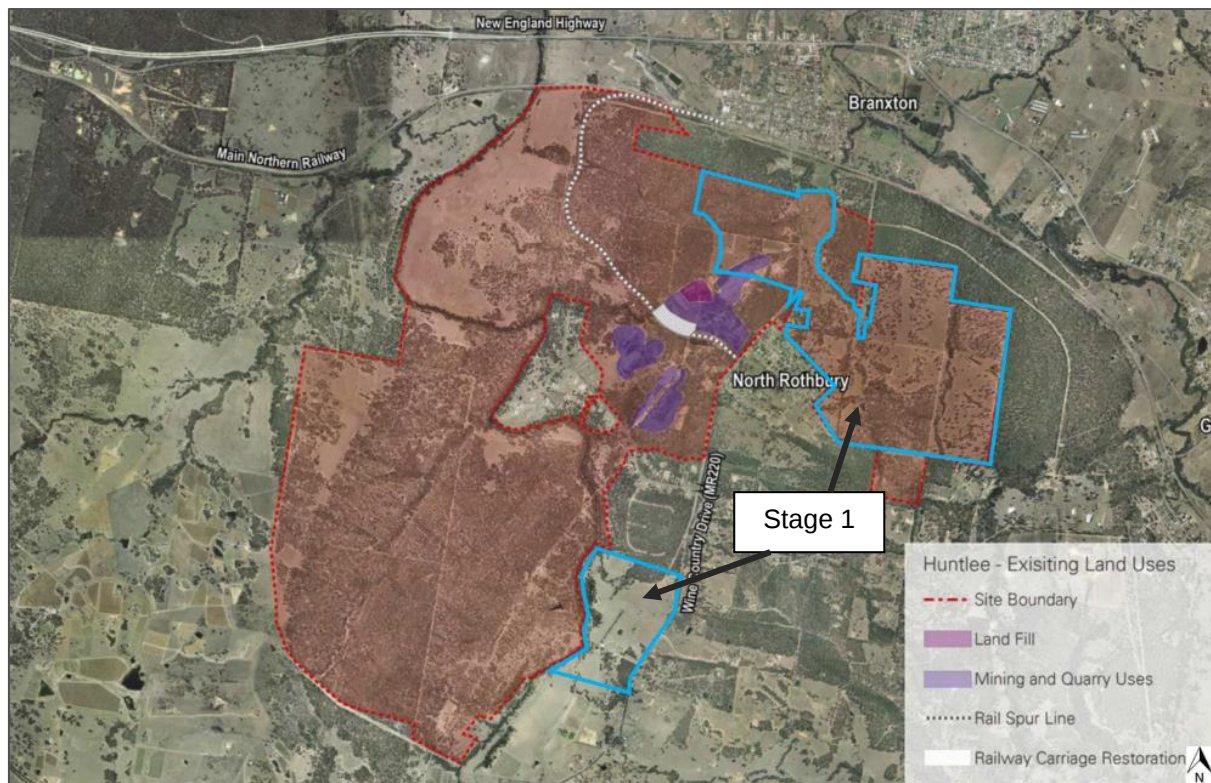


Figure 2 | The broader Huntlee New Town redevelopment area, shown in red with the Stage 1 boundary outlined in blue (Source: Huntlee DCP 2013)



Figure 3 | Aerial view of Stage 1 (outlined in red) and its surroundings (Source: Nearmap)

The site was formerly woodlands and grassed areas associated with its former uses for agricultural and mining purposes. The subdivision of the site has commenced, with approximately 701 residential dwellings constructed on the eastern side of Wine Country Drive (**Figure 3**).

The surrounding area is characterised by residential villages (including North Rothbury and Branxton), rural residential development, vineyards, general agriculture and native woodland.

1.3 Approval history

On 24 April 2013, development consent was granted by the then Planning Assessment Commission (the Commission) for the subdivision of Stage 1 of the Huntlee New Town, including:

- standard and large residential lots, town centre super lots, school lot, open space and associated roads and infrastructure
- the Huntlee Development Control Plan 2013 (HDGP), which includes the environmental and planning framework and development controls for the subdivision and future development of the site.

The development consent, as modified, allows for:

- subdivision to create 1,626 residential lots, seven superlots, one school lot, landscaped areas, drainage, public open space and recreation areas
- associated bulk earthworks
- infrastructure including roads, drainage works and utility services provision.

In addition to the current modification application, the development consent has been modified on eleven occasions (**Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Status
MOD 1	Modifications to the boundaries, dimensions and orientation of the lots within the Stage 1 Entry Village (sub-stage 1a).	Department	75W	Approved on 20 Jan 2015
MOD 2	Modifications to the super lots in the Town Centre, increase the Stage 1 boundary, addition of Lot 213 and amendments to road access to Stage 1 Entry Village.	Commission	75W	Approved on 2 Apr 2015
MOD 3	Changes to the subdivision layout of sub-stages 1a and 2 to 5, reduction of 29 lots and relocation of public open space.	Commission	75W	Approved on 17 Aug 2015
MOD 4	Amendments to the subdivision layout in sub-stages 2 to 5, including increase of one residential lot, modifications to pedestrian paths and lot boundaries and inclusion of new vehicle access lane.	Commission	75W	Approved on 19 Nov 2015
MOD 5	Extension to the boundary of Stage 1 resulting in an additional 3.1ha and 33 residential lots and	Commission	75W	Approved on 5 Jul 2016

associated extension to the road network to service the new lots.

MOD 6	Modifications to the Town Centre lot layout and subdivision pattern, together with clarification of contamination remediation and provision of utility services and amendment to the timing of road infrastructure upgrades.	Commission	75W	Approved on 16 May 2017
MOD 7	Addition of a new access road.	Department	75W	Approved on 17 May 2017
MOD 8	Additional 66 residential lots. Amend the size, location and layout of the residential, school and neighbourhood centre lots. Reconfigure roads and delete an east-west road. Alter the timing of infrastructure and revise the development stage boundaries.	Commission	75W	Approved on 4 May 2018
MOD 9	Amend the Stage 1 site boundary to include a new sub-stage 16 that comprises four superlots and 16 residential dwelling allotments. Reconfigure the subdivision layout of the Town Centre and extend the town centre to include a K-12 school site.	Department	4.55(2)	Approved on 13 December 2019
Mod 10	Additional eight residential lots, subdivide town centre superlots to create 43 commercial lots, reconfigure the town centre stage boundaries and roads, amend the timing of the Wine Country Drive/HEX Link Road intersection, and allow left in left out intersection on the HEX Link Road.	Department	4.55 (1A)	Approved on 22 May 2019
MOD 11	Additional residential lot, minor subdivision and road layout changes and amend the timing for delivery of the Wine Country Drive/Hex Link Road intersection upgrade.	Department	4.55 (1A)	Approved on 14 April 2020
MOD 12	Additional four residential lots within Stage 5.	Department	4.55 (1A)	Withdrawn

2 Proposed modification

The proposal seeks approval to remove seven lots within residential Stages 5 and 6 (R5 and R6) and amend the stage boundary to reflect the revised lot layout. The removal of the seven lots results in increased lot sizes (ranging from 504m² to 850m²) for several surrounding lots within these stages.

The approved and proposed layout of Stages 5 and 6 is shown at **Figure 4**.

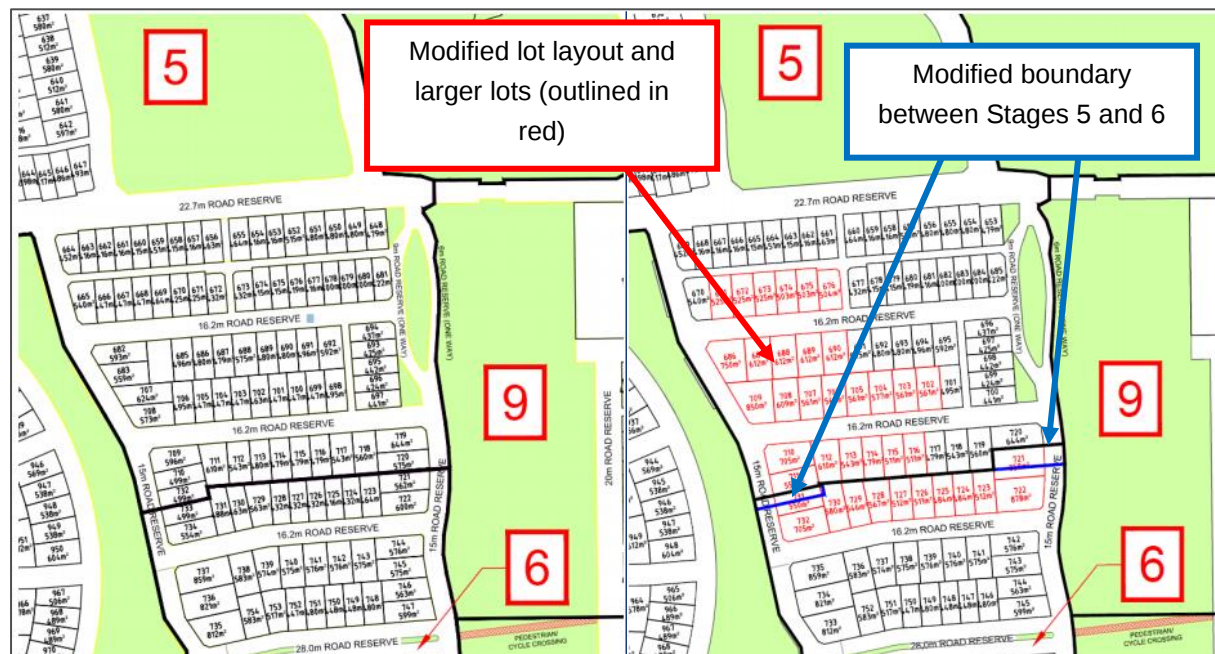


Figure 4 | Approved layout (left) and proposed layout (right)

The proposal reduces the total number of residential lots on the site from 1,626 to 1,619. A summary of the changes to lot numbers is provided at **Table 2** below.

Table 2 | Summary of Lot Changes

	Approved (MOD 9)	Proposed	Change from approved (% reduction)
Stage 5	125	119	-6 (4.8 %)
Stage 6	64	63	-1 (1.6 %)
Total residential	1626	1619	-7 (0.43 %)

3 Statutory context

3.1 Part 3A transition to State significant development

The project approval (MP 10_0137) was originally granted under Part 3A of the EP&A Act. This means the project satisfied the definition of a 'transitional Part 3A project' under clause 2(1) Schedule 2 to the Environmental Planning & Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation), which came into effect on 1 March 2018.

Under the ST&OP Regulation, projects the subject of existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to State significant development (SSD) (clause 3(1)-(2), Schedule 2). As of 1 March 2018, new proposals to modify existing Part 3A project approvals can only be determined once the project has been declared to be SSD by the Minister for Planning, and the relevant provisions to modify an SSD consent under Part 4 of the EP&A Act apply.

On 12 October 2018, an Order was published in the New South Wales Government Gazette transitioning the Part 3A project approval (MP 10_0137) to SSD.

The effect of this order is that the project approval is taken to be a development consent under Part 4 of the EP&A Act for the carrying out of the development and the modification request is taken to be an application to modify under section 4.55 of the EP&A Act. The application has been lodged under section 4.55(1A) of the EP&A Act.

3.2 Scope of modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application and results in minor environmental impacts.

The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the proposal have been considered in **Table 3**.

Table 3 | Section 4.55(1A) Modification involving minimal environmental impact

Section 4.55(1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 5 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications are minor in nature and will have minimal environmental impact.
b) that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified (if at all), and	The Department is satisfied the modification is substantially the same development as originally granted as it seeks a minor reduction in the number of lots only (of 0.43 %).

c) the application has been notified in accordance with the regulations, and	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 4 of this report.
d) any submission made concerning the proposed modification has been considered.	The Department received one submission, from Cessnock City Council (Council). Consideration of this submission is provided in Section 4 of this report.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act.

3.3 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the modification application. However, the Director, Regional Assessments may determine the application under delegation as:

- a political disclosure statement has not been made
- no public objections were received.

3.4 Mandatory matters for consideration

The original project approval (MP 10_0137) was assessed against the provisions of the following Environmental Planning Instruments (EPIs):

- State Environmental Planning Policy No. 55- Remediation of Land
- State Environmental Planning Policy (Infrastructure 2007)
- Cessnock Local Environmental Plan 2011
- Cessnock Development Control Plan 2010: Chapter E17 Huntlee
- The Department's Huntlee Development Control Plan 2013.

The Department considers the proposed modification does not result in any significant changes that would alter the conclusions made as part of the original assessment. The Department has also considered the proposal against relevant provisions in the Huntlee DCP in **Appendix D**, and is satisfied that the proposal is consistent with these controls.

4 Engagement

4.1 Department's engagement

The Department notified the application for 14 days, between 4 March 2020 and 18 March 2020. It was made publicly available on the Department's website and notified to landowners within the site and Council.

Council raised no objection to the proposal.

No **public** submissions were received.

5 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents (Appendix A)
- the Environmental Assessment and conditions of approval for the original project and modifications
- submissions received on the proposal
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department's assessment of key issues associated with the proposal is set out at **Table 5** below.

Table 5 | Assessment of key issues

Issue	Findings	Recommendations
Subdivision layout	The proposal seeks to remove seven lots within residential Stages 5 and 6, to increase the size of several surrounding lots and amend the stage boundary (Figure 4). The Department considers the proposal to be acceptable as: • the reduced number of residential lots is minor (at 0.43 %) and the proposal still provides 1619 residential lots • it results in increased lot sizes (ranging from 504m² to 850m²) within Stages 5 and 6, which provides greater amenity for future residents and aligns with the Huntlee DCP • no change to the approved development footprint and road layout is proposed, therefore there is no additional adverse impact on the environment or surrounding area and existing conditions relating to flooding and bushfire remain relevant	Modified Condition A1 to reference the updated number of lots. Modified Condition A6 to reference the updated Staging Plan. Modified Condition C9 to reference the updated Landscape Masterplan.

- Council does not object to the proposed modifications.

The Department therefore considers the proposal to be acceptable and recommends the conditions be updated to reflect the amended subdivision layout and number of lots.

Local Contributions

The VPA between the Applicant and Council requires the payment of monetary contributions per dwelling.

No additional conditions or amendments to existing conditions necessary.

Council has advised that the Applicant is in the process of varying the VPA to correct inconsistencies with previous modifications and that a letter of offer relating to the MOD 13 changes is not required.

The Department therefore considers no amendment to the local VPA is required as part of this modification.

6 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposal to be acceptable, on the basis that the removal of seven lots is minor, does not increase the development footprint and the larger lot sizes aligns with the requirements of the Huntlee DCP.

The Department is satisfied that the modification can be approved, subject to the recommended conditions (**Appendix C**).

7 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application MP 10_0137 MOD 13 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent MP 10_0137
- **signs** the attached Modification of Development Consent (**Appendix C**).

Recommended by:



Emma Butcher
Planning Officer
Regional Assessments

Recommended by:



Silvio Falato
Team Leader
Regional Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in black ink, appearing to read 'B. Roberts', with a long horizontal stroke extending to the right.

15 July 2020

Brendon Roberts

A/Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification report

<https://www.planningportal.nsw.gov.au/major-projects/project/27101>

Appendix B – Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/27101>

Appendix C – Notice of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/27101>

Appendix D – Cessnock DCP Compliance

Cessnock Council adopted development controls for Huntlee on 7 March 2018, and they are located in Chapter E17 of the Cessnock DCP 2010. However, the adopted Huntlee controls in the CDCP excluded some controls that were in the original Huntlee DCP 2013, adopted by the Director-General of the then Department of Planning and Infrastructure in 2013.

The table below provides an assessment of Modification 13 under Chapter E17 of CDCP, and notes the additional controls, where relevant, from the original HDCP 2013 that were not included in the CDCP.

Cessnock Development Control Plan 2010: Chapter E17 Huntlee	
Section 2 – Vision and Character	
Section 2.4 – Indicative Layout Plan and Staging	Compliance for MP 10_0137 MOD 13
(1) Applications for subdivision and infrastructure are to be generally in accordance with the Indicative Layout and Staging Plan in Figure 3.	The proposed modification is generally consistent with the Indicative Layout and Staging Plan.

Section 3 – Managing the Environment	
This section outlines controls relating to management of environmental issues including heritage, bushfire management, riparian corridors, stormwater management and earthworks.	The proposed modification seeks to amend the lot layout within the approved footprint and would not therefore have any adverse environmental impacts.

Section 4 – Subdivision Design	
Section 4.1 – Street Network and Design	Compliance for MP 10_0137 MOD 13
(1) The street network is to be provided in accordance with Figure 5	No change to the road network is proposed.
(2) Road and intersection upgrades are to be generally in accordance with Figure 6 and Figure 7.	No change to intersection upgrades proposed.
(3) Streets are to be provided in accordance with the cross-sections at Figure 8 to Figure 19.	No change to street network proposed.
(4) “Park Edge” roads (Figure 19) should accommodate the majority of the required APZ within the road reserve and the boundary of the	The proposed modifications have no impact on the Park Edge roads.

development must also incorporate a battered slope within the road reserve to cater for potential changes in level along the site boundary.	
(5) Alternative street designs for local streets and accessways may be permitted on a case by case basis to accommodate local features if they preserve the functional objectives and requirements of the design standards.	The proposed reconfigured subdivision layout preserves the functional objectives and requirements of the design standards.
(6) Where any variation to the residential street network is proposed, the alternative street network is to be designed to achieve the following principles: • a permeable network that is based on a modified grid system, • encourage walking and cycling and reduce travel distances, • maximise connectivity between residential areas and community facilities, open space and centres, • take account of topography and accommodate significant vegetation, • optimise solar access opportunities for dwellings, • provide frontage to and maximise surveillance of open space and riparian corridors, • provide views and vistas to landscape features and visual connections to nodal points and centres, and • maximise the use of water sensitive urban design measures • minimise the number of road crossings of riparian corridors and ensure riparian connectivity is maintained.	No change to the street network proposed.
(7) Except where otherwise provided for in this DCP, all streets and intersections are to be designed and constructed in accordance with Austroads Guide to Traffic Management and Australian Standards AS 1742, 1743 and 2890.	An existing condition of consent requires all roadworks to be designed and constructed in accordance with Austroads and relevant Australian standards.

(9) Street trees are required for all streets. Street tree planting is to: • be consistently used to distinguish between public and private spaces and between different classes of street within the street hierarchy • minimise risk to utilities and services, • be durable and suited to the street environment and, wherever appropriate, • include endemic species, • maintain adequate lines of sight for vehicles and pedestrians, especially around • driveways and street corners, • provide appropriate shade, provide an attractive and interesting landscape character and clearly define public and private areas, without blocking the potential for street surveillance.	The approach to street tree planting/species is not proposed to change, and remains consistent with the development consent.
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Section 4 – Residential Neighbourhoods	
Section 4.5.1 Residential Character	Compliance for MP 10_0137 MOD 13
(1) Residential neighbourhoods are to be focused on elements of the public domain such as a school, park, retail, or community facilities that are typically within walking distance.	The proposed modification does not impact on walkability, as it does not propose changes to the layout of streets.
(3) Subdivision layout is to create a legible and permeable street hierarchy that responds to the natural site topography, the location of existing significant trees and solar design principles.	No change to the street hierarchy proposed.
(4) Pedestrian connectivity is to be maximised within and between each residential neighbourhood with a particular focus on pedestrian routes connecting to public open space, bus stops and railway stations, educational establishments and community/recreation facilities.	The proposed amendments do not impact access to the Town Centre or public open space.
(5) Street blocks are to be generally 150m to 180m long. Block lengths and widths in excess of 180m may be considered where pedestrian connectivity,	No changes to block lengths proposed.

stormwater management and traffic safety objectives are achieved.	
(6) Residential lots should generally be rectangular in geometry.	All modified residential lots are generally rectangular in shape.
(7) Battle-axe lots are not permitted.	The modification does not include any battle-axe lots.
(8) The orientation and configuration of lots is to be generally consistent with the subdivision principles shown at Figure 32 and Figure 33.	The modification results in a subdivision pattern that is similar to the approved subdivision pattern in terms of the lot layout and orientation.
(9) Preferred lot siting is either on a north-south or east-west orientation.	The reconfigured lots are orientated in a north/south or east-west orientation.
(11) Residential subdivision applications should: • Incorporate of a mix of dwelling types including attached dwellings, multi-dwelling housing and residential flat buildings which are located in close proximity to the town and village centres and public transport. • Incorporate a mix of lot sizes for detached dwellings to provide a range of housing choice within the lower density areas. • Provide cottage lots around open space and village centres • Provide country lots around the perimeter of the site and where environmental constraints are managed within lots (i.e., Flooding, bushfire APZ etc) • Be designed to provide for activation of the public domain, including streets and public open space through the orientation and design of buildings and communal spaces. • Ensure that pedestrian, cyclist and road links provide legible and direct access to the town centre, public transport and areas of public open space.	The proposed modification will not compromise the achievement of a range of lot sizes.

Section 4.5.2 Minimum Lot dimensions	Compliance for MP 10_0137 MOD 13
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(1) The minimum subdivision lot size and dimensions are to be consistent with the Lot Type Map found on Council's website.	All modified lots are consistent with the Lot Type Map and with the approved subdivision pattern.
(2) Lots should be rectangular. Where lots are an irregular shape they are to be large enough and oriented to appropriately enable dwellings to meet the controls in this DCP.	No irregular shaped lots proposed.
(3) Battleaxe lots are not permitted.	No battle-axe lots are proposed.

Note: The original HDGP included Table 5, which guides minimum lot frontages and lot sizes. Table 5 is included below:

Table 5: Minimum lot frontage and lot size according to dwelling type

Dwelling Type	Lot frontage (minimum - maximum)	Lot size
Cottage lots	5m – 12m	150m ² - 450m ²
Traditional lots	12m – 20m	250m ² - 800m ²
Country lots	20m	> 800m ²
Multi-dwelling housing	26m	> 800m ²
Residential flat buildings	30m	> 2000m ²

All reconfigured lots proposed in modification 13 exceed the minimum lot sizes in table 5 above.

Section 4.6 Town Centre Subdivision Design	Compliance for MP 10_0137 MOD 13
(1) Lots should be relatively regular in shape. Irregular shaped allotments and narrow street frontages should be avoided.	No new irregular shaped lots proposed.
(2) Lots should be oriented and aligned: - so that future buildings can face the arterial, sub-arterial, collector and local streets to increase visual surveillance and to avoid streetscapes with loading docks and long blank walls, - To facilitate solar efficiency, and	The proposed lots are such that future buildings can directly face the streets and provide good surveillance and amenity opportunities and solar access.

To encourage building design that has frontage to landscaped areas and riparian corridors.	
(3) Access to lots shall be sited to ensure unimpeded sight lines for exiting vehicles.	The proposed modifications are minor and would not impede sight lines for exiting vehicles.
(4) Subdivision of roads should incorporate a road hierarchy that will accommodate the anticipated traffic volumes and vehicle types and be practical and legible for users	No change to road layout proposed.
(5) battle axe lots are not permitted	No battle-axe lots proposed.