

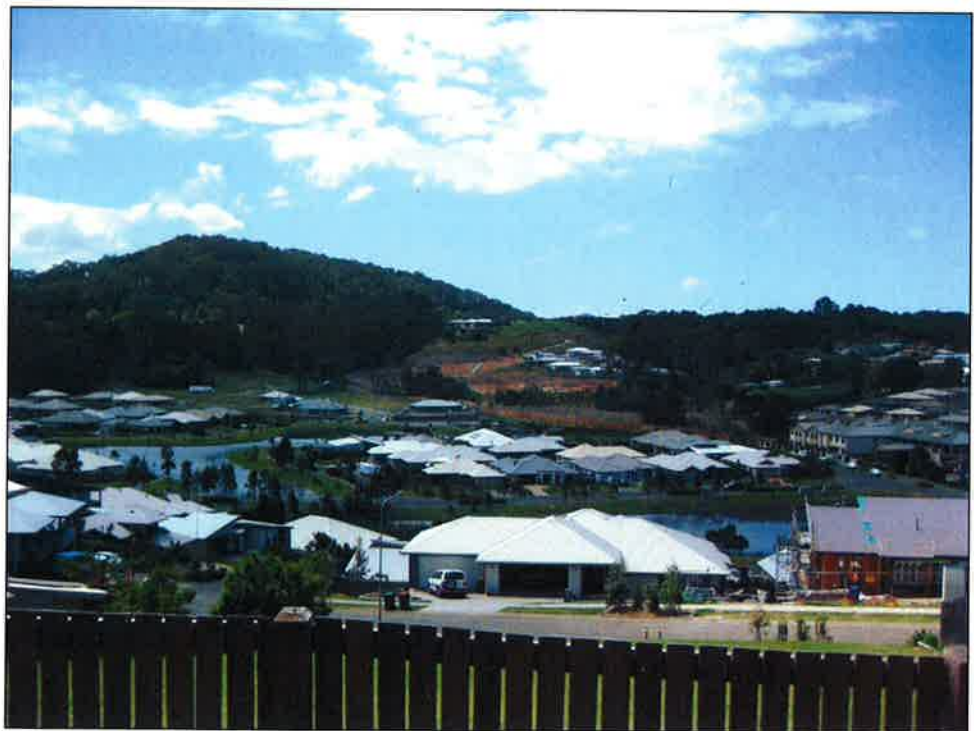


MAJOR PROJECT ASSESSMENT:

***142 lot residential subdivision
North Boambee Road and
Lakes Drive, North Boambee Valley,
Coffs Harbour***

Proposed by Noubia Pty Ltd

MP05_0129



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979
June 2013

ABBREVIATIONS

Council	Coffs Harbour City Council
Department	Department of Planning & Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning & Infrastructure
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environment Plan
Minister	Minister for Planning and Infrastructure
OEH	Office of Environment and Heritage
NOW	NSW Office of Water
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PEA	Preliminary Environmental Assessment
PPR	Preferred Project Report
Proponent	Noubia Pty Ltd
RAP	Remedial Action Plan
RFS	Rural Fire Service
RMS	Roads and Maritime Services, formerly know as RTA
RTA	Roads and Traffic Authority
SEPP 71	State Environment Planning Policy 71 (Coastal Protection)

Cover Photograph: The existing Lakes Estate development, looking north from North Boambee Road

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EXECUTIVE SUMMARY

This is a report on a Major Project Application (MP05_0129) by Noubia Pty Ltd to carry out a residential subdivision on lands at North Boambee Road, North Boambee Valley. The site is located in the Coffs Harbour Local Government Area.

Project Approval is sought for a subdivision consisting of 140 residential lots, one lot (Lot 141) containing bushland and open space, one residual lot (Lot 142) and roads and services. The project has a Capital Investment Value of \$10 million.

The project was declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies, as it is a residential subdivision of more than 25 lots within the coastal zone, as described in Schedule 2 of *State Environmental Planning Policy (Major Development) 2005* (as in force at the time). The Director-Generals Assessment Requirements for the project were issued prior to the 8 April 2011 and as such it is a transitional Part 3A project.

The Environmental Assessment was publicly exhibited from 31 August 2009 to 30 September 2009 (31 days). The Department received 16 submissions, consisting of 10 submissions from public authorities and 6 submissions from the public.

The proponent submitted a Preferred Project Report on 5 September 2012, which included amended plans. The key changes included a reduction in the number of lots (198 to 142) with a consequential reduction in the development footprint and the deletion of residential lots from the lands zoned 7A (Environmental Protection Habitat and Catchment).

Due to the length of time that had passed since the exhibition of the Environmental Assessment, the Department considered it necessary to publicly exhibit the Preferred Project Report, to ensure affected parties were made aware the project was still active. The Preferred Project Report was publicly exhibited from 14 November 2012 to 13 December 2013 (30 days). The Department received 9 submissions, consisting of 8 submissions from public authorities and one submission from the public.

Key issues considered in the Department's assessment are:

- Development density;
- Traffic and access;
- Flooding and stormwater;
- Biodiversity;
- Bushfire risk;
- Consistency with the North Boambee Valley (East) Development Control Plan; and
- Aboriginal cultural heritage.

The Department has assessed the merits of the project and has considered it in accordance with the objects of the *Environmental Planning and Assessment Act 1979*, including ecologically sustainable development. The Department is satisfied that the impacts of the proposed development have been adequately addressed by the proponent's Environmental Assessment, Preferred Project Report including the Statement of Commitments, and the recommended conditions of approval. The Department's recommended conditions of approval are comprehensive and specifically target development density, flooding, vegetation offsets and management, bushfire hazard and Aboriginal heritage.

The Department considers the project to be in the public interest as it will provide additional housing in an area planned for development and it preserves the sites key environmental values. In accordance with the delegations dated 27 February 2013, it is recommended that the Executive Director Development Assessment Systems & Approvals approve the project.

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1. BACKGROUND

1.1 Background

North Boambee Valley is located on the south western fringe of the Coffs Harbour urban area and is approximately 4km from the Coffs Harbour city centre. It is accessed via the intersection of the Pacific Highway and North Boambee Road. The valley runs in an east west direction and has a steep escarpment on its northern side.

North Boambee Valley was historically used for rural purposes, with some parts of the valley used for banana plantations. The valley retains areas of remnant vegetation with ecological values, including identified koala habitat and endangered ecological communities (EECs).

Numerous studies have been undertaken over the last 30 years to assess the suitability of the North Boambee valley for urban development. In the 1990's Council prepared a master plan which recommended that the valley be developed in three stages. In 1997 Stage 1 (aka North Boambee Valley (East)) was rezoned for urban development. The subject site is in the North Boambee Valley (East) precinct.

In 2004 the Roads and Traffic Authority (now Roads and Maritime Services) announced its preferred route for the Pacific Highway Bypass Corridor. The preferred route extends across the western edge of the North Boambee Valley (East) precinct.

On 9 July 2009, Council adopted the North Boambee Valley (East) Development Control Plan (DCP). The DCP is a master plan for the development of the area, establishing a road hierarchy, open space network and environmental strategy.

On 11 April 2003, Council granted development consent (DA 575/03) to a 160 lot residential subdivision on lands within North Boambee Valley (East). That development (known as the 'Lakes Estate') adjoins the eastern boundary of the subject site and contains a system of lakes which has been designed to cater for storm and flood waters from the project which is the subject of this report. The majority of the Lakes Estate development has been developed, with the final stage of subdivision still progressing.

The developer of the 'Lakes Estate' is also the proponent for this Major Project Application, and as such the proposed development (if approved) will be an extension of the 'Lakes Estate'.

1.2 The Site

The site is located on North Boambee Road and Lakes Drive, North Boambee Valley (refer **Figures 1 - 4**). It is legally described as Part Lot 164 DP 1170833, Lot 10 DP 1071628, Lot 1 DP 1089778 and Lot 2 DP 607602.

The southern portion of the site extends northward from North Boambee Road and is generally rectangular in shape. The land falls with a medium grade to the north and more steeply to the north east. A band of vegetation identified as primary koala habitat extends across the midsection of this portion of the site.

The northern portion of the site is broader than the southern portion extending further to the east and west. The north western corner contains dense vegetation which includes the EEC *Lowland Rainforest in NSW North Coast and Sydney Basin Bioregion*. The north eastern corner is generally cleared and has sections of steep land.

The subject site is within the Newport Creek catchment. There are a number of watercourses on site which flow into two sub-catchments and then drain to the southeast and southwest. The majority of the site drains to the southeast to the constructed stormwater system within the adjoining 'Lakes Estate'. A portion of the mid section of the site is flood affected.

The site is bisected by the preferred route for Pacific Highway bypass, with some residentially zoned land isolated to the west of the corridor. The isolated land to the west will be the subject of a future Development Application pending resolution of the highway route.

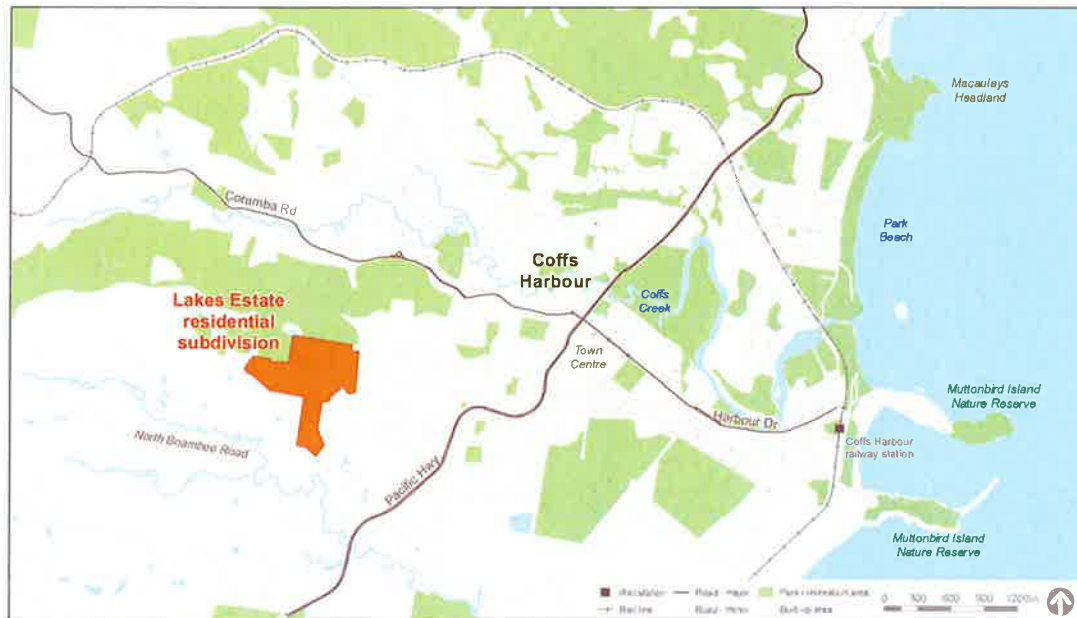


Figure 1: Site location



Figure 2 – View of mid section of the site



Figure 3 – View to the northeast across the 'Lakes Estate'

1.3 The Surrounds

The north of the site adjoins agricultural and grazing lands. Roberts Hill Reservoir adjoins the north eastern corner of the site.

The east of the site adjoins Kratz Drive Estate, which is a residential estate. There is an undeveloped area of residentially zoned land to the north east that requires road access from the subject site.

The south of the site has frontage to North Boambee Road. North Boambee Road is a two lane collector road which intersects with the Pacific Highway. Further to the south on the opposite side of North Boambee Road is Bishop Druitt College.

The southwest of the site adjoins the Highlands Estate. In September 2007, Council granted staged approval (DA 711/06) to a 53 lot subdivision, with stage 1 (23 lots) also granted development consent. Stage 1 has been commenced with a separate development consent required for Stage 2.

The Pacific Highway and established commercial and industrial precincts are located to the southeast.

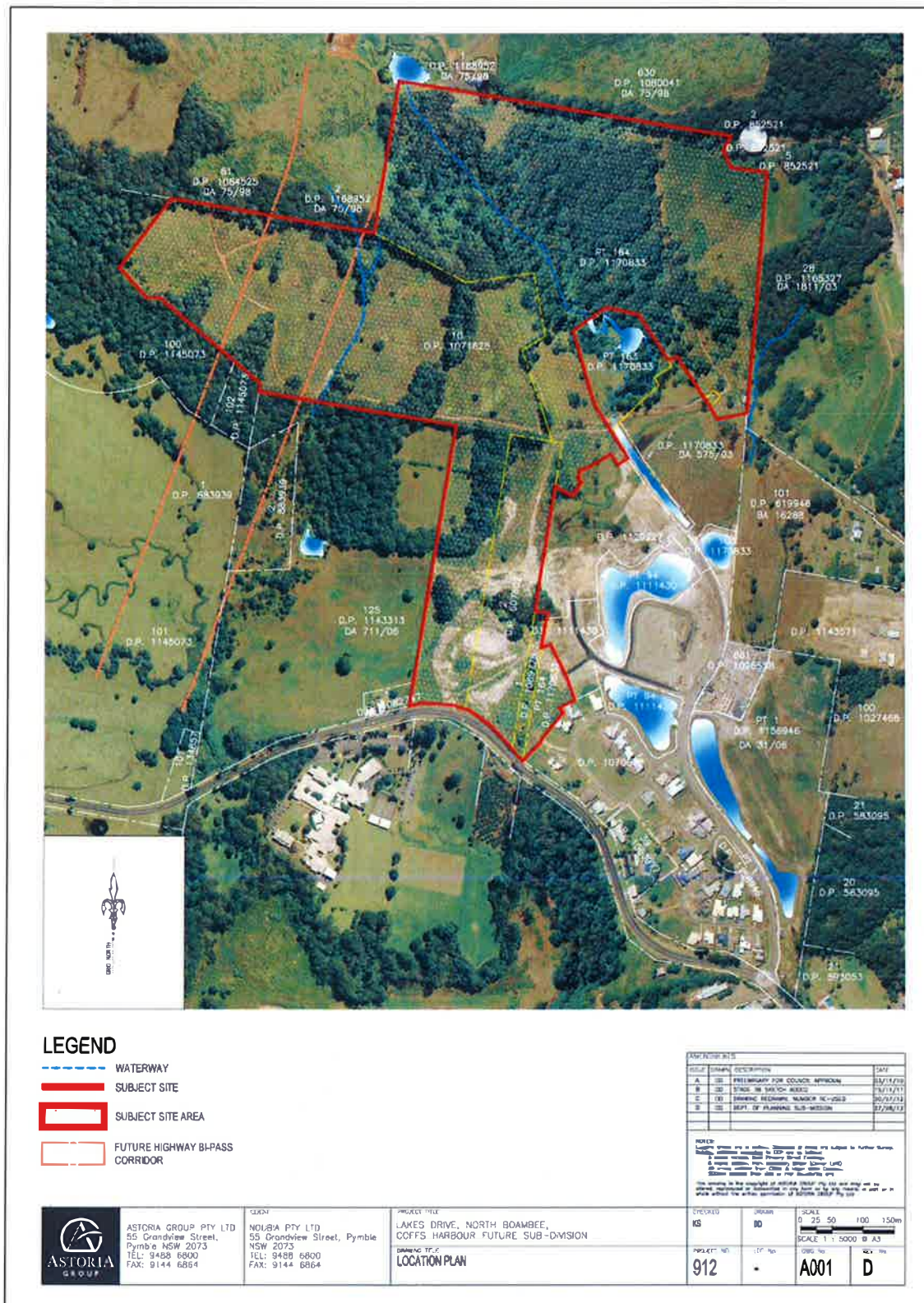


Figure 4: Aerial view of site

2. PROPOSED PROJECT

2.1. Project description

2.1.1 Environmental Assessment (as exhibited)

The project as exhibited in the Environmental Assessment sought approval for a residential subdivision of 198 lots consisting of:

- 196 residential lots varying in size (500m² to 7,723m²) and orientation;
- 1 lot containing the land zoned 7A (Environmental Protection Habitat and Catchment); and
- 1 lot containing the land within and to the west of the Coffs Harbour Bypass corridor.

2.1.2 Preferred Project Report

Following exhibition of the Environmental Assessment, the Department wrote to the proponent raising issue with the projects design and layout, flooding impacts, the operation of the road network and flora and fauna impacts.

On the 5 September 2012, the proponent submitted a Preferred Project Report which included amended plans. The key changes made in the amended plans were a reduction in the number of overall lots from 198 to 142 with a consequential reduction in the development footprint and the deletion of residential lots from the lands zoned 7A (Environmental Protection Habitat and Catchment).

Specifically, the Preferred Project Report seeks approval for a residential subdivision of 142 lots consisting of:

- 140 residential lots ranging in size (600m² to 3000m²) and orientation;
- 1 lot (Lot 141) containing the land zoned 7A (Environmental Protection Habitat and Catchment) as well as some lands zoned 2A (Residential Low Density). The lot includes vegetated areas of environmental significance as well as open space areas for recreation. Asset Protection Zones and a fire trail are also proposed to be located within this lot. The proponent seeks to transfer these lands to Council; and
- 1 lot (Lot 142) containing the lands within and to the west of the Coffs Harbour Bypass corridor. Due to the potential development of the corridor by RMS, the proponent has not located any lots within this area. Any future subdivision of Lot 142 would be subject to a separate Development Application.

The Project also includes an internal road network, pedestrian footpaths and cycle ways, stormwater and utility infrastructure to support the subdivision. The subdivision layout as illustrated in the Preferred Project Report is shown in **Figure 3** below.

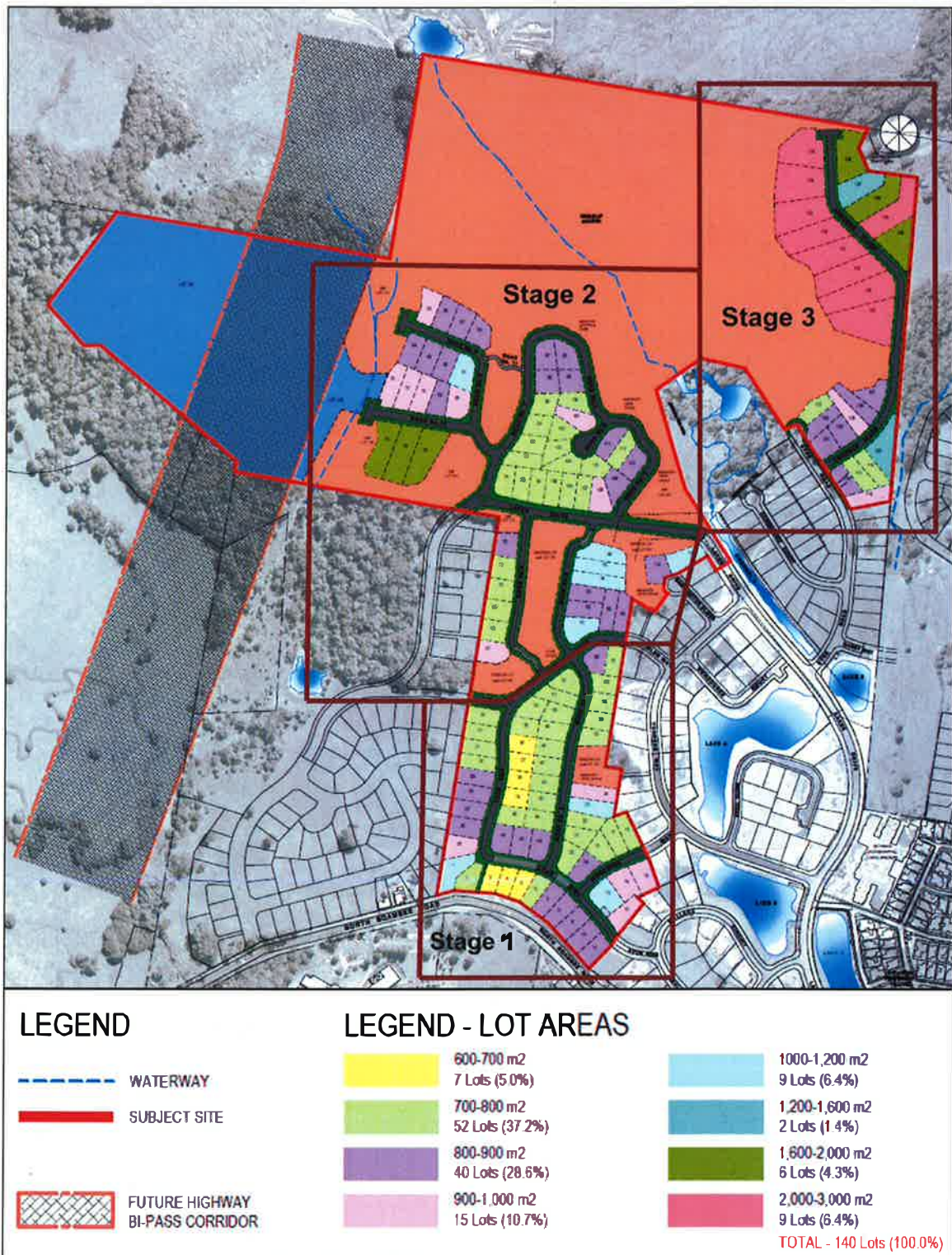


Figure 5: Project layout (Source: PPR 2012)

The Project is proposed to be developed in three stages:

- Stage 1 contains 58 residential lots on the southern portion of the site adjacent to North Boambee Road. This stage connects with the existing Lakes Estate at Avon Rise and Windamere Way in the east and Fidler Way in the north.
- Stage 2 contains 57 residential allotments in the central, northern and north western portion of the site. The stage includes the extension of Lakes Drive from the existing Lakes Estate through to the eastern boundary of Highlands Estate.

- Stage 3 contains 25 residential allotments in the north eastern corner of the site.

2.2 Project need and justification

The site is located within the Coffs Harbour 'existing urban area' and proposed growth zone identified in the Mid North Coast Regional Strategy 2006-2031. The proposal would contribute to the regional dwelling targets identified in the strategy. The proposal accords with the strategy by helping to cater for the extra people expected to be living in the Mid North Coast region over the next 25 years while avoiding excessive impacts on important environmental assets, landscapes and natural resources of the area.

The incorporation of the proposed subdivision within an identified 'existing urban area' assists in the protection of coastal areas and limits the spread of urban development within environmentally sensitive areas.

The proposed development is consistent with the *State Environment Planning Policy 71 (Coastal Protection)* (SEPP 71), NSW Coastal Policy 1997, the North Coast Regional Environmental Plan (deemed SEPP), Coffs Harbour Local Environmental Plan 2000 (LEP), and North Boambee Valley (East) Development Control Plan (DCP).

3. STATUTORY CONTEXT

3.1. Major Project

The project was declared to be a project to which Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act) applies on 9 December 2005. The project was captured by the provisions of Schedule 2 of State Environment Planning Policy (Major Development) 2005 (as in force at the time) as it was development for the purposes of a residential subdivision of more than 25 lots within the coastal zone.

Director-Generals Environmental Assessment Requirements for the project were issued on the 17 October 2008.

3.2. Continuing operation of Part 3A

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A of the EP&A Act, continues to apply to transitional Part 3A projects. The Director-General's Environmental Assessment Requirements were issued prior to the 8 April 2011 and the Environmental Assessment lodged prior to 1 October 2011. The proposal is therefore a transitional Part 3A project.

Accordingly, this report has been prepared in accordance with the requirements of Part 3A of the EP&A Act and associated regulations. The Minister for Planning and Infrastructure (or his delegate) may approve or disapprove the carrying out of the proposal under Section 75J of the EP&A Act.

3.3. Permissibility

Under the Coffs Harbour City Local Environmental Plan 2000, two land use zones apply to the site, those being zone 2A (Residential Low Density) and zone 7A (Environmental Protection Habitat and Catchment) (refer **Figure 4**). The majority of the project is located within the 2A zone. Subdivision of land is permissible with consent in the 2A zone. The majority of land zoned 7A is to be retained as bushland or open space. Some

infrastructure, including roads, pedestrian / cycle routes and fire trails are proposed within the 7A zoned land. These uses are permissible with consent.

The proposal is consistent with the aims and objectives of the Coffs Harbour City Local Environmental Plan 2000 (LEP).

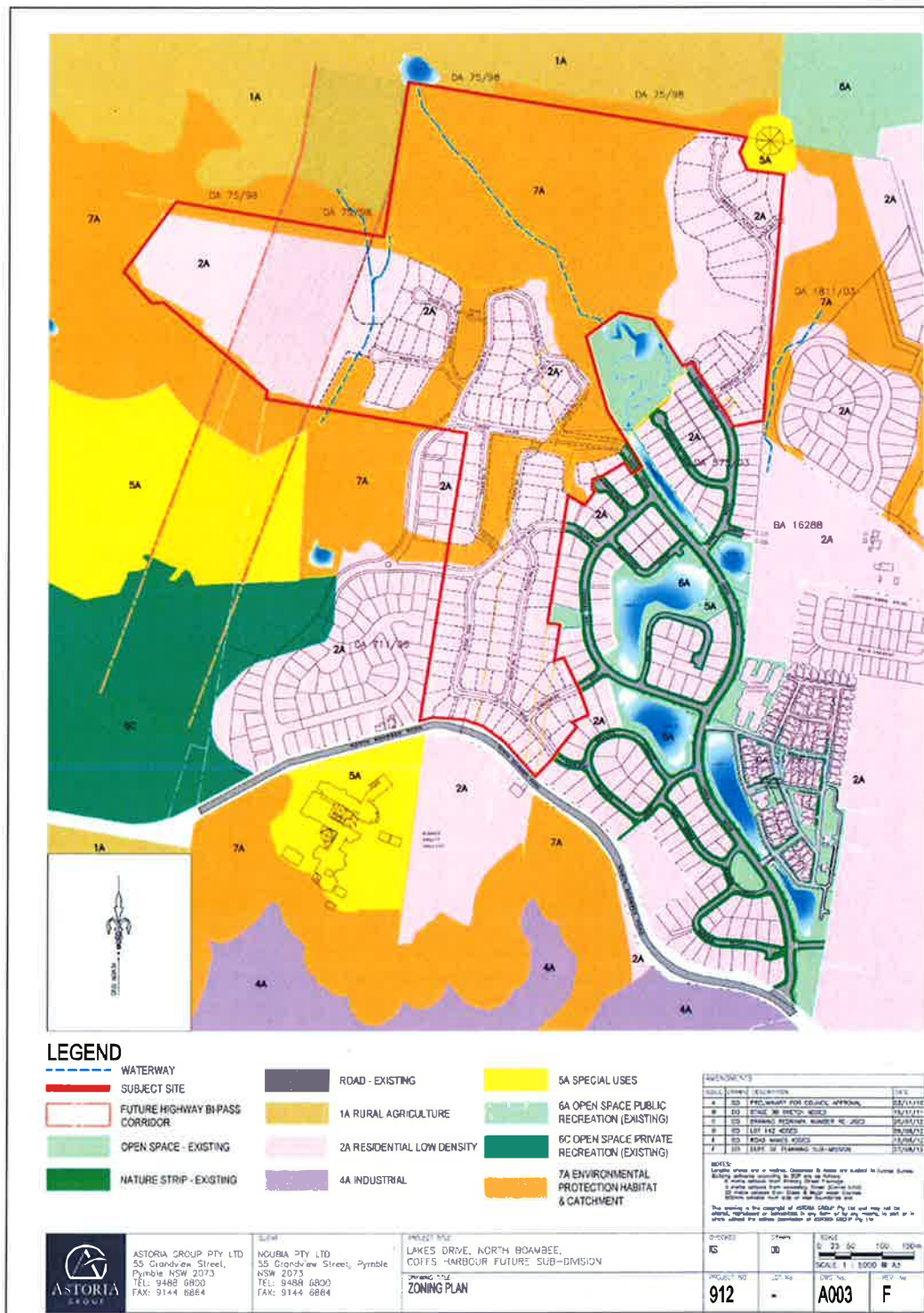


Figure 6: Land use zoning, Coffs Harbour City LEP (source: PPR, 2012)

3.4. Environmental Planning Instruments

Under Sections 75I(2)(d) and 75I(2)(e) of the EP&A Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy that substantially governs the carrying out of the project, and the provisions of any Environmental Planning Instruments that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The Department's consideration of relevant State Environmental Planning Policies and Environmental Planning Instruments is provided in **Appendix E**. In summary, the Department considers the proposal is consistent with relevant Environmental Planning Instruments.

3.5. Delegations

On 27 February 2013, the Minister delegated his functions to determine Part 3A applications by private parties to the Executive Director Development Assessment Systems & Approvals, in instances where there are less than 25 public submissions in the nature of objections, where Council does not object and where no political donations have been made.

The proponent has not declared any political donations. Council does not object and less than 25 public submissions have been received. Accordingly, the Executive Director Development Assessment Systems & Approvals may exercise his delegations to determine the application.

3.6. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in Section 5 of the EP&A Act. The relevant objects are:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities, and*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
 - (vii) *ecologically sustainable development, and*
 - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

Of particular relevance to the assessment of the proposal are the objects under section 5(a) (i), (ii), (iv), (vi), (vii) and 5(c).

Having regard to the information submitted, and the assessment undertaken, the proposal is considered to be consistent with the objects of the EP&A Act as the proposal would:

- Promote development of land suitable for its development by virtue of its residential land use zoning; and
- Provide for an area of existing native vegetation to be managed as a conservation area.

3.7. Ecologically sustainable development

The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

Precautionary principle

Biophysical and geophysical opportunities and constraints have been identified and development is generally confined to the relatively unconstrained and previously disturbed parts of the site. The project incorporates the following measures to mitigate the potential environmental impacts:

- Removal of all residential lots within the land zone 7A and the inclusion of measures to enhance wildlife corridors and linkages between patches of native vegetation;
- Measures aimed at the protection of identified fauna habitat, through the creation of a conservation area; and
- Strategies to ensure adequate bushfire protection including the provision of asset protection zones.

The Statement of Commitments includes other measures to manage the potential environmental impacts of the development. These include provision of a 'Heritage Park' to house any Aboriginal artefacts recovered during construction and further testing and remediation of potentially contaminated land.

Recommended conditions of approval specify additional requirements to ensure adequate protection of adjoining environmentally sensitive areas.

Inter-generational equity principle

The proposal would contribute to the supply of housing to meet the needs of current and future generations. The proposal aims to minimise impacts on existing native vegetation and provide for future biodiversity through effective management and enhancement of adjacent bushland and open spaces, including offset planting.

Biodiversity and ecological integrity principle

The proponent has provided an assessment of the impacts on biodiversity. Mitigation measures and management strategies are to be implemented to prevent any potential adverse environmental impacts. The proponent's Statement of Commitments includes a commitment to endeavour to transfer the bushland and open spaces to Council.

Improved valuation, pricing and incentive mechanisms.

The valuation principle is more appropriately applied to broader strategic planning decisions and not at the scale of this application. The principle is not considered to be relevant to this application.

The project is consistent with the requirements and principles of ecologically sustainable development.

3.8. Statement of compliance

The Department is satisfied that the Director-General's Environmental Assessment Requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition of the Environmental Assessment & Preferred Project Report

4.1.1 Environmental Assessment

Under Section 75H(3) of the EP&A Act, the Director-General is required to make the Environmental Assessment of an application publicly available for at least 30 days. After accepting the Environmental Assessment, the Department publicly exhibited it from 31 August 2009 to 30 September 2009 (31 days) on the Department's website, and at the Department of Planning – Information Centre (Sydney); Coffs Harbour City Council – Administration Building and The Nature Conservation Council of NSW (Sydney).

The Department also advertised the public exhibition in the Coffs Harbour Advocate and the Coffs Harbour Independent and notified landholders, local community groups and relevant State and local government authorities in writing.

The Department received 16 submissions during the exhibition consisting of 10 submissions from public authorities and 6 submissions from the general public. The submissions received from the general public included submissions from developers of adjacent residential estates.

4.1.2 Preferred Project Report

Due to the length of time that had passed since the exhibition of the Environmental Assessment, the Department considered it necessary to publicly exhibit the PPR, to ensure affected parties were made aware the project was still active. The PPR was publicly exhibited from 14 November 2012 to 13 December 2013 (30 days) in the same manner as the Environmental Assessment. The Department received 9 submissions, consisting of 8 submissions from public authorities and one submission from the public.

4.2. Public authority submissions on the Environmental Assessment & Preferred Project Report

Ten submissions were received from public authorities in response to the exhibition of the Environmental Assessment. Six authorities, including Coffs Harbour City Council, Office of Environment and Heritage (OEH) (formerly the Department of Environment, Climate Change and Water), Crown Lands (formerly Land and Property Management Authority), Northern Rivers Catchment Management Authority (CMA), RMS and NSW Office of Water (NOW) did not object but raised issues for further clarification and/or assessment. Three authorities, Department of Education and Training, Fisheries NSW (formerly Industry and Investment NSW) and the Ministry of Transport raised no concerns. One authority, being the NSW Rural Fire Service (RFS) objected.

Eight submissions from public authorities were received in response to the exhibition of the Preferred Project Report. Council, OEH and RFS identified elements of the revised proposal that either did not fully address their original comments or that required further clarification and/or assessment. The other authorities did not object to the proposal and, where applicable, accepted that the PPR adequately addressed their comments provided on the Environmental Assessment.

A summary of the issues raised by public authorities is provided below.

Coffs Harbour City Council

Comments on Environmental Assessment

Coffs Harbour City Council did not object to the proposal however provided comments for consideration as follows:

- The assessment does not adequately consider the provisions of the LEP and North Boambee Valley (East) DCP;
- The proponent should hand over assets to Council at no cost to Council;
- The proponent should reconsider and clarify the impacts on native vegetation and fauna habitat;
- The location of fire trails and asset protection require review;
- The proposed location of the Aboriginal heritage reserve in residentially zoned lands is not appropriate;
- The proposed landscaping is too maintenance-intensive for management by Council;
- Further testing and remediation of contaminated land should occur prior to issue of consent;
- The proponent has not adequately considered road layout and access arrangements for connection to adjoining developments;
- The proponent has not adequately considered geotechnical considerations including slope stability and building envelopes;
- The proponent should review the subdivision layout with respect to flooding; and
- The proponent has not adequately considered the impact of the development in relation to the existing high voltage overhead power lines.

Comments on Preferred Project Report

Council did not object, but provided the following comments for consideration:

- The revised proposal does not satisfy the target density specified in the North Boambee Valley (East) DCP;
- The PPR includes provision of infrastructure not provided for in the North Boambee Valley (East) Release Area Developer Contributions Plan;
- The PPR identifies areas of non koala habitat land for acquisition by Council. The acquisition of non koala habitat (residential land) is not covered by the North Boambee Valley (East) Release Area Developer Contributions Plan;
- The proponent should include a vegetation management plan with a five-year maintenance program;
- The proposed future road connection to Kratz Drive Estate is not supported as it would dissect a future Council public reserve;
- The proponent should review the provision of infrastructure in future public reserves;
- The proponent should consider inclusion of additional pedestrian pathways and fire trails;
- The proponent should consider inclusion of a perimeter road to provide a buffer with the conservation area;
- The proponent does not adequately identify what will occur upon 'residual' Lot 142;
- The proponent has not provided adequate detail on the timing for dedication of public reserves. Council provides recommendations for staged dedication;

- The proponent should consider amendments to the collector road, cycleway, high voltage overhead power lines, emergency egress in the north east and trunk mains from the reservoir; and
- The proponent does not include a remedial action plan to deal with identified areas of contaminated land.

The Proponent provided a response to the submissions received on the PPR, which was referred to Council. Issues raised by Council are:

- The project should be designed to meet the density targets in the North Boambee Valley (East) DCP and thereby satisfy the contributions plan;
- Agreement should be reached on the area of habitat land that the proponent is requesting Council to acquire before determination;
- The proponent has not provided adequate detail on the timing for dedication of public reserves;
- An additional pedestrian pathway is required, modifications required to traffic control on Lakes Drives; and
- A road link should be provided to the adjoining estate to the northeast from Amadeus Place, but not continue through the reserve to connect with Kratz Drive.

Office of Environment and Heritage (OEH)

Comments on Environmental Assessment

OEH did not object to the proposal, however provided comments for consideration. The key issues for consideration are:

- The proponent does not adequately consider the management of conservation lands to ensure that biodiversity values are maintained or improved;
- The proponent must register Aboriginal sites on the Aboriginal heritage information management system (AHIMS) database as required under the *National Parks and Wildlife Act 1977*;
- Further detail is required on the long-term protection and management of the proposed Aboriginal heritage reserve;
- Further testing and remediation of contaminated land should be undertaken in all high-risk areas; and
- The proponent should refer to the *NSW Flood Prone Land Policy* (DIPNR, 2005) for development within flood prone land.
- The EA does not adequately address the following flood risk management issues:
 - Behaviour of the probable maximum flood and identification of all flood prone land;
 - Climate change and hydrology data should be reconsidered;
 - Filling within the 100 year flood extent; and
 - Impacts on adjacent properties.

Comments on Preferred Project Report

OEH supported the proposal subject to proposed amendments in relation to the protection of biodiversity, flood risk assessment and Aboriginal cultural heritage. The key issues for consideration were as follows:

- The proponent should develop a management plan for conservation areas in consultation with Council;
- The PPR does not adequately address the following flood risk management issues:
 - Behaviour of the probable maximum flood and identification of all flood prone land;
 - Filling within the 100 year flood extent; and
 - Impacts on adjacent properties.
- The PPR does not adequately address the following Aboriginal cultural heritage issues:
 - The proposal has not provided evidence of consultation with registered Aboriginal parties:

- The Heritage Park should be rezoned from Zone 2A to Environmental Conservation (Zone 7A);
- The proponent should develop a Heritage Park management plan in consultation with registered Aboriginal parties; and
- The proponent has not provided adequate detail on management strategies for impacts on Aboriginal objects.

Crown Lands

Comments on Environmental Assessment

Crown Lands did not object to the proposal, however provided comments for consideration as follows:

- The proposal adjoins Crown public land and the impacts on this land must be managed;
- The proponent should reconsider and clarify the impacts on native vegetation, fauna habitat and wildlife corridors;
- The proponent does not adequately consider the ongoing maintenance requirements for the conservation area; and
- Further testing and remediation of contaminated land should be a condition of consent.

Comments on Preferred Project Report

Crown Lands advised that they have no outstanding concerns as the revised proposal removes any encroachment onto Crown lands.

Northern Rivers Catchment Management Authority (the CMA)

Comments on Environmental Assessment

The CMA did not object to the proposal, however advised that the proponent should consider the inclusion of a vegetation management zone between retained native vegetation and the residential subdivision to minimise the potential for weed incursion.

Comments on Preferred Project Report

The CMA advised they are satisfied that the Environmental Assessment and PPR addresses their major issues.

Roads and Maritime Services (RMS)

Comments on Environmental Assessment

RMS (formerly Roads and Traffic Authority) did not object to the proposal, however provided comments for consideration as follows:

- The proponent does not adequately detail how the safe and efficient operation of the existing and proposed road network would be maintained;
- The proponent does not adequately consider the provision of other modes of transport such as buses, bicycles and for pedestrians; and
- Any identified improvements to the road network should be included in equitable contribution arrangements.

Comments on Preferred Project Report

RMS did not object to the proposal and noted it is considering an intersection upgrade at the North Boambee Road and the Pacific Highway intersection and that the design capacity of the intersection improvements would accommodate any traffic generated by the proposal.

Department of Primary Industries (NSW Office of Water – NoW)

Comments on Environmental Assessment

NOW did not object to the proposal, however provided comments for consideration as follows:

- While a controlled activity approval is not required under Part 3A of the EP&A Act, the proponent should undertake works consistent with NSW legislation and Government policy and guidelines;
- The proponent should reconsider the extension of the channel upstream of Lake 5. NOW support the retention of the natural functioning riparian corridor across the site;
- The proposal should consider removing works within the watercourse in Zone 7A; and
- The proponent should refer to the Acid Sulphate Soil Manual in the event that Acid Sulphate Soils are discovered on site.

Comments on Preferred Project Report

NOW did not object to the proposal and is satisfied that the PPR addresses its previous concerns relating to works in the riparian corridor.

NSW Rural Fire Service (RFS)

Comments on Environmental Assessment

The RFS objected to the proposal as insufficient information was provided to allow for an adequate assessment of the application.

Comments on Preferred Project Report

The RFS did not object to the proposal but did note that the PPR did not include an updated bushfire assessment report based on the revised subdivision layout which responded to its concerns.

The Proponent provided a response to the submissions received on the PPR, which was referred to the RFS. In response, RFS provided conditions of approval but remained concerned with emergency access from Stage 3. An emergency access route from the northern end of Amadeus Place across the adjoining site and linking with Kratz Drive is shown on the plans and is required. It has not been demonstrated that the adjoining owner will permit access across its land. RFS advise it does not support the development of Stage 3b until that access is provided.

Department of Education and Training (DET)

Comments on Environmental Assessment

DET did not object to the proposal and noted that any future demand for new school enrolments generated by the proposal through the existing schools in the region could be managed.

Comments on Preferred Project Report

DET did not object to the proposal and reiterated it was able to manage any future demand for new school enrolments generated by the proposal through the existing schools in the region.

Department of Primary Industries - Fisheries NSW

Comments on Environmental Assessment

Fisheries NSW did not object as the proposal is not likely to have any direct impact on key fish habitats.

Comments on Preferred Project Report

Fisheries NSW did not object to the proposal and has no further comment noting that the proposal is not likely to have any direct or indirect impact on key fish habitats.

Ministry of Transport (MoT)

Comments on Environmental Assessment

MoT did not object to the proposal and commended the broad consideration of transport accessibility issues.

Comments on Preferred Project Report

None received.

Essential Energy

Comments on Preferred Project Report

Essential Energy did not object to the proposal and noted that consideration should be given to extending the surrounding underground 11kV and low voltage assets to supply lots within the subdivision.

The Department has considered the issues raised in public authority submissions in its assessment of the proposal. (Refer **Section 5**).

4.3. Public submissions on the Environmental Assessment

Six submissions were received from the public, including two representations from developers of adjacent residential estates.

Of the six public submissions, four (66%) did not object but raised concerns, one (17%) supported the proposal but raised concerns and one (17%) objected to the proposal. The key issues raised in public submissions are listed in Table 1.

Table 1: Summary of issues raised in public submissions

Issue	Number and proportion of submissions (%)
Traffic and access <ul style="list-style-type: none">The proposal would increase the traffic delay already experienced at the North Boambee Road and Pacific Highway intersection;The proposal does not provide adequate access into adjoining subdivision developments; andThe proposal would result in construction traffic impacts for existing residences.	5 submissions 83 %
Flooding and stormwater <ul style="list-style-type: none">The proposal would add to flooding issues already experienced at the North Boambee Road and Pacific Highway intersection.	Two submissions 33%
Utility infrastructure <ul style="list-style-type: none">The Proponent has not considered the impact of the overhead power lines; andThe Proponent has not consulted the neighbouring developers regarding the proposed connection into neighbouring sewer reticulation and stormwater systems.	One submission 17%
Land use <ul style="list-style-type: none">The proposal should include more parks and open spaces.	One submission 17%

The Department has considered the issues that were raised in public submissions in its assessment of the proposal. (Refer to **Section 5**).

4.4. Public submissions on the PPR

One submission was received from the public during the exhibition of the PPR. The submission was in support of the proposal, on behalf of a prospective property developer of land to the north of the proposal. The submission requested that the proposal include provision for additional infrastructure (roads, sewage, stormwater, telephone and electricity) to accommodate a potential future residential development to the north.

The submitter's land is currently zoned for rural purposes and would need to be rezoned to accommodate residential development. The road network in the northern portion of the site could be extended to the boundary in the future if the adjoining lands are ever developed. It is not reasonable to require the proponent to provide service connections for use by the adjoining land, when the land is not currently zoned for a purpose that requires those connections. Servicing of the adjoining land will need to be considered as part of any rezoning.

4.5. Proponent's response to submissions

The proponent provided a response to issues raised in submissions received on the PPR. The response included preparation of a *Bushfire Hazard Assessment Report* (Building Code & Bushfire Hazard Solutions P/L, March 2013) and Bushfire Response Plans 912-A015A, A016A, A017A and A018B (refer to **Appendix D**). As mentioned previously, the response to submissions was referred to Council and the RFS.

5. ASSESSMENT

Key issues considered in the Department's assessment are:

- Development density;
- Traffic and access;
- Flooding and stormwater;
- Biodiversity;
- Bushfire risk;
- Consistency with the North Boambee Valley (East) Development Control Plan; and
- Aboriginal cultural heritage.

The Department's assessment of these key and other issues is provided below.

5.1. Development Density

The North Boambee Valley (East) Development Control Plan nominates establishes target densities for the precinct, with the site nominated to provide 167 lots. The densities in the DCP have been used as the basis for calculations in the North Boambee Valley (East) Release Area Developer Contributions Plan 2013.

A key issue of concern for Council is that the proposed development does not meet the target densities and represents a 27 lot shortfall. Council has advised that failure to satisfy the target density will result in a deficit of funding in the Developer Contributions Plan of \$11,321.00 per lot not provided (total \$305 667). Council is concerned that the shortfall in lots will mean it will be left to fund works nominated in the plan.

The Department has sought clarification from the Proponent on whether they are able to provide additional lots. The proponent has advised:

1. That the DCP map and both the 2008 and 2013 Contributions Plan identify approximately 20 lots in the Stage 3 area to the west of Amadeus Place. These lots were included in the original project application but were required to be removed so that secondary Koala habitat could be retained. These lots could potentially be reinstated if consent was granted to remove the trees in this location;
2. That the DCP map includes 13 lots on the western side of Road No. 5 on land that is identified as Primary Koala habitat. Again the proponent would have no objection to the provision of additional lots in this location subject to the Departments approval;
3. That land on the southern side of Lakes Drive, between Road No. 5 and Barrington Close cannot be developed solely because it is zoned 7A but otherwise has no constraints preventing its development. Some additional lots could be achieved in this location should the Department consider this is appropriate and modifies the LEP accordingly. We note that Council does not propose any recreation equipment in this location and this area of open space is physically isolated from the principal open space on the northern side of Lakes Drive;
4. The DCP provides an additional 4 lots in the precinct adjacent to the Highway Bypass although a number of these do not have a road frontage; and
5. More generally, it is noted that lots cannot be reduced in size without substantially altering the road layout and in any case, the proponent's experience with land sales in the area indicates that there is a lesser market for smaller lots. Similarly, dual occupancy and higher density dwellings are also difficult to sell at this distance from a major centre. Despite this, our client has already provided 92 villas and an 80 bed aged care facility at this site in earlier development stages, providing a significant contribution of higher density accommodation for the broader district.

The Department makes the following comments in response to the above:

1. The development provides the 25 lots nominated in the DCP for Stage 3 and such there is not a shortfall in that part of the site. The area of koala habitat should be retained as it is nominated as part of a movement corridor;
2. The proposed layout in the vicinity of Road 5 is superior to that shown in the DCP, as it results in less lots having a direct interface with the conservation lands, thereby reducing interface impacts;
3. The land on the southern side of Lakes Drive is part of a koala movement corridor and is not suitable for development;
4. The proposed layout of the westernmost precinct, adjacent to the corridor is superior to the shown in the DCP, resulting in more regular shaped lots; and
5. The proponent's comments are noted.

The Department has undertaken an analysis of the subdivision and is of the opinion that there is opportunity to provide an additional 20 lots within Stages 1 and 2 without the need to modify the road layout. The DCP nominates that lots should be a minimum of 400m² in area and have a width of 15m. The proposed lots within Stages 1 and 2 are generous in size with 90% approximately greater than 700m² in area. By reducing the widths of the frontages, many of which exceed 20m, additional lots can be created. The new lots would remain greater than 500m² in area, which still substantially exceeds the minimum.

Taking into account these adjustments, it is acknowledged that there will remain a shortfall of approximately 7 lots from the densities nominated in the DCP. The arguments of the proponent are however acknowledged in that there are sections of the site which are residentially zoned but which are unable to be developed because of environmental constraints.

It is therefore recommended that 20 additional lots be provided and a revised plan of subdivision be submitted to and approved by the Director-General in consultation with Council. This would reduce the shortfall in contributions to \$79,247 (at today's value) which is considered to be reasonable.

5.2. Traffic and access

Traffic impacts and access arrangements were raised by RMS and the public as issues in their submissions on the exhibition of the Environmental Assessment and PPR.

The increase in traffic on North Boambee Road as a result of the development is estimated to be around 1,600 vehicles per day (including that from the additional 20 lots), with a peak hourly volume of around 160 vehicles. North Boambee Road is classified as a collector road under Council's road hierarchy with capacity for up to 10,000 vehicles per day. The development will increase vehicles numbers from 5,500 to 7,100 per day, which is within the capacity of the road.

The proposal will result in additional traffic at the intersection of North Boambee Road and the Pacific Highway. The SIDRA analysis demonstrates that this intersection will continue to have good operating conditions with the additional traffic load from the development. RMS is considering upgrading the intersection to further improve its operations and address flooding issues. The upgrade is dependent upon resolution of funding arrangements with Council.

The layout of the proposed internal road network does not directly correspond to that shown in the DCP with some roads following different alignments and a road in the southwest corner of stage 2 not provided. Despite the differences, the proposed layout provides logical access to the residential precincts and has a legible hierarchy. Lakes Drive passes through the middle of the site and is a collector road for the precinct. Various local roads extend from Lakes Drive and provide access into the residential stages. The local roads are generally loop roads which permits easy circulation of vehicles.

The location of the links to the adjoining subdivisions is critical as these affect the functionality of the overall North Boambee Valley (East) precinct. The proposed road connections to the Highlands Estate (to the west) were revised in the PPR and two links are now proposed. The location of the links does not directly accord with the DCP (refer **Figure 7**), but is in the same general location and will provide the same amenity. The owner of the adjoining land has advised it is agreeable to the road connection points. The DCP includes a further road on the southern side of Lot 67, linking the Highlands Estate and proposed Road No.3. It is the Department's view that the provision of this road would provide limited network benefits, with the future extension of Lakes Drive offering a similar travel route. The Department recognises that the road has potential environmental benefits and this is discussed in **Section 5.4**.

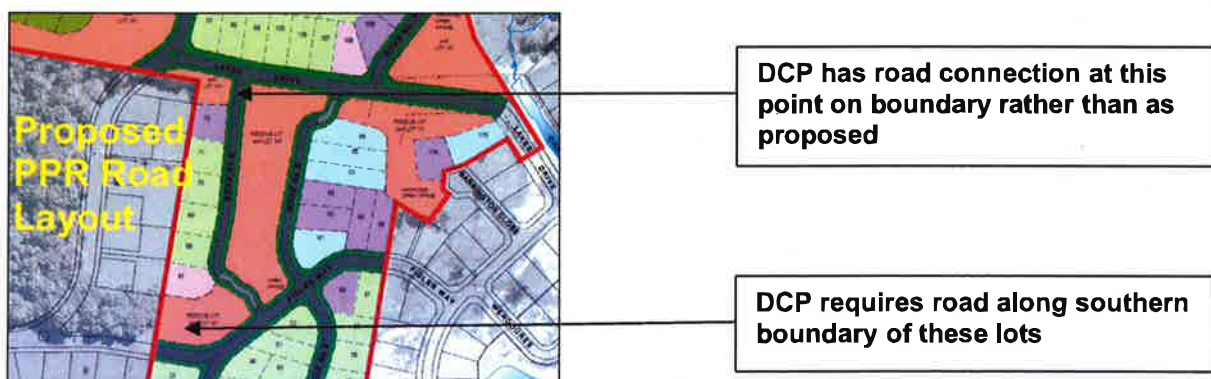


Figure 7: Proposed Road Layout

A road connection may be required in the northeast of the site in the future to link with potential lots on the adjoining property. The proposed development includes a roadway, Amadeus Place, which extends along the site's eastern boundary and a future connection can be made from this to the adjoining residentially zoned lands. A condition is imposed on this approval requiring this access to be facilitated.

Council raised concern about the proposed roundabout and restricted traffic flow devices on the Lakes Drive and requested that these elements be deleted. The proponent's traffic consultant recommended that traffic calming devices be installed given the length of the road. The Department recognises that Council will assume ownership of all roads at the completion of the subdivision and is of the opinion that the roads should be constructed to its design requirements. The recommended condition deletes the proposed roundabout and restricted traffic flow devices from Lakes Drive.

The road network includes pedestrian and cycle ways. The proposed ways are generally consistent with the DCP and provide links via local roads to North Boambee Road and the Lakes Drive.

The proponent's landscape scheme for the road verges includes clusters of trees within a native shrub bed. Council has raised concern with the maintenance cost associated with the landscape scheme. The Department is supportive of the Proponent's desire to beautify and provide habitat within the verges, but equally recognises the cost burden this can impose on Council. It is therefore recommended that a condition is imposed which requires that street trees be provided in accordance with Council's street tree masterplan.

The Department considers the proposed road layout to be appropriate having regard to the site's topography and the need to connect with adjoining developments. The road hierarchy creates a functional and legible road network. The capacity of North Boambee Road will not be exceeded by the proposed traffic volumes and the intersection of North Boambee Road and the Pacific Highway will continue to operate satisfactorily.

5.3. Flooding and stormwater

The subject site is within the Newport Creek catchment and sits within two sub-catchments. The majority of Stages 1 and 2 and Stage 3 fall within the eastern catchment, which flow to the existing Lakes Estate water management system. The western most portion of Stage 2, adjacent to the Highway corridor and the south western most corner of Stage 1, sit within the western catchment and will flow into a tributary of an unnamed creek.

The Department obtained independent technical advice from Evans and Peck on flooding and stormwater issues. This assessment has had regard to the additional 20 lots which are required to be provided.

5.3.1 Stormwater

The existing Lakes Estate water management system was approved by Council in 2003. The system includes five lakes and a wetland, and was designed to manage stormwater flows from developments in the eastern catchment, including the project area. The system was designed to limit post-development peak flows to less than or equal to the pre-development peak flows for storm events up to the 100 year storm event. The water management system was also designed to manage increased nutrient run off from urban areas. The Lakes Estate water management system has been constructed and is currently operating. The eastern catchment is proposed to drain into this system.

It is proposed to drain water from the western catchment into a planned stormwater pond (known as G2). Pond G2 is part of a two pond system (G2 and G4) planned for by Council. The flood discharges and levels downstream of basin G2 would increase as a result of the

development. The proponent states that this increase can be managed through a modification to the pond spillway. Pond G2 however falls within the adjoining Highlands Estate and as such is outside of the control of the proponent. The owner of Highlands Estate has advised that the pond system has been abandoned as Pond G4 falls within the proposed Pacific Highway Coffs Harbour bypass corridor. At this time an alternate holistic approach to stormwater management in the western catchment has not been developed. Evans and Peck has recommended under these circumstances, that the Proponent be required to develop a water quality basin to attenuate stormwater discharges from the western most portion of Stage 2 to predevelopment levels before discharging to the neighbouring lands, so that the status quo is maintained. The proposed conditions of approval permit the proponent to drain to a Council system should one exist at the time of development of the relevant stages, alternatively a detention basin must be provided on-site.

The Department is satisfied that the proposed stormwater system is satisfactory to manage stormwater associated with the project. Conditions of approval require the detailed design of the system to be undertaken in accordance with Council's requirements prior to issue of a construction certificate.

5.3.2 Flooding

OEH and public submissions raised concerns relating to flooding and flood risk management in their submissions on the Environmental Assessment and the PPR.

It is proposed to fill lands within the 100 year flood extent. OEH raised concern about the impact of the fill on flood behaviour and recommended that no filling be permitted except where compensatory cut/fill is provided and that a cumulative impact assessment of developments across the catchment be undertaken. The PPR indicates that potential downstream flood impacts of filling are offset by detention provided in the water management system. Evans and Peck has advised that it is not reasonable to request a review of the cumulative impact of filling across the entire catchment, as the Lakes Estate catchment makes up approximately 2.6% of the entire catchment area and compensatory storage and attenuation has been provided in the existing water management system for the eastern catchment. Evans and Peck also advised that the proposed infilling is insignificant when compared to the whole catchment area. The Department accepts the advice of Evans and Peck.

OEH's submissions identified the need to consider orographic (landform) effects on design rainfall intensities in the flood model. Evans and Peck considered OEH's comments reasonable, but noted other studies prepared in the area, including the Boambee and Newports Creek flood study considered orographic effects and concluded they do not need to be taken into account in this area. On this basis, the Department accepts the advice of Evans and Peck.

OEH's submissions also identified that the proponent's assessment did not report the behaviour of the probable maximum flood (PMF). The PPR noted that this was a matter for consideration at the time of rezoning and that while they did not specifically model the PMF the 30% allowance for climate change which they had made, would adequately deal with any risk associated with this event. Evans & Peck advised that the PMF levels are usually considered as part of a Floodplain Risk Management Study and Plan, but that it is not adequate to use rainfall intensity estimates for climate change to assess PMF. Evans and Peck has recommended that the proponent be required to model the PMF and provide these results to Council and the State Emergency Services to assist them in planning for an emergency. The Department concurs with Evans and Peck's advice and this requirement is reflected in the Department's proposed conditions of approval.

OEH made comments about the appropriateness of applying a 30% rather than 10% increase in rainfall intensity to account for climate change. Evans and Peck has advised that

this approach by the proponent adds an element of conservatism to the analysis and is acceptable.

Evans and Peck undertook a review of the planning controls contained in Council's Floodplain Development Management Policy and the DCP and has recommended that the following matters be adopted:

1. The Flood Planning level for each residential lot must be based on the 100 ARI flood level at the location of the lot plus 500mm freeboard. The 100 year ARI flood level should be calculated by applying the local climate change factor (minimum 10% increase) to the 100 ARI rainfall intensity;
2. Each residential lot must have a housing site having an area of 400m², with a minimum width of 15 metres, above the 100 year ARI flood level at that location; and
3. All future dwellings shall be constructed with a floor level at or above the Flood Planning level determined at that dwelling.

Points 1 and 2 are addressed via conditions of approval. The conditions will have the effect of requiring some lots to be filled. Point 3 is also dealt with by a condition which requires the proponent to place s.88B instruments on the title, imposing this obligation on future landowners. Subject to the recommended conditions the Department considers that flood impacts can be appropriately managed across the site and would not impact on downstream flood flows.

5.4. Biodiversity

The site contains large areas of remnant vegetation which provide habitat for a range of flora and fauna species. Three species listed in the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act) (the Rusty Plum, Slender Marsdenia, Rainbow Bee-eater) are found on site. The Endangered Ecological community *Lowland Rainforest in NSW North Coast and Sydney Basin Bioregion* extends along the base of the valley in the north western corner of the site.

The majority of the areas of environmental significance are located on the northern portion of the site, which is zoned for environmental protection and is not proposed to be developed for residential purposes. The development is predominantly located within cleared and previously disturbed sections of the site. Four patches of vegetation identified as primary and secondary koala habitat are located within the residential footprint.

5.4.1 Impact on koala habitat

Coffs Harbour City Council has a Koala Plan of Management prepared in accordance with the requirements of State Environmental Planning Policy No. 44 (Koala Habitat Protection). The plan identifies vegetation on-site as being primary and secondary koala habitat. This vegetation provides koalas with habitat for foraging and movement.

It is proposed to remove secondary habitat to the west of Amadeus Place for an Asset Protection Zone and to the west of Fiddler Way for a roadway. The isolated patch of primary habitat in the southern portion of the site is proposed to be reduced in area to accommodate lots and a roadway. The proponent proposes to offset the loss of habitat through compensatory planting of koala feed trees in the conservation lands

The loss of any koala habitat is unavoidable. The primary habitat areas in the north and the movement corridors in the south will however be retained. The use of offset planting to mitigate impacts, as is proposed by the proponent, is consistent with Council's Koala Plan of Management and on this basis the loss of koala habitat is considered to be acceptable.

It is proposed to install traffic control measures to minimise the potential for koala fatalities from cars. Four crossing culverts are proposed under roadways to facilitate the safe movement of koalas. It is also proposed to reduce the carriageway width and restrict traffic flows in key sections of roadways. The proposed measures will appropriately minimise the risk of cars to koalas.

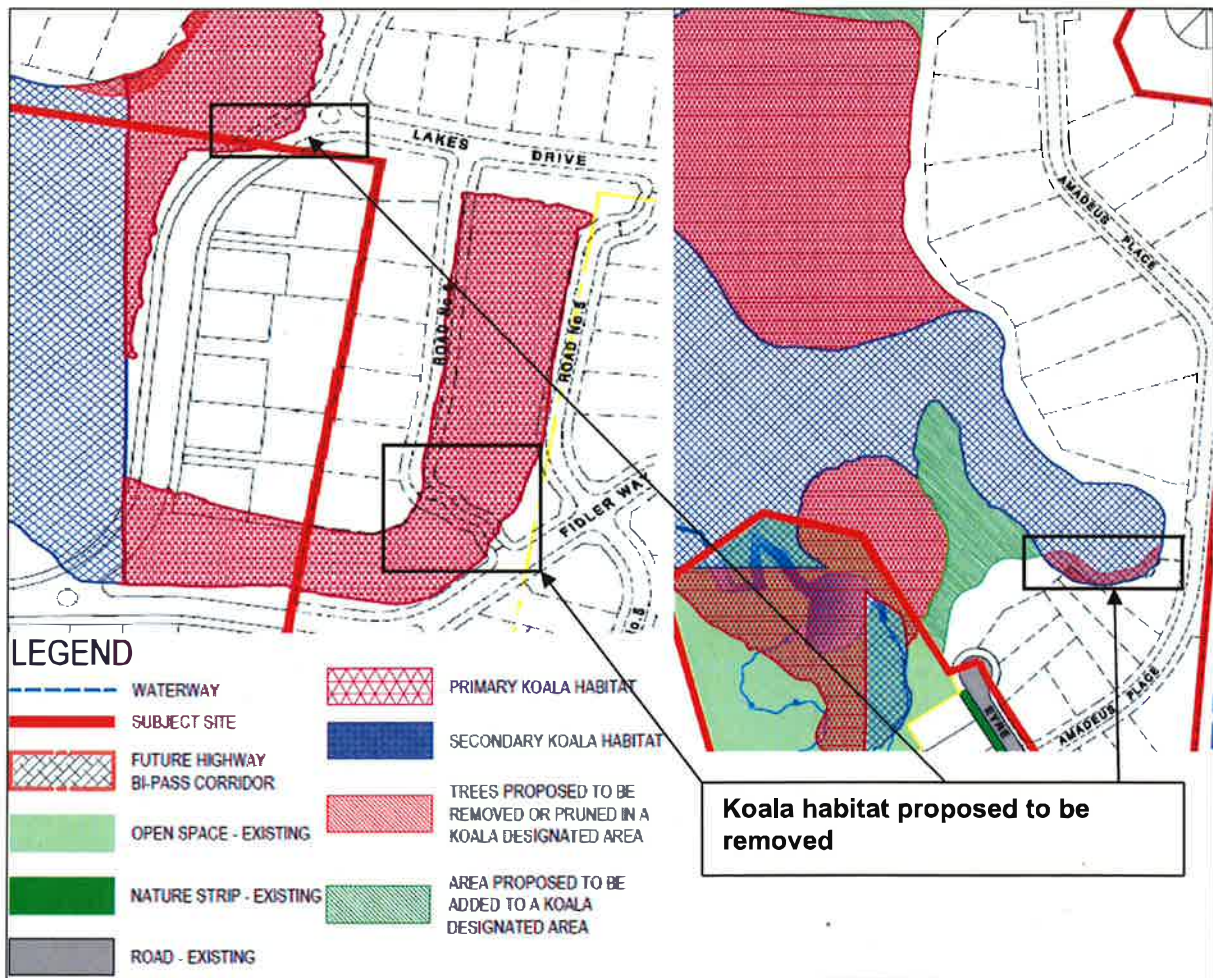


Figure 8: Koala Habitat (Source PPR 2012)

The proposed layout of lots and roads around the centrally located koala habitat differs from that shown in Council's DCP. Council has expressed concern that there is not a perimeter road on the southern side of Lot 67 to buffer the vegetation from the adjoining residential lot. The Department notes Council's concern but supports the proposed layout in that section of the site as it results in only 1 residential lot having direct frontage to the vegetation rather than 11 in the lot layout depicted in the DCP.

The Department is satisfied that the impacts on areas of secondary Koala habitat would not, (in accordance with the requirements of the KPOM) significantly destroy, damage or compromise the values of the land as Koala habitat. The Department also supports the proponent's commitment for compensatory planting in Lot 141 in accordance with the KPOM, to offset the loss of Koala habitat.

5.4.2 Loss of native vegetation

The project will require clearing of native vegetation areas. The vegetation losses primarily result from the Asset Protection Zones (APZ) around Stage 2 and 3 and from the proposed fire trail.

The Coffs Harbour Vegetation DCP classifies some of the vegetation proposed to be cleared as being of high and very high value. The DCP recommends that where high and very high value vegetation is to be cleared, compensatory planting is required at the following rates (referring to area):

- Very high value vegetation 5 to 1; and
- High value vegetation 4 to 1.

It is a recommendation of the flora and fauna assessment report that accompanied the Environmental Assessment that compensatory planting consistent with the DCP is undertaken. The Department supports this recommendation and believes this will suitably mitigate the impacts of the clearing. There are large areas of the site capable of being replanted, should however there not be sufficient space the conditions of approval allow for compensatory planting to occur on off-site public lands.

5.4.3 Management and ownership of conservation lands

It was proposed in the original Environmental Assessment that the land zoned 7A (Environmental Protection Habitat and Catchment) would be retained and managed by the proponent. OEH and Council objected to the lands being held in private ownership, believing it created uncertainty about whether the environmental values of the land would be protected. OEH and Council also raised concern that the EA did not nominate how the land would be managed.

The North Boambee Valley (East) Release Area Developer Contributions plan provides for the acquisition of lands zoned 7A (Environmental Protection Habitat and Catchment) on the site.

In response to the concerns of Council and OEH, the proponent amalgamated all the environmentally zoned lands into one lot (Lot 141) in the PPR. The proponent also now proposes to transfer Lot 141 to Council subject to negotiations on purchase price. The Department supports the transfer of the environmental lands to Council as this will ensure their retention and protection for environmental purposes.

Lot 141 which is proposed to be transferred to Council contains land not identified for acquisition under the contributions plan, including lands zoned 2A (Residential low density). Council has advised it will only accept the lands not identified in the contributions plan, if it is dedicated at no cost.

It is the Department's preference that ownership of the land zoned 2A (Residential low density) in Lot 141 be transferred to Council, to ensure protection of its environmental values. It is however recognised that it is not reasonable to require the dedication of residentially zoned land without sound justification.

The Department considers that the residentially zoned land to the east of Road No.7 within Lot 141 should be dedicated to Council. The land is part of the Heritage Park and open space area and is an Asset Protection Zone for the adjacent residential lots. The maintenance of the land to facilitate these uses will burden Council and they should be offset for that burden. This land is constrained for residential purposes as it sits adjacent to koala habitat. The recommended conditions of approval require dedication of this land.

Future ownership of the parcels of residentially zoned land to the west of Stage 3 and between the end of Road No.9 and the Highway corridor should be the subject of negotiation between Council and the Proponent. The conditions of approval allow for the transfer of the land to Council. If agreement cannot be reached over the transfer, the condition requires the Proponent to manage the land in accordance with the Vegetation Management Plan.

In response to Council's and OEH's concerns about how the environmental lands will be managed into the future, the proponent has added a Statement of Commitment that it will have discussions with Council to ensure the lands, if transferred, are managed in accordance with Council's relevant plans of management. It is the Department's view that it would be Council's intention to manage the land in accordance with best practice if they took ownership of it.

Any lands to be transferred to Council should be rehabilitated to an appropriate standard. The Proponent should be required to prepare a Vegetation Management plan for all land zoned 7A or identified as koala habitat. The Vegetation Management Plan should specify what actions are required to offset the loss of vegetation, what actions will be taken to protect the habitat trees and stags. For lands which are to be transferred to Council, the Vegetation Management Plan must include a 5 year maintenance program at no cost to Council. The Vegetation Management Plan must also specify what actions the Proponent must take on any land which they are to retain.

The additional 20 allotments which are required under the proposed approval are to be located within the currently proposed development footprint and as such will lead to a minimal change in impact on flora and fauna.

5.5. Bushfire risk

The site includes areas of dense vegetation and undulating steep terrain, with a considerable portion of the proposal site identified as Category 1 bushfire prone land.

The Rural Fire Service identified that the bushfire risk assessment in the Environmental Assessment and Preferred Project report did not adequately consider the *Planning for Bushfire Protection 2006* (RFS, 2006) guideline. Council also raised concern with the approach to managing bushfire risk identifying that fire trails should not be located on private property.

Subsequent to the Preferred Project Report the Proponent submitted a further bushfire hazard assessment report which revised the asset protection zones for all stages of the proposal. The Asset Protection Zones vary from 8.05 metres to 40 metres and are proposed to be located in open space, public roads and within residential allotments. The report concludes that all proposed residential allotments can accommodate a building footprint while achieving the minimum Asset Protection Zones.

The Rural Fire Service has reviewed the new bushfire hazard assessment report and has raised concerns about emergency access from Stage 3b. The plans indicate an emergency access route from the northern end of Amadeus Place across the adjoining site and linking with Kratz Drive. The RFS advises that this road is essential for the safe development of Stage 3, but that it has not been provided with information which demonstrates that the adjoining owner will permit access across its land. RFS advises it does not support the development of Stage 3b until that access is provided.

The Department accepts the advice of the RFS. The conditions of approval specify that Stage 3b may not be developed until such time as the consent of the adjoining owner is obtained for access across its land.

Subject to the resolution of the emergency access from Stage 3B, the RFS has provided a set of recommended conditions of approval. The conditions adjust the proposed Asset Protection Zones and require the proponent to prepare a Fire Management Plan for Lot 142. In addition, a 1.8 metre high radiant heat shield is required to be constructed on the western boundary of Stages 1b, 1d, 2a and along the eastern boundary of 3b, prior to the construction of any dwelling in these stages.

It is considered that the additional 20 allotments which are required under the proposed approval can be designed to meet the requirements of *Planning for Bushfire Protection 2006*, as they will be located within the currently proposed development footprint and can apply the same APZ.

5.6. Development Control Plan

The North Boambee Valley (East) Development Control Plan provides a master plan and design requirements to guide future development of the site. It has regard to existing development, landform, environmental conditions, surrounding local road network and the relationship with adjoining residential areas.

The Department has considered the consistency of the proposal with the relevant planning strategies of the North Boambee Valley (East) Development Control Plan given the direct relevance of the Development Control Plan to the proposal. These include:

- Traffic, transport and access – to ensure the development provides a street network that links to surround areas and considers amenity and connectivity of pedestrians and cyclists. As outlined in **Section 5.2**, the proposed layout is functional and logical and provides suitable links to the adjoining residential estates;
- Open space – to ensure an open space network is based on accessible connections and promotes equality of access and opportunity. The proposal includes an area of more than 4 hectares of open space, and exceeds the open space requirement detailed in the Developer Contributions Plan by more than 3 hectares. Open spaces include pedestrian and cycle paths and are zoned as Environmental Protection 7A, making their use as open space appropriate;
- It is proposed to provide additional facilities (seating, gathering areas) in addition to the facilities nominated in the Developer Contributions Plan. Council has advised that the cost of these will need to be met by the developer;
- Natural environment – to ensure development is consistent with the principles of ESD and maintains the natural beauty of the area. As outlined in **Section 5.4** the proposal has sought to minimise impacts on important ecological areas, including primary and secondary Koala habitat; and
- Infrastructure – to ensure the existing community is not burdened with provision or maintenance of public utilities and facilities. The proponent has identified that detailed design of infrastructure works (pedestrian pathways, fire trails, collector roads etc) will be developed in consultation with Council, subject to a works-in-kind agreement. The Department considers that this approach will ensure that the level of infrastructure provided by the proposal will not burden the existing community.

The Department has considered the response to the above planning strategies and considers that the proposal has given adequate regard to the objectives of the North Boambee Valley (East) Development Control Plan. In addition, the Department has included where relevant, proposed conditions of approval to ensure adequate safeguards to minimise potential environmental impacts.

5.7. Aboriginal cultural heritage

The site, due to its temperate climate and topography would have likely provided Aboriginal people with food, medicinal supplies and other materials. A field survey carried out for the Environmental Assessment identified one site (an artefact scatter) and four potential archaeological deposits (PADs). Two PADs, LE-PAD-1 and LE-PAD-2, were subjected to sub surface archaeological testing. Artefacts were discovered during both test excavations, however as the areas have been substantially disturbed, the artefact density is relatively low.

The Environmental Assessment included a provision for monitoring by registered Aboriginal parties of any construction works within 50 metres of these sites. It is proposed that artefacts uncovered during monitoring would be collected and redeposited. The proposal includes provision of a 'heritage park' in acknowledgement of the local Aboriginal culture, which would include a 'keeping place' to store all uncovered artefacts, and any other relevant structures and signage.

In its submission on the Environmental Assessment, OEH raised several concerns regarding Aboriginal cultural heritage, including the need to manage and protect the Aboriginal heritage reserve in perpetuity and in consultation with the Aboriginal stakeholders. OEH's submission on the PPR reiterated the above, and included additional concerns relating to continuity of consultation with registered Aboriginal parties, the requirement for appropriate zoning of the heritage park and the measures to manage impacts on Aboriginal heritage impacts.

The proponent advises that the structure of the 'keeping place' would be developed in consultation with Council, prior to the transfer of Lot 141 (which includes land to be designated for the 'heritage reserve'). The proponent does not commit to developing the heritage park in consultation with Aboriginal stakeholders. The Department considers that the proponent should develop a strategy for the relocation, storage and long-term management of Aboriginal artefacts in consultation with registered Aboriginal parties and Council. The strategy should be prepared prior to the issue of a construction certificate for that stage. This is reflected in the proposed conditions of approval.

While OEH requested that the area which forms 'Heritage Park' should be rezoned from Zone 2A (residential) to Zone 7A (environment protection) to ensure protection in the long term, a change to the land use zone is outside the scope of this application. It is recommended that the subject land zoned 2A is dedicated to Council.

The Department also supports ongoing consultation with registered Aboriginal parties throughout the project. This is reflected in the proposed conditions of approval.

OEH noted that the revised Statement of Commitments amended the proponent's commitments for the mitigation and management of Aboriginal heritage impacts. The Department considers that the revised Statement of Commitments do not adequately outline the proponent's approach to managing impacts on Aboriginal cultural heritage. Accordingly the proposed conditions of approval include additional Aboriginal heritage management requirements including the need to continue to consult with and involve all registered Aboriginal parties in the ongoing management of Aboriginal cultural heritage values, and the need to provide fair and reasonable opportunities for the registered Aboriginal parties to monitor any initial ground disturbance activities within the 50 metre buffer of identified Aboriginal sites.

5.8. Other issues

5.8.1 Site contamination

The site has historically been used for agricultural purposes, including the cultivation of bananas. Residual pesticides, including arsenic, aldrin and Dieldrin, are known to exist on land that has been used for banana cultivation. The proponent undertook an environmental study to determine if any contaminants were present on site.

The phase 1 assessment included a desk top study, interviews with persons familiar with the site and a walkover survey. The assessment identified three areas of environmental concern (AEC), those being:

- AEC 1: Banana plantation areas (Banana Areas 1, 2 & 3);
- AEC 2: Packing shed associated with banana plantations; and
- AEC 3: Existing and former buildings (house and garden shed).

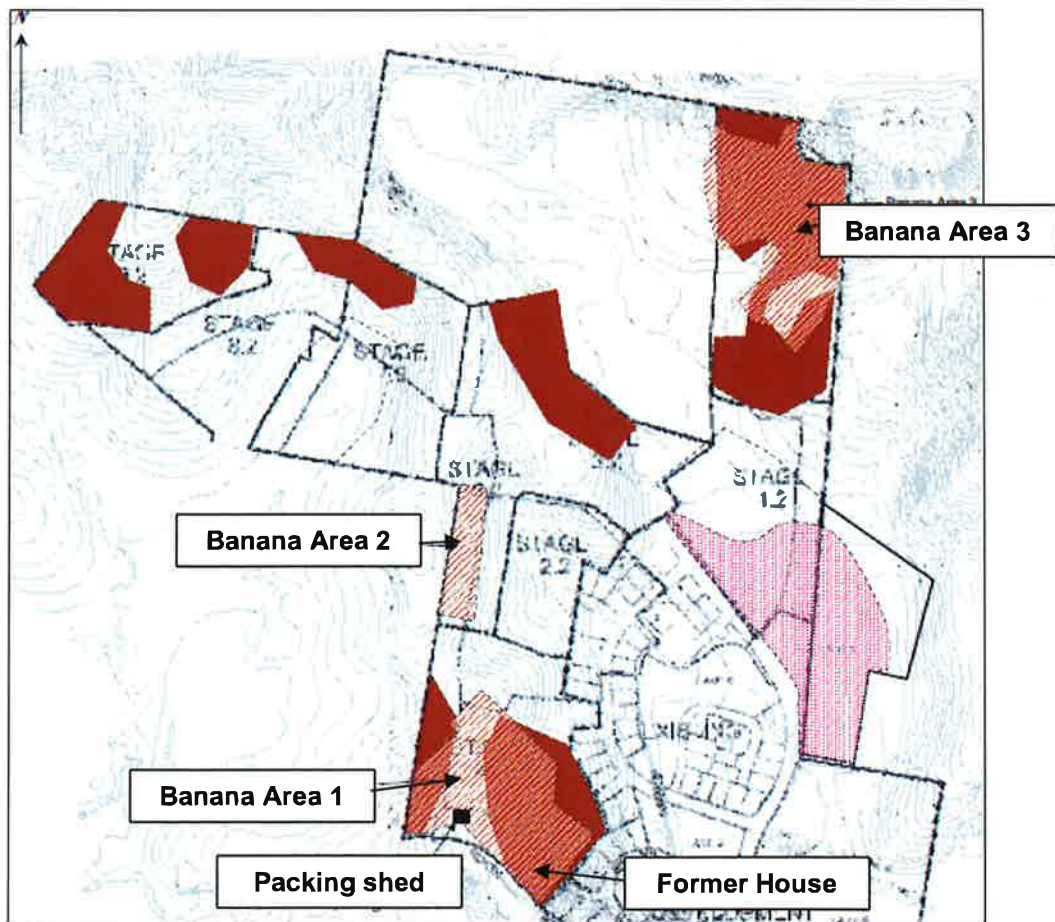


Figure 9 Location of Area of Environmental Concern (Source: Coffey Geotechnics)

A phase 2 assessment was undertaken to further investigate the areas of environmental concern. The assessment involved the collection of surface samples using hand tools and laboratory testing of the samples. The testing revealed that each of the banana areas has concentrations of arsenic above the residential end use criteria. Banana area 3 also has concentrations of Dieldrin which exceeded the relevant criteria. The results for the samples collected around the house and garden shed showed concentrations of contaminants below the residential end use criteria. The study recommended that the following occur:

- Sampling and analysis in the area of the possible former packing shed to a greater density; and
- An assessment of the vertical extent of arsenic and Dieldrin contamination in the banana plantation areas.

The environmental study identified that the following remediation options are available:

- Removal of source (excavating contaminated soil and disposing to landfill);
- Vertical mixing (blending of soil to reduce overall concentrations); and
- Encapsulation (capping or burying of contaminated material).

In its submission on the Environmental Assessment, OEH advised it was generally satisfied with the recommended approach, however, requested that more detailed investigations also

be undertaken on two additional hot spots. Council advised it believed additional testing and preparation of a Remedial Action Plan should occur prior to issue of approval.

The PPR included a supplementary environmental study, which further elaborated on required future actions and recommended that the following occur:

1. Detailed investigation of the area of environmental be undertaken, to assess the extent and nature of soil contamination, and to inform the preparation of a Remedial Action Plan.
2. Prepare a Remedial Action Plan to remediate the site, based on the findings of the detailed investigations.
3. Consult with Council about whether the works required under the Remedial Action Plan require consent.
4. Following remediation prepare a site validation to assess that the land has been made suitable for its intended use.

The PPR included revised Statement of Commitment (C23) which commits to undertaking the above matters, but does not adopt the recommendations of OEH. OEH did not comment on contamination in their submission on the PPR. In its submission on the PPR, Council noted that a Remedial Action Plan was not provided and stated this matter is required to be addressed, possibly as a condition of approval.

While a Remedial Action Plan did not accompany the PPR, the Department considers that the available information demonstrates that there is reasonable certainty that the site can be remediated and made suitable for its intended residential use. The Department considers that this remediation can form part of the works for which approval is granted. The conditions of approval require that a Remedial Action Plan be submitted to the Director-General. The Department considers that the assessment and the proposed condition adequately address the requirements of State Environmental Planning Policy No. 55.

5.8.2 Geotechnical and slope stability

The site has an undulating topography and includes areas of steep slopes greater than ten degrees. The geotechnical assessment in the Environmental Assessment identified a number of constraints including:

- Potential Slope Instability: Steep slopes across the site (in particular those greater than 10 degrees) will be subject to near surface creep;
- Foundation Conditions: Housing on the steep sections of the site will require deep foundations to the bed rock;
- Slope Instability (Road Construction): Some roads are located along the sides of watercourse or steep slopes and will require significant cut and fill;
- Erosion: The potential for erosion of the sloping ground will be significantly enhanced by site clearance. Only limited vegetation cover should be removed where necessary during construction;
- Retaining walls: Owing to the steep nature of the site all retaining wall supporting structures should be engineer designed;
- Earthworks and Construction in Low Lying Areas: There are three Low Lying Areas where construction will be difficult due to shallow groundwater and soft soils; and
- The presence of lots within axes of watercourse where compressible subsoils are expected and extreme runoff occurs.

In their submission on the Environmental Assessment Council noted the above matters and raised concern that they had not been appropriately addressed.

The modifications to the layout in the PPR were in part a response to the above constraints with roads and allotments realigned so that they more closely followed the site's topography. The PPR included a supplementary geotechnical report which expressed that in "Coffey's experience in undertaking residential land development in the Coffs Harbour Local Government Area and surrounds these issues [Soil Contamination & Geotechnical] are not unusual and normal development protocols and engineering advice can address these issues with sufficient time and funds".

The Department considers, based on the available information that the site's geotechnical constraints can be managed. The recommended conditions of approval require a detailed earthworks plan to be submitted to the Department to demonstrate the measures used to overcome the constraints.

5.8.3 Utilities

A 66KV overhead power line traverses the site and comprises a single circuit on timber poles. The line extends across proposed stage 2 and requires relocation. The power line also traverses the adjoining site to the west (Highlands Estate).

The Environmental Assessment identifies two potential routes for the line. In each of the options it is proposed to relocate the line predominantly underground and generally within the roadways. The electrical servicing strategy was not updated to reflect the amended layout.

The Department supports the relocation of the power line underground. The undergrounded line should avoid the conservation lands, being generally located within the road reserve and make allowance for connection by the neighbouring lands. The conditions of approval specify these requirements.

5.8.4 Sewerage

The proposal includes the construction of an additional sewer pumping station in the north-western portion of the proposal site. Council does not support the inclusion of this additional pumping station, and has requested that the proponent utilise the existing sewer pumping station within the neighbouring Highlands Estate.

The owner of the Highlands estate has advised the Department that they have made allowance for connection by this development in their plans for their future stage. The conditions of approval require the proponent to prepare a sewerage strategy in consultation with the owners of the neighbouring property.

5.8.5 Proposed Lot 142

Council requested that the proponent clarify its intentions for Lot 142. The proponent has advised that as a result of the preferred bypass corridor, the western portion of the site will not be subdivided as part of the project. The proponent is currently in discussion with RMS regarding potential acquisition of Lot 142, including land to the west of the preferred corridor as this land would be disconnected from the rest of the site.

At this stage land in Lot 142 will be managed by the proponent as a residual lot. If development in Lot 142 is proposed in the future, this would be subject to a Development Application. The Department is satisfied with this approach and notes that any future development of this residual lot would need to consider the relevant provisions of the North Boambee Valley (East) Development Control Plan.

5.8.6 Acoustic impacts

The lots adjacent to the bypass corridor may be affected by road noise in the future. The extent of the impact cannot be determined at this time, as the location and design of the road

is not known. Impacts from the road will need to be considered as part of the future application for the roadway.

6. CONCLUSION

The Department has undertaken an assessment of the proposal's merits. The assessment has considered the proponent's Environmental Assessment, PPR, as well as submissions received from public agencies and the general public.

The key issues raised in submissions related to development density, traffic generation and impact on local roads, flooding and stormwater, biodiversity issues, bushfire and land use.

The Department has considered the public and authority submissions as well as the key issues raised and recommends conditions of approval to ensure adequate safeguards to minimise potential environmental impacts.

The proposal is generally consistent with the objectives of the Coffs Harbour City LEP 2000 and the requirements of Council's North Boambee Valley (East) DCP. Furthermore, the proposal conforms to the growth strategy outlined in the Mid North Coast Regional Strategy 2006 - 2031.

The Department considers the site to be suitable for the proposed development and that the proposal is in the public interest. Consequently, the Department recommends that the proposal be approved, subject to the recommended conditions of approval.

7. RECOMMENDATION

It is recommended that the Executive Director, Development Assessment Systems and Approvals, as delegate for the Minister for Planning and Infrastructure:

- (b) Consider the recommendations of this Report;
- (c) Approve the Project Application under Section 75J of Part 3A of the Environmental Planning and Assessment Act, 1979;
- (d) Sign the attached Instrument of Approval.



Director
Metropolitan and Regional Projects South



7.6.17
Executive Director
Development Assessment Systems and Approvals

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1067

APPENDIX B SUBMISSIONS

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1067

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS (PREFERRED PROJECT REPORT)

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=1067

APPENDIX D PROPONENT'S RESPONSE TO SUBMISSIONS ON THE PPR

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX E CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

To satisfy the requirements of Section 75I(2)(d) and (e) of the EP&A Act, this report includes reference to the provisions of the Environmental Planning Instruments that substantially govern the carrying out of the proposal and have been taken into consideration in the Environmental Assessment of the proposal.

The provisions, including development standards, of Local Environmental Plans and Development Control Plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the EP&A Act. Notwithstanding, these standards and provisions are relevant considerations as the Director-Generals Requirements require the proponent to address such standards and provisions. In summary, the relevant Environmental Planning Instruments for the proposal include:

State Environmental Planning Policy (Major Development) 2005

The proposal is a Major Project to which Part 3A of the EP&A Act applies as it is development in 'coastal areas' as described under Schedule 2, 1 of the *State Environmental Planning Policy (Major Development) 2005* (as in force at the time). Schedule 2, 1 'Coastal areas' (1)(i) of the *State Environmental Planning Policy (Major Development) 2005* required that subdivision of land in a residential zone into more than 25 lots within the coastal zone be referred to the then Minister for Planning. The then Minister for Planning declared the Lakes Estate residential subdivision to be a Major Project to which Part 3A of the EP&A Act applies on 9 December 2005.

State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore whether it is suitable for the use for which development is proposed. If the land is unsuitable, remediation must take place before land is developed. The proponent has undertaken a preliminary site investigation and identified three locations of potential contamination.

The Department has included proposed conditions of approval to ensure that the proponent undertakes further testing, and if required, remediation and validation. Accordingly, the relevant matters for consideration as set out in SEPP 55 have been considered in the assessment of the proposal.

State Environmental Planning Policy No. 71 – Coastal Protection

SEPP 71 applies generally to development in the coastal zone. Clause 2 sets out the aims of the policy which includes the protection and management of the natural, cultural and recreational attributes of the NSW coast; the protection and preservation of Aboriginal cultural heritage; to ensure the visual amenity of the coast is protected; and the protection and preservation of native coastal vegetation.

Key issues with respect to SEPP 71 are as follows:

- The proposal is not located along the coastal foreshore and would have no impact on the existing access to this area, nor would it require the provision of any public access to the foreshore area.
- The proposal would result in the removal of native vegetation including vegetation that provides habitat for threatened and protected fauna species. The impacts on biodiversity would be offset by measures including compensatory planting and dedication of a conservation area.
- The proposal would impact Aboriginal cultural heritage sites. Impacts would be mitigated through the recovery of any artefacts found during construction. These artefacts would be analysed and stored in a dedicated 'keeping place' to be located in the proposed heritage park, within the conservation area.

North Coast Regional Environmental Plan 2008

The North Coast Regional Environmental Plan 2008 applies to the Coffs Harbour Local Government Area. As of 1 July 2009 it is considered a deemed SEPP. The assessment of the proposal considered the relevant provisions of the North Coast Regional Environmental Plan as it relates to the proposal. The proposal is generally consistent with the objectives of the plan as it proposes development that:

- Seeks to retain the natural environment. Native vegetation removed for the proposal would be offset through compensatory planting in the proposed conservation area. Measures such as slow points and Koala culverts would be provided to assist the movement of Koalas through the proposal site.
- Represents social and economic growth of the Coffs Harbour Local Government Area.

Coffs Harbour City Local Environmental Plan 2000

The Coffs Harbour City LEP 2000 outlines the local environmental planning provisions for the area. The proposal falls within Zone 2A and Zone 7A pursuant to the LEP. The majority of the subdivision works are located within Zone 2A. The objectives of Zone 2A are:

- To enable housing development and other development that is compatible with a low density residential environment, and;
- To provide for development that is within the environmental capacity of a low density residential environment and can be adequately serviced.

The proposal meets the objectives of Zone 2A, and is permissible with consent.

Most of the area in Zone 7A would be retained as bushland or open space. Minor works, including roads, pedestrian and / or cycle routes and fire trails are proposed within Zone 7A. These activities are permissible with consent. The proposal is generally consistent with the objectives of the LEP.

Mid North Coast Regional Strategy 2006-2031

The Mid North Coast Regional Strategy provides a long-term vision (25 years) for the coastal areas of NSW's Mid North Coast. Broadly, the strategy aims to sustainably manage the expected population increase in the region, protect the region's environmental assets, cultural values and natural resources, and encourage economic opportunities over the next 25 years. The assessment of the proposal has had regard to the aims and objectives of the Mid North Coast Regional Strategy. The proposal is generally consistent with the objectives of the strategy as it proposes development that:

- Is located within the Coffs Harbour 'existing urban area' and proposed growth zone identified in the Mid North Coast Regional Strategy.
- Would contribute to the regional dwelling targets identified in the strategy.
- Assists in the protection of coastal areas and limits the spread of urban development within environmentally sensitive areas.

NSW Coastal Policy 1997

The NSW Coastal Policy sets out the direction for coastal zone management, planning and conservation. It aims to plan for sustainable population growth and economic development, without compromising the natural, cultural and heritage values of the coastal zone. The assessment of the proposal has had regard to the relevant goals of the Coastal Policy which represents a commitment to:

- Protecting, rehabilitating and improving the natural environment of the coastal zone.
- Recognising and accommodating the natural processes of the coastal zone.
- Protecting and enhancing the aesthetic qualities of the coastal zone.
- Providing for ecologically sustainable human settlement in the coastal zone.
- Providing for public access.
- Protecting and conserving the cultural heritage of the coastal zone.

Draft Coffs Harbour LEP 2013

The Draft Coffs Harbour LEP 2013 was publicly exhibited in October 2012. It is proposed under the Draft LEP to transfer the existing zonings to a comparable zoning under the standard instrument. In this regard the lands zoned 2A (Residential Low Density) are proposed to be transferred to the zone R2 (Low Density Residential) and the lands zoned 7A (Environmental Protection Habitat and Catchment) are to be transferred to the zone E2 (Environmental Conservation). The proposed development remains permissible in the proposed zones.

The Draft LEP proposes to rezone the highway corridor from 2A/7A to SP2 Highway Corridor (Classified Road). The Highway corridor is also identified on a land reservation acquisition map. These changes do not affect the project as the highway corridor sits outside of the residential allotments.

APPENDIX F RECOMMENDED CONDITIONS OF APPROVAL
