

Section 75 W Modification

LAKES ESTATE RESIDENTIAL SUBDIVISION

Prepared for: Noubia Pty Ltd

Date: May 2014

Project No: 10034



Section 75 W Modification

MP05_0129 Lakes Estate Residential Subdivision

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Client: Noubia Pty Ltd
Project Number: 10034

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1.0 Introduction

1.1 Overview

GLN Planning (GLN) has been commissioned by Noubia Pty Ltd (the **Proponent**) to prepare this report to accompany an application made pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*¹ (**EP&A Act**) to modify Project Approval MP05_0129.

Project Approval MP05_0129 for residential subdivision was issued under delegated authority on behalf of the Minister for Planning and Infrastructure on the 7th June 2013 and relates to part Lot 164 DP 1170833, Lot 10 DP 1071628, Lot 1 DP 1089778 and Lot 2 DP 607602, North Boambee Road and Lakes Drive, North Boambee Valley; also commonly known as the 'Lakes Estate' (**subject site**).

Development Consent 575/2003, for residential subdivision was issued by Coffs Harbour City Council on 11 April 2003 and modified on 25 September 2006 and relates to certain lands within the subject site. That consent remains operational and is substantially complete.

It has been revealed that Development Consent 575/2003 and MP05_129 overlap in respect to certain lands zoned 7A (Environmental Protection Habitat and Catchment). These 7A environmental lands are required to be transferred to Council for conservation purposes in accordance with the Contributions Plan. Consequently, a key modification proposed to MP05_0129 is the deletion of requirements for the dedication of these specific lands already required to be dedicated under Development Consent 575/2003.

The proposed modifications, as outlined under Section 2.0 of this Report, are consistent with previous requests made by the proponent, to the Planning and Infrastructure agency (**P&I**) (formerly the Department of Planning and Infrastructure (**DPI**)) on a number of occasions, including formal comments submitted by the Proponent on the 'Draft Project Approval' (as per the Department's standard practice).

Given the modifications remain consistent with environmental outcomes, development expectations of adjoining lands, the requirements of the relevant public authorities, including Council, whilst ensuring the Project Approval is made consistent with Development Consent 575/2003, then this application warrants approval.

1.2 Purpose of Report

The purpose of this report is to modify Project Approval MP05_0129 to ensure project delivery.

¹ Section 75W was repealed with the repeal of Part 3A of the *EP&A Act*, but has continuing effect pursuant to Schedule 6 (12) of the *EP&A Act*.

1.3 Statutory Framework

Part 3A of the EP&A Act was repealed on 1 October 2011; however, MP05_0129 was approved on 7 June 2013 under the transitional provisions pursuant Schedule 6A of the EP&A Act (DGRs were issued prior 1 October 2011). By virtue of the transitional provisions the Project Approval can be modified.

This application to modify MP05_0129 is made to the Minister of Planning and Infrastructure pursuant Section 75W of the EP&A Act.

1.4 Site & Particulars

The site is located on North Boambee Road and the Lakes Drive, North Boambee Valley within Coffs Harbour City local government area (**LGA**). The lands are legally registered as Part lot 164 in DP 1170833, lot 10 in DP 1071628, lot 1 in DP 1089778 and Lot 2 in DP 607602 and depicted within **Figure 1**.



Figure 1: subject site of Project Approval shown bounded red
(Source: prepared by Astoria Group Pty Ltd for Preferred Project Report).

Coffs Harbour City Council issued Development Consent 575/2003 under the provisions of Part 4 of the EP&A Act for the subdivision of land to facilitate earlier residential development within the Lakes Estate. While a separate development, that previous Consent involves the transfer of lands that is also required to be dedicated as part of the subject Project Approval. That Consent has commenced but has not been finalised by the Proponent (a number of proposed allotments including land zoned 7A are yet to be registered) and therefore this modification has been prepared to delete dedication requirements that overlap.

1.5 Relevant Development History

11 Apr 2003	Coffs Harbour City Council (Council) issues Development Consent No. 575/2003 pursuant to Part 4 of the EP&A Act for residential subdivision, including 160 lots, community centre lot, land for public reserves and one future development lot on Lots 1 and 2 DP 773626, Lot 1 DP 402432, Lot 4 DP 852521 and Part Lot 9 DP401212.
25 Sept 2006	Coffs Harbour City Council issues approval to the modification of Development Consent No. 575/2003 regarding the transfer of future public lands as identified pursuant the North Boambee Valley Stage 1 Release Developer Contributions Plan.
8 Apr 2011	Director-Generals Assessment Requirements (DGRs) issued for the lodgement of subject Part 3A Project Approval involving 140 residential allotments, one allotment for bushland and open space and one residual allotment.
31 Aug – 30 Sept 2009	Environmental Assessment Report publicly exhibited.
5 Sept 2012	Proponent submits Preferred Project Report.
14 Nov – 13 Dec 2013	Preferred Project Report publicly exhibited.
7 Jun 2013	Executive Director, Development Assessment Systems and Approvals, as a delegate for the Minister for Planning and Infrastructure, approved the extension to the 'Lakes Estate' (MP05_0129) under Section 75J of Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> , which included: <ul style="list-style-type: none"> - 162 allotments, consisting of 160 residential allotments, 1 allotment (Lot 141) containing lands for conservation, a Heritage Park and managed open space and 1 allotment (Lot 142) for future development;

- Site remediation works;
- Earthworks;
- Vegetation rehabilitation and management; and
- Infrastructure works including roads, drainage, sewerage works and utility services provision.

25 Jul 2013

Proponent meets with senior officers of what was the DPI at the time to express concerns regarding Project Approval MP05-0129.

It was resolved during this meeting that the lodgement of a 75W Modification application would be the appropriate process to address the Proponent's concerns.

2.0 Modified Proposal

The specific modifications sought under this application are as follows:

1. Modify the subdivision plan to create the proposed allotments as follows and as illustrated within **Figure 2**:
 - Create 160 residential allotments (as required per conditions of the Project Approval) within stages 1 to 3; including 66 residential allotments within Stage 1, 67 residential allotments in Stage 2 (inclusive of a superlot for possible medium density development) and 27 residential allotments within Stage 3.
 - Create Lot 162 under this application, being a modification of the proposed Lot 142 - created under DA 575/2003, to facilitate the additional density targets required under this Project Approval. The purpose of the boundary realignment is to:
 - Maximise lands zoned for urban development.
 - Include additional residential allotments as required per the Project Approval.
 - Modify the boundary alignment created pursuant DA Consent 575/2003 (proposed lot 142) to define the koala conservation environmental lands that are intended to be transferred into public ownership pursuant DA Consent 575/2003.
 - Create consistency between this Project Approval and Consent 575/2003.
 - Allow Development Consent 575/2003 to be finalised.
 - Create consistency with the adopted Contributions Plan.
 - Creation of a residual lot (Lot 161) to facilitate the creation, management and dedication of lands into public ownership upon registration pursuant the subject Project Approval.
 - Create Lot 163 - superlot for future development.
2. Amend the proposed subdivision and staging plans to reflect the above modifications, including, recognising that proposed Lot 162, will be transferred to Coffs Harbour City Council per previous arrangements. This modification will allow the Proponent to complete the previous Part 4 consent whilst ensuring density targets are delivered per the Project Approval.

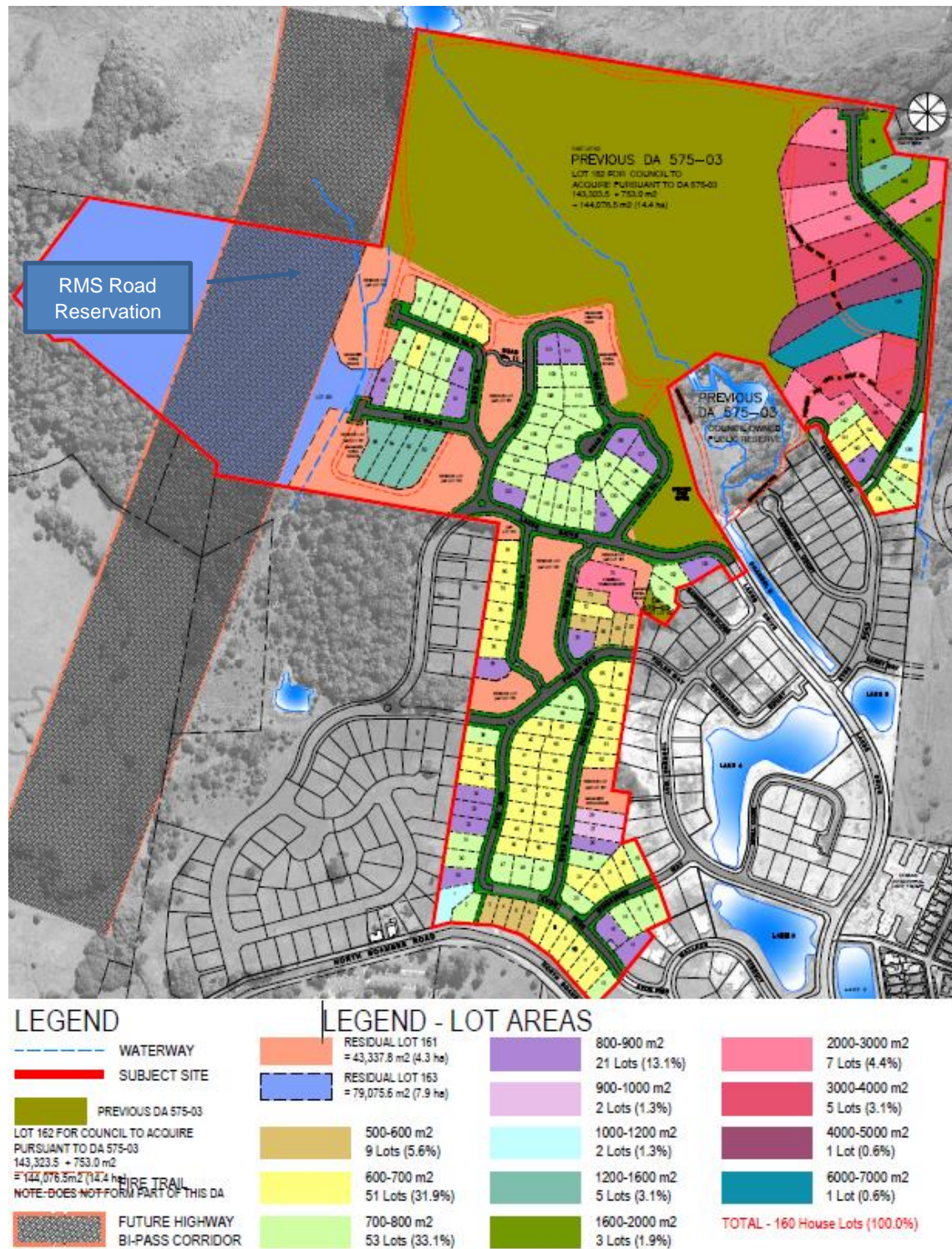


Figure 2: Modified proposed subdivision plan

3. Modify the road intersection alignment of Amadeus Place and Eyre Road to achieve additional allotments as detailed above in items 1 and 2.
4. Delete the 3m wide corridor requirement.

5. Delete the requirement to provide a road link from Amadeus Place to the undeveloped residential zoned lands on the adjoining north-east property given this is beyond the scope of the Proponents' responsibilities of infrastructure delivery to obtain Project Approval.
6. Amend the requirement that all cut and fill specifications must be submitted to the Director-General (**DG**) for approval prior to the issue of any Construction Certificate.
7. Clarify the requirement for consultation with the owner(s) of the adjoining site to the west (Lot 125 DP 1143313) given this occurred during the Preferred Project Report (**PPR**) submission and that the Proponent should not be unreasonably restricted if development occurs in accordance with the Project Approval and Council's engineering specifications.
8. Modify the requirements of land management given a significant portion of environmental conservation lands (proposed Lot 142) will be transferred under Development Consent No. 575/2003 (refer to 1 above).

3.0 Proposed Modifications

The proposed modifications to Project Approval MP05_01290129 are indicated as, strikethrough (text proposed to be deleted) and bold (text proposed to be added), in the following ways:

3.1 Project Approval - Schedule 1

3.1.1 Development Description

The Proponent seeks to modify the development description of the development under Schedule 1 to reflect the proposed modifications as outlined under this report.

If all modifications are accepted the Proponent seeks the 'Development Description' to read as follows:

Development: Residential subdivision, including:

- ~~Subdivision of the subject site into 162 allotments, including 160 residential allotments, 1 allotment lot (lot 141) containing lands for conversation, Aboriginal heritage and general open space and 1 allotment (Lot 142) for future development;~~
- **160 residential allotments, 1 residue allotment (Lot 161) containing lands for koala conservation, a heritage park and managed open space created pursuant to the subject Project Approval, 1 allotment (Lot 162) for koala conservation land being a modified proposed Lot 142 to be created pursuant to Development Consent No. 575/2003 and 1 superlot for future development (Lots 163);**
- Site remediation works;
- Earthworks;
- ~~Vegetation rehabilitation and management~~
- **Vegetation management within certain proposed Lot 161 land;**
- Infrastructure works including roads, drainage, sewerage and The modification is for the purpose of reflecting modifications sought under this application. This amendment to the development description is considered procedural only.

3.2 Conditions – Schedule 2

3.2.1 A2 - Project Description

The Proponent seeks to modify the project description of the development as detailed above under section 3.1.1 'Development Description' to reflect the proposed modifications as outlined under this report.

3.2.2 A3 - Development in Accordance with Plans and Documents

For completeness the Proponent seeks to modify approved plans under condition A3 to those appended to this modification.

3.2.3 A4 - Staging

The Proponent seeks the final paragraph of condition A4 to be modified, as follows, to recognise that certain conservation lands will be transferred into public ownership as provided for under Development Consent No. 575/2003 [**Appendix A**]; issued by Coffs Harbour City Council on 11th April 2003 and modified in September 2006:

*'Land transfers shall be subject to the provisions of **consistent with Development Consent No. 575/2003** and the North Boambee Valley (East) Release Area Developer Contributions Plan 2013. **If any inconsistency exists between Development Consent No. 575/2003 and the Contributions Plan then the existing Development Consent will prevail.***

*This **Project** approval does not impose or imply any obligation on Council to acquire any residentially zoned lands.'*

Reason: It is has been revealed that Development Consent 575/2003 and MP05_129 overlap in respect to lands zoned 7A (Environmental Protection Habitat and Catchment) which are required to be transferred to Council for conservation purposes in accordance with the Contributions Plan.

Development Consent No. 575/2003 has been substantially implemented but not completed. The Proponent therefore intends to manage and transfer a significant portion of 7A Environmental Conservation land to Council as permitted under this Consent.

This application therefore seeks to modify the boundaries of proposed Lot 142, created pursuant to DA 575/2003, to create proposed Lot 162 under the Project Approval. The consequent configuration of proposed Lot 162 will allow for the additional density targets to be delivered under this Project Approval while allowing DA Consent 575/2003 to be finalised.

This modification is considered procedural given the modification is centred on ensuring that both the Project Approval and Development Consent No. 575/2003 are consistent.

3.2.4 B1 - Subdivision Design Modifications

The Proponent seeks to modify this condition by way of deleting the following component of condition B1 (and consequently renumbering of the remaining components).

a) ~~'An additional 20 lots shall be created within Stage 1 and 2 of the development. The additional lots shall be created without~~

~~any substantive change to the road layout or reduction in the size of Lot 141. All lots must have a minimum area of 400m² and a 15 metre frontage to the roadway;~~

Reason: The amended plan of subdivision included with this application provides an additional 20 residential allotments.

The Proponent sought to include the additional 20 residential allotments within stages 1 & 2 as outlined under the Project Approval. However, the 20 additional residential allotments within these stages alone were found to be unfeasible given environmental constraints, such as topography, and current market demands. The Proponent has therefore modified the plan of subdivision to include an additional 10 residential allotments within stages 1 & 2 and an additional 10 residential allotments within stage 3.

The density outcome sought by the DPI and Council with reference to the North Boambee Valley (East) Development Control Plan and Contributions Plan would be delivered² under this application.

A total of 160 residential allotments will be provided, which is consistent with the Project Approval and what has been deemed an acceptable density. Therefore, this requirement is now superfluous.

~~b) 'A 3 metre wide corridor is to be provided to the north of Lot 120 to allow for a future pathway to link with Halls Road;'~~

Reason: A 3 metre wide corridor has not been included or accounted for under the relevant Contributions Plan. In addition, the connection is not required to facilitate this development. Therefore, the imposition of such a condition is generally beyond what has been found to be a reasonable and/or an acceptable imposition by a consent authority on a developer by the Land and Environment Court.

In addition, the Proponent has designed stage 3 with ample pedestrian access to future adjoining developments with the provision of footpath construction on both Amadeus Place and Road No. 3.

The Proponent therefore requests that this condition be deleted given there is no nexus for this corridor under this Project Approval.

Notwithstanding the above, if Council foresees this corridor to be critical, then acquisition of this land can occur through the appropriate procedures provided pursuant to the Land Acquisition (Just Terms Compensation) Act 1991.

~~e) 'A road link must be provided from Amadeus Place to the residentially zoned lands on the adjoining property to the~~

² A shortfall of 7 allotments remain. However, both Council and the Department have considered this shortfall reasonable given a section of residential zoned land is unable to be developed because of environmental constraints.

~~northeast, as shown on Drawing A018 Revision B (dated 19/03/13) prepared by the Astoria Group.'~~

Reason: Traffic impact assessments were completed with the Environmental Assessment (EA) and PPR. Both traffic reports found the proposed road delivery and design suitable in its current form.

In addition, the road layout along the proposed Amadeus Place is consistent with the adopted Development Control Plan and Contributions Plan for the precinct. We would presume that the planning controls have aligned this road infrastructure on the eastern boundary to facilitate future road connections (if required).

The provision of a road link at this stage to the undeveloped land is not usual practice and is considered uneconomic and disorderly development given this land is not currently being developed (maybe never developed), would dictate adjoining land development and design, unfairly burden both developments and create a liability for the Proponent when negotiating road dedication to Council. We therefore hold the view that the current alignment is sufficient to allow orderly development which will facilitate future residential development to the north-east of the subject site to connect (if required) as per general development practices.

The Proponent has met the requirements for Project Approval and therefore this condition should be deleted.

~~'An amended plan of subdivision demonstrating compliance with the above requirements must be submitted to the Director-General for approval prior to the issue of any Construction Certificate.'~~

Reason: The lodgement of an amended subdivision plan has now been satisfied under this modification. Submission of a further plan of subdivision is now superfluous.

3.2.5 B2 – Cut and Fill

The Proponent seeks condition B2 to be modified to read as follows:

~~B2~~ **Detached design plans and specifications must be prepared for proposed earthworks for the Principal Certifying Authority prior to a Construction Certificate being released.**

~~The plans and specifications~~ **details must illustrate proposed cut and fill areas levels and measures to address the site's geotechnical constraints. Specific consideration must be given to the geotechnical constraints identified in the Coffey report (dated 27 February 2008) and measures proposed to address the constraints.**

~~The plans are~~ **also to include a clear description of the impact of the changes on water movement both to and from the site.**

~~The plans must also illustrate the relationship with neighbouring properties at the sites boundaries. If any natural level grade changes are required greater than plus or minus 2m within 1m of site boundaries then approval is~~

required from the Director-General prior to the Principal Certifying Authority issuing a Construction Certificate

~~*Specific consideration must be given to the geotechnical constraints identified in the Coffey report (dated 27 February 2008) and measures proposed to address the constraints.*~~

A copy of the plans and specifications supported by the Principal Certifying Authority must shall be submitted to the Director-General for approval prior to the issue-release of any Construction Certificate.

Reason: Coffey Geotechnics (**Coffey**) provided a Geotechnical Assessment in response to the DGRs issued on 17 October 2008. A further geotechnical supplementary report, dated 7 August 2012, was submitted with the PPR. Both reports concluded that sufficient evidence existed to demonstrate that normal development protocols and engineering designs would ensure the land was suitable to accommodate the proposed development.

The *Major Project Assessment Report* prepared by the then known DPI concluded that the information provided was sufficient to demonstrate that *'the site's geotechnical constraints can be managed'*³ and that geotechnical issues would not restrict future residential development.

Given the conclusions reached, it considered to be unnecessary and unreasonable for the Project Approval to require further geotechnical specifications to be submitted and approved by the DG prior to Construction Certificate (**CC**) release. The development assessment stage is not where detailed design is addressed. Detailed design requirements or programs are a matter for the Principal Certifying Authority (**PCA**) at CC stage. The requirement for DG approval before CC release is onerous and contradictory to the resolutions of the Project Approval given the application has demonstrated that the land is suitable to accommodate the intended development.

Notwithstanding the above, it is understood that the intent of the condition is to ensure the final detail design does not unacceptably impact on adjoining lands. To ensure the intent of the current objective is achieved it is proposed to be replaced with an appropriately worded condition, (as above), that requires DG approval only when greater than 2 metres of cut or fill is required to be undertaken within a 1 metre radius of the subject site boundary.

3.2.1 B6 - Road Design

The Proponent seeks that condition B6 be modified to read as follows:

~~*Design plan for the roads must be prepared by a qualified practicing Civil Engineer. The design must be prepared in consultation with Council and conform to the standards and requirements set out in Council's Development Design and Construction specification and relevant policies.*~~

³ Page 32 - Major Project Assessment.

*The design plans must be prepared ~~in consultation with the owner(s)~~ **with consideration** of the adjoining site to the West (Lot 125 DP 1143313), to ensure that the chosen road levels will not **isolate and/or** prevent connection with future roads on their lands.*

*Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc) and paved footpaths **consistent with the design of existing roads within the estate** are required along the full length of the new roads.*

*Final design plans shall be approved by the **Principal** Certifying Authority prior to ~~issue of the relevant Construction Certificate~~ **being issued**.*

Reason: The EA and PPR were notified extensively (approximately 61 days). Adjoining landowners had the opportunity to review and make comment on the road design and layout during this exhibition period.

Public comment regarding adequate access into adjoining subdivisions was made during the EA exhibition period. The Proponent in response under the PPR contacted the adjoining estate to obtain copies of the most recent subdivision plans. The Proponent's PPR submission confirmed that acceptable access arrangements had been considered. No further public submission was received regarding road access under the PPR.

Matters associated with road network designs have previously been established for the estate. The Road layout has been dealt with at the assessment stage. In addition, future roads will be delivered in accordance with established estate designs and Council's engineering specifications. Roads will be constructed to eventually be dedicated to Council.

Further requirements for the Proponent to prepare road design plans in consultation with the adjoining site owner(s) is considered unreasonable and creates uncertainty. The Proponent seeks greater certainty by modifying the condition to specify the outcome required. This will provide for the intent of the condition to be achieved while providing reasonable certainty.

3.2.2 B11 - Vegetation Management & Landscaping

The Proponent seeks that condition B11 be modified to read as follows:

*B11 A Vegetation Management Plan (VMP) must be prepared for all lands ~~identified~~ **within proposed Lot 161 of the Project Approval and identified** as koala habitat under the Coffs Harbour Plan of Management (November 1999), zoned 7A (Environmental Protection Habitat & catchment) under Coffs Harbour Local Environmental Plan 2000 or located within Lot 141.*

The VMP must be prepared in accordance with Council's Biodiversity Guideline 1a Preparing Vegetation Management Plan and the Coffs Harbour Koala Plan of Management. In addition, the VMP must also include the following details:

- i. *Offset requirements for the loss of vegetation on site are to be in accordance with Biodiversity Guideline 4: Compensatory Planting advice. Offsite compensatory planning may occur on publicly owned lands, subject to approval of the landowner;*
- ii. *Ensure all recognised buffers are established on threatened species under the EPBC Act 1999;*
- iii. *Specific measures to manage edge effects in the narrow areas of environmental lands;*
- iv. *Specific measures to achieve compliance with the Department of Primary Industries (Office of Water) Guidelines for Watercourse Crossings on Waterfront land (2012) and Guidelines for Controlled Activities and Guidelines for Riparian Corridors (2012); and*
- v. *Specific measures to facilitate the long term survival of the identified habitat and stag trees.*

Vegetation rehabilitation and maintenance works for the entire area covered by the VMP must start at the commencement of construction of stage 1. The works within each stage must continue for 5 years after the registration of the plan of subdivision for that stage. All vegetation rehabilitation and maintenance works must be undertaken by the Proponent at their cost.

The VMP must be prepared in consultation with Council and approved by the Certifying Authority prior to issue of the any Construction Certificate.'

Reason: The Proponent seeks that the Project Approval acknowledges DA Consent 575/2003. Certain lands will be managed and transferred pursuant to that Consent. To ensure completeness, this modification seeks a minor boundary adjustment of proposed Lot 142 (created under Development Consent No. 575/2003). This boundary realignment under this Project Approval modification will result in the creation of proposed Lot 162. Lot 162 will be managed and transferred to Council per DA 575/2003.

The terms under Development Consent No. 575/2003 as amended for the management and transfer of Lot 162 (formerly known as proposed Lot 142 pursuant DA Consent 575/2003) are outlined below:

- *The Applicant must transfer or dedicate the lands set aside for acquisition within the approved plan of subdivision the subject of the development application, being those land identified in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan for Koala management, traffic management, water quality and community facilities.*

The lands must be transferred or dedicated to the Council in fee simple free of encumbrances, other than those acceptable to Council at or prior to the registration of the plan of subdivision.

The Council must compensate the Applicant for the lands. The value is to be determined at the date of transfer or dedication in accordance with Section 54(1) of the Land Acquisition (Just Terms Compensation) Act 1991 with the relevant matters to be considered as set down by Section 55 of the Act.

- *Acquisition of public land by Council is to occur on a staged basis. The staging is to coincide with the release of adjoining land by the developer unless other arrangements have been made to the satisfaction of Council.*
- *Additional lands proposed by the developer for public ownership not detailed in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan are to be dedicated at no cost to Council at the time of linen plan registration.*
- *Lands being dedicated to or acquired by Council for the public purpose being improved by the removal of dead and dangerous trees, weeds, rubbish and all plants on Council's list of undesirable species and left in a useable and mowable condition to the satisfaction of Council.*

The boundary adjustment to proposed Lot 142 (per DA 575/2003) will provide for the required density under Project Approval to be provided while allowing for the staged transfer of land required by Condition 1 of DA 575/2003. This modification will deliver this Project Approval and ensure Development Consent 575/2003 is finalised.

3.2.3 E1 – Section 94 Development Contributions

The proponent seeks the following wording be included under Condition E1:

'Where 7A Environmental Protection Habitat & Catchment zoned lands are transferred at no cost to Council under this Project Approval then the Proponent will receive an offset for cash payable where the North Boambee Valley (East) Release Area Developer Contributions Plan 2013 would otherwise make provision for the acquisition of these lands.'

Reason: The Proponent seeks confirmation under the Project Approval that land transfers where otherwise are provided for under the North Boambee Valley (East) Release Area Developer Contributions Plan 2013 will offset cash payable at market value pursuant the Land Acquisition (Just Terms Compensation) Act 1991 as provided for under section 94(5) of the EP&A Act.

3.2.4 E17 - Transfer of Lot 141

The proponent seeks Condition E17 be modified as follows:

E17 The proponent must make necessary arrangements for the transfer of **proposed** Lot 441 **161** in stages (with the exception of those lands referred to in condition E16) to Council. The transfer shall be made in accordance with the provisions of the North Boambee Valley (East) release Area Developer Contributions Plan 2013.

~~This approval does not impose or imply any obligation on Council to acquire any residentially zoned lands.~~ **Where lands are transferred at no cost to Council under this Project Approval then the Proponent will receive an offset to cash payable where the North Boambee Valley (East) Release**

Area Developer Contributions Plan 2013 would otherwise make provisions for the acquisition of these lands.'

Reason: The Proponent seeks the allotment identifier be updated and confirmation that land transfers under this Project Approval, that would otherwise be provided for under the North Boambee Valley (East) Release Area Developer Contributions Plan 2013, will benefit from a cash payable offset as provided for under section 94(5) of the EP&A Act.

3.2.5 E18 - Transfer of Lot 141

The proponent seeks Condition E18 be deleted.

~~E18 — Future ownership of the residentially zoned lands within Lot 141, to the west of Stage 3 and between the end of Road No.9 and the Highway corridor, shall be the subject of negotiation between Council and the Proponent. If an agreement cannot be reached over the transfer, the Proponent must manage the land in perpetuity in accordance with requirements of the VMP.~~

Reason: The subject area this condition refers to is zoned residential and not identified for acquisition under an environmental planning instrument or a requirement of the adopted contributions plan. We understand that there is no requirement for this land to be transferred into public ownership. Therefore, the Proponent proposes to incorporate this land into future private allotments under this modification. This will reduce liability for Council and ensure the development remains consistent with the North Boambee Valley (East) Developers Contributions Plan 2013.

The condition is now superfluous given the land will be privately held.

3.3 Schedule 3 – Statement of Commitments

A revised Statement of Commitments (**SoCs**) has been prepared to reflect the proposed modifications. The revised SoCs are included as **Appendix C**.

4.0 Conclusion

Project Approval MP05_0129 for residential subdivision was issued under delegated authority on behalf of the Minister for Planning and Infrastructure on the 7th June 2013 and relates to part Lot 164 DP 1170833, Lot 10 DP 1071628, Lot 1 DP 1089778 and Lot 2 DP 607602, North Boambee Road and Lakes Drive, North Boambee Valley.

Development Consent 575/2003 for residential subdivision was issued by Coffs Harbour City Council on 11 April 2003 and modified on 25 September 2006. The operational Consent relates to certain lands within the subject site.

This application is made pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* to modify Project Approval MP05_0129 to ensure consistency between the subject Project Approval and Development Consent 575/2003.

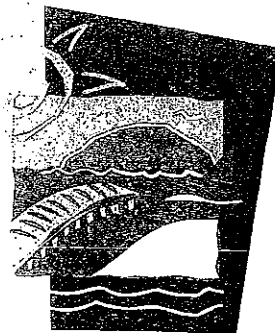
Given the proposed modifications remain consistent with environmental outcomes, development expectations of adjoining lands, the requirements of the relevant public authorities, including Council, whilst ensuring the Project Approval is made consistent with Development Consent 575/2003 then this application warrants approval.

APPENDIX A

COFFS HARBOUR CITY COUNCIL

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

issued under the *Environmental Planning and Assessment Act 1979* Section
81(1)(a)



Development Application No.

575/03

Applicant:

Astoria Developments Pty Ltd
Level 1, Suite 1, 55 Grandview Street
PYMBLE NSW 2073

RECEIVED

land to be developed:

Lots 1 and 2, DP 773626, Lot 1, DP 402432, Lot 4, DP 852521, and Part Lot 9, DP 401212, North Boambee Road, North Boambee Valley

proposed development

Residential Subdivision – 160 lots, community centre lot, land for public reserves, and one future development lot

date of determination

11 April 2003

determination

Consent granted subject to the attached conditions

Consent to operate from

11 April 2003

Consent to lapse on

11 April 2008

Except as otherwise provided in this consent, the development is to be carried out in accordance with the proposals described in this development application.

The conditions of this consent have been determined by Council following consideration of Section 79C of the *Environmental Planning and Assessment Act 1979*, Building Code of Australia (BCA) and Council's Codes, Policies and Guidelines relating to this development.

other approvals

Nil

list *Local Government Act 1993*

approvals granted under s 78A(5)

right of appeal

If you are dissatisfied with this decision, section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed

On behalf of the consent authority

K R Power

Director of Planning, Environment and Development

Per:

MSH:njj
(D)

11 April 2003

- Communications to: The General Manager, Locked Bag 155, Coffs Harbour 2450 • Administration Building, 2 Castle Street, Coffs Harbour • Tel: (02) 6648 4000
- Fax: (02) 6648 4199 • DX: 7559 • ABN 79 126 214 487
- Email: coffs.council@chcc.nsw.gov.au
- Website: www.chcc.nsw.gov.au

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AWARD

Development Application No. 575/03

Schedule of Conditions

Acquisition of Land for Public Purpose:

1.
 - The developer entering into a deed of agreement with Council prior to the release of the linen plan of subdivision to the effect that land nominated under the North Boambee Valley Stage 1 Release Area Developer Contributions Plan for koala management, traffic management, water quality and community facilities that affects this site be transferred to Council following registration of the linen plan of subdivision upon terms agreed between the parties.
 - Acquisition of public land by Council is to occur on a staged basis. The staging is to coincide with the release of adjoining land by the developer unless other arrangements have been made to the satisfaction of Council.
 - Additional lands proposed by the developer for public ownership not detailed in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan are to be dedicated at no cost to Council at the time of linen plan registration.
 - Lands being dedicated to or acquired by Council for a public purpose being improved by the removal of dead and dangerous trees, weeds, rubbish and all plants on Council's list of undesirable species and left in a usable and mowable condition to the satisfaction of Council.

Street Tree Planting:

2. A plan is to be submitted to Council showing street tree planting throughout the subdivision, which has been prepared in accordance with the requirements of Council's "*Street Tree Masterplan*".

The Plan is to be approved by Council, and the planting proposed by the Plan carried out to its satisfaction, prior to the issue of a **Subdivision Certificate**.

Vegetation Management:

3. No trees being removed from the site without written approval **being first obtained from Council**.

Approval for tree removal will only be considered following submission of a plan indicating trees to be removed and trees to be retained on the site. Trees identified for removal are to be suitably marked on site prior to Council's inspection.

Development Application No. 575/03

Schedule of Conditions

Landscape Plans:

4. A detailed landscaping plan for the public reserve areas bordering the stormwater pollution control structures, public reserves and the roundabout being submitted to Council for approval prior to the commencement of site works.

The plans must be prepared in consultation with Council, and prepared by a professional landscape consultant. The plan is to comply, where relevant with Council's Landscaping Guidelines and to incorporate measures to ensure the maintenance and survival of the landscaping.

Landscape works are to be completed to Council's satisfaction prior to the release of the respective subdivision stage and/or dedication of public reserves unless other satisfactory arrangements for the completion of this work is made with Council.

Entry Statement:

5. The entry statement being contained wholly within private land, and is not to encroach upon the public road reserve.

Setback from edge of stormwater pollution control structures to rear boundary of Lots 90-97:

6. The rear boundaries of Lots 90 to 97 being located a minimum distance of 5 metres from the edge of the stormwater pollution control structures.

Neighbourhood Park:

7. The development incorporating a neighbourhood park, to be positioned immediately north of the Community Centre. The park is to be of a regular shape, 1500 m² in area and a maximum crossfall of 5%.

Public Reserves adjoining stormwater pollution control structures:

8. The public reserve areas that adjoin the stormwater pollution control structures are to be designed and constructed with a maximum crossfall of 5% unless varied by Council.

Development Application No. 575/03

Schedule of Conditions

Edge Treatment:

9. Stormwater pollution control structures edge treatment is to be designed in consultation with Council, to address safety of users of the public reserves and the structures and to be of maintenance free construction. The Type 2 edge treatment detailed in the development application is unacceptable.

Cycleways:

10. Cycleways being constructed in concrete, and being a minimum 2 metres in width.

Contaminated Land:

11. Compliance with the recommendations of the Coffey report dated 27 May 2002 detailed on page 13 and 14 to address possible arsenic contamination of the site. The Remediation Action Plan is to be submitted to Council for consideration and approval prior to undertaking any remediation works on the site. Validation sampling and analysis confirming remediation is complete is to be submitted to Council for review **prior to release of any linen plan.**

The Remediation Action Plan is to be prepared prior to the commencement of any subdivision and/or landform modification works on site.

Acid Sulfate Soils:

12. Acid Sulfate Soils are known to be sporadic across the site. Soil testing is to be carried out to a depth of 500mm below expected excavation depth for services, stormwater pollution control structures and other infrastructure works associated with the subdivision for potential Acid Sulfate Soils. Note, the proposal indicates a depth of approximately 1.8m for Pond 2, therefore testing to approximately 2.3m. The Coffey report of 27 May 2002 indicates tests were only carried out for the interval of 0.5m – 0.6m for the nearest test pit (TP5). Further testing is to comply with the Acid Sulfate Soils Manual.

The results of testing and where necessary an Acid Sulfate Soils Management Plan is to be prepared and submitted to Council for consideration and approval prior to the commencement of any subdivision and/or landform modification works on site.

Development Application No. 575/03

Schedule of Conditions

Sediment & Erosion Control:

13. Submission to Council with the engineering construction plans of a comprehensive sediment and erosion control plan. This plan is to be approved by the Department of Land and Water Conservation. The plan is to outline measures to be incorporated both during and post construction of the subdivision to minimise on-site erosion and off-site movement of sediment. All works are to be in accordance with Housing 1998, Managing Urban Stormwater, Soils and Construction, Department Housing and Coffs Harbour City Council 1997, Erosion and Sediment Control Policy and Codes of Practice, Coffs Harbour City Council. The plan is also to include temporary and permanent vegetation species, planting/seeding rates, planting regimes/matrices, establishment and maintenance methods, any required temporary protection measures and timeframes of programs.

Rivers and Foreshores Improvement Act:

14. • Before commencing any works in or within 40 metres of streams or lakes, the applicant is required to obtain a 3A permit from the Department of Land and Water Conservation.
- Operations shall be conducted in such a manner as not to cause damage or interfere in any way with vegetation as indicated in the proposal for retention.
- All areas of soil disturbance shall be stabilised/rehabilitated within fourteen (14) days of the completion of each work area.
- Sediment control measures shall be provided for the duration of works and until the site is stabilised.

Water Management Act 2000:

15. A licence shall be obtained from the Department of Land and Water Conservation for any storage of surface water in excess of 8.13 megalitres within the site prior to any landform modification works occurring on the site.

Water Act 1912:

16. A licence shall be obtained from the Department of Land and Water Conservation for the permanent intersection of groundwater prior to any landform modification works occurring on the site.

Development Application No. 575/03

Schedule of Conditions

Pollution Control:

17. Effective measures shall be taken to suppress dust emissions during subdivision and stormwater pollution control structures construction works.

Additional Details:

18. The applicant liaising with the owner of adjoining land being *Lot 101, DP 619946*, to ensure that proposed roads align with adjoining subdivision roads. Written evidence of agreement is to be submitted with the engineering plans for Council's approval.

Services to dwellings on proposed Lots 1 and 29:

19. Dwellings on proposed Lots 1 and 29 being connected to reticulated water and sewer prior to the release of the Stage 1 Linen Plan of Subdivision.

Stormwater Pollution Control Structures:

20. Submission of design documentation to Council for approval prior to the commencement of any site works demonstrating that the proposed stormwater pollution control structures will limit post-development flood discharge downstream of the development site to those prior to development for floods up to the 1% probability. The documentation is to be prepared by a suitably qualified professional, and is to reference the relevant provisions of the August 1997 North Boambee Valley Detention Ponds Environmental Impact Statement prepared by Gutteridge Haskins & Davey Pty Ltd. The documentation and design is to model both water quality and water quantity. The documentation is to include a Stormwater Management Plan covering the construction, maintenance and operation of the structures. The documentation is to include a site specific Soil and Water Management Plan to cover site disturbance, filling and stockpiling.

The stormwater pollution control structures being constructed in accordance with the approved design **prior to release of the linen plan.**

Development Application No. 575/03

Schedule of Conditions

Access and Services:

21. Roadworks, stormwater drainage, footpath, water and sewer being provided to serve all lots with the works conforming with the standards and requirements set out in Council's Technical Guidelines for Subdivision and Development. These works are to be completed OR other satisfactory arrangements for their completion are to be made with Council **prior to the release of the linen plan.**

No engineering works are to be undertaken until plans and specifications have been approved by Council. Plan submissions are to be accompanied by payment of the prescribed fee.

All work is to be at the developer cost.

Plans and specifications submitted later than six (6) months from the date of development approval shall comply with the Technical Guidelines for Subdivision and Development current at a date six (6) months prior to such submission.

These works are to specifically include:

- Concrete pavement roundabout at the junction of the distributor road and North Boambee Road.
- Concrete kerb, gutter and footpath and stormwater drainage for the North Boambee Road frontage of the site.
- Extension of a public road to Lot 20, DP 583095.
- Major drainage paths are not to exceed velocity and depth parameters for safety (especially public reserve areas).
- The distributor road shall include bus shelters and indented bus bays at minimum 400 metre intervals and at appropriate locations such as the retirement village and community centre sites. The distributor shall have roll kerb and gutter.
- Substations to be located clear of floodway.

Development Application No. 575/03

Schedule of Conditions

- 1.2m wide concrete footpath on at least one side of all roads except roads 10 and 12.

(Note – Some of above items may be subject to funding from developer contributions as works in kind. These items should be confirmed with Council prior to construction.)

22. The subdivision being provided with underground reticulated electricity and telephone cables. The applicant shall provide a letter from Country Energy stating that satisfactory arrangements have been made for the supply of electricity and a letter from Telstra stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision/development. These letters are to be provided to Council **prior to release of the linen plan of subdivision.**
23. Street lighting being provided to the requirements of Country Energy to Australian Standard AS 1158 with all work being completed **prior to release of the linen plan of subdivision.**
24. A pathway 4 metres wide, with a two 2 metre wide concrete footway, being provided between Road 6 and North Boambee Road. The location of the pathway is to be approved by Council prior to the commencement of any work. Construction work is to be carried out in accordance with Council's Technical Guidelines for Subdivision and Development.

These works are to be completed OR other satisfactory arrangements for their completion are to be made with Council **prior to the release of the linen plan.**

25. Water and sewerage mains being extended to the subdivision from Council's existing mains at the developers cost **prior to release of the linen plan** OR other arrangements satisfactory to Council being made **prior to release of the linen plan** for extension of these services to the subdivision.
26. All roads, drainage, water and sewerage mains being fully constructed to the boundary of all adjoining lots, in accordance with Council's Technical Guidelines for Subdivision and Development.

Development Application No. 575/03

Schedule of Conditions

27. Vehicle access to Lots 1 to 9 and 44 from North Boambee Road being prohibited and vehicle access to Lots 9, 10, 19, 32B, 33-36, 37B, 76-79, 101, 102, 114-117 from the distributor road being prohibited. A restriction as to user which requires Council's consent to any variation or removal is to be imposed on these lots and clearly shown by notation on the linen plan of subdivision.
28. Creation of a Restriction of Use or a Positive Covenant in favour of Council on Lots 45-50 that house designs are to incorporate turning areas to enable vehicles to enter and exit these lots in a forward direction.
29. Adequate manoeuvring area complying with Council's Technical Guidelines for Subdivision and Development for service vehicles, including garbage trucks, being provided in the development. Details of proposals to meet this requirement are to be submitted to and approved by Council **before commencing any site works**. Where it is proposed to stage the development, a turning area is to be provided with construction details being submitted with the engineering plans.

Trunk Water Mains:

30. Development beyond Stage 1 will require extension of trunk water mains. This infrastructure is to be forward funded by the developer, if required.

Fill:

31. Contour plans indicating the location of proposed fill areas in the subdivision being submitted to Council for approval prior to commencement of work.

All fill is to be placed in accordance with the requirements of Council's Technical Guidelines for Subdivision and Development and the approved Sediment and Erosion Control Plan.

Prior to the release of the linen plan, a final contour plan is to be submitted to Council showing the location, depth and type of fill located on the site. Alternatively, where no fill has been placed on the site, a written statement to that effect is to be submitted to Council.

Stormwater Pollution Control Structures – Maintenance Period:

32. The Stormwater Pollution Control Structures being maintained to the standards identified in the Stormwater Management Plan by the developer until completion of the last stage of the development.

Development Application No. 575/03

Schedule of Conditions

Developer Contributions:

33. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

		\$ Per Lot
-	Open Space-	
	- Regional Facilities	334.35
	- District Facilities	1,369.02
	- Neighbourhood Facilities	263.75
-	Koala Management	1,241.28
-	Beach Protection Works	100.54
-	Regional Libraries	226.86
-	Community Facilities	598.55
-	Roads and Traffic Management	2,935.39
-	Stormwater Management Catchment	2,246.97
-	Urban Planning	437.89
-	Total:	9,754.60

The Section 94 contribution is currently \$1,521,717.60 for the 161 lot development.

Note, this amount includes a five lot contribution rate credit of \$48,773.00.

If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

The contributions are to be paid prior to release of any linen plan unless other arrangements acceptable to Council are made.

Development Application No. 575/03

Schedule of Conditions

Water & Sewerage Services:

34. The **Linen Plan not being released** until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.



Part 5 Determination of Stormwater Pollution Control Structures Modification Application:

35. This development consent is to be read in conjunction with the terms and conditions of the Part 5 modification determination for the Stormwater Pollution Control Structures (modification prepared by Umwelt (Australia) Pty Ltd).

Aboriginal Archaeological Monitoring:

36. The developer shall engage suitably qualified and experienced person(s) as agreed to by the Coffs Harbour and District Local Aboriginal Land Council and the National Parks and Wildlife Service, Coffs Harbour Office to monitor all development involving earthworks in the "Archaeological" area identified as "artefacts" in the plan that forms part of the North Boambee Valley Information Sheet to enable any aboriginal relics to be managed in accordance with the provisions of the National Parks and Wildlife Act 1979. In the event that evidence thought to represent an aboriginal relic/s is uncovered during works all works in the vicinity of the alleged relic/s must stop.



The National Parks and Wildlife Service must then be contacted with a view to determining the management of the relic/s in accordance with their requirements and the provisions of the National Parks and Wildlife Act 1979.

Bushfire Management:

37. The hydrant system is to comply with the provisions of Australian Standard AS 2419.
38. The fire trail linking Roads No. 1 and No. 14 and located within a future public reserve is to be a minimum 6 metres in width comprising a 4 metre carriageway with a 1 metre slashed area each side of the carriageway. The fire trail is to be constructed to Council's satisfaction prior to issue of the linen plan and also prior to the land being transferred to Council.

COFFS HARBOUR CITY COUNCIL

Our ref: 575/03

11 April 2003

The Secretary
Astoria Developments Pty Ltd
Level 1, Suite 1, 55 Grandview Street
PYMBLE NSW 2073



Dear Sir/Madam

Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000
Development Consent No. 575/03 for Residential Subdivision – 160 lots, community centre lot, land for public reserves, and one future development lot
Lots 1 and 2, DP 773626, Lot 1, DP 402432, Lot 4, DP 852521, and Part Lot 9, DP 401212, North Boambee Road, North Boambee Valley

Council refers to the attached Notice of Determination of development application and in particular to the requirement that a Certificate of Compliance pursuant to the above Act be obtained.

When you apply for a Certificate of Compliance, your application must be accompanied by:

1. Evidence that,
 - a) stormwater, water, sewer, drainage and interallotment drainage has been supplied to each Lot in the development; or
 - b) arrangements satisfactory to Council have been made for the provision of all such services; and
2. Payment (preferably by way of bank cheque) of Council's developer contributions applicable at the time of the application for the Certificate of Compliance.

For your information, the developer contributions applicable at the date of the development consent are:

The current contribution rate is:

		Amount/Lot	Total
		\$	\$
Works to satisfy increased demand within the area for 161 lot(s) of residential subdivision.			
Water	Trunk Mains	356.60	57,412.60
Water	Headworks	2,257.86	363,515.46
	Reticulation	666.23	107,263.03
Sewer	Headworks	1,576.55	253,824.55
	Reticulation	2,049.04	329,895.44
Sub total			1,111,911.08
Less credit for 5 lots			34,531.40

TOTAL AMOUNT PAYABLE

1,077,379.68

12 Communications to: The General Manager, Locked Bag 155, Coffs Harbour 2450 • Administration Building,
2 Castle Street, Coffs Harbour • Tel: (02) 6648 4000
• Fax: (02) 6648 4199 • DX: 7559 • ABN 79 126 214 487
• Email: coffs.council@chcc.nsw.gov.au
• Website: www.chcc.nsw.gov.au

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The developer contributions are reviewed from time to time and are also subject to annual adjustment in accordance with the Consumer Price Index for Sydney (All Groups).

Prior to making your application for the Certificate of Compliance, you should ascertain the level of developer contributions then payable from Council's Corporate Resources Section, telephone (02) 6648 4000.

Please find attached Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 Explanatory Notes.

Yours faithfully

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K R Power
Director of Planning

per:


MSH:njj

Encl

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COFFS HARBOUR CITY COUNCIL

DIVISION 5 OF PART 2 OF CHAPTER 6 OF THE WATER MANAGEMENT ACT 2000

EXPLANATORY NOTES

Council is now required to use the Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000, if it wishes to recover the costs of water management works constructed to serve your development.

Consequently, a condition of development consent has been imposed which prevents the implementation of the approval until a Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 is obtained from Council.

To expedite the issuing by Council of the above Certificate, the application form and Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 Notice necessary for you to obtain the Certificate is enclosed for your attention.

The Notice may involve the payment of an amount towards the cost of the specified works and, if necessary, the construction of certain works to serve the development.

In this regard it will be necessary for you:

- a) to complete the application for Developer's Certificate of Compliance and return it to this office together with a copy of the consent; and
- b) to comply to Council's satisfaction with the requirements as specified in the Notice.

Linen plans of subdivision or Construction Certificates which may follow a development consent will not be released until the above matters have been finalised.

For further enquiries, please contact the Planning, Environment and Development Department.

COFFS HARBOUR CITY COUNCIL

APPLICATION FOR DEVELOPERS CERTIFICATE OF COMPLIANCE

I hereby apply under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000, for a Section 6A Certificate of Compliance relating to the provision of services to the land described below.

This application relates to

Development Consent No.

For the proposed.....

.....

at

.....

Applicant's Name

Address

Owner's Name

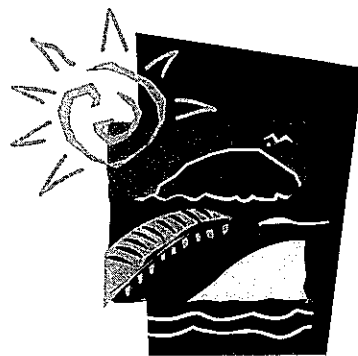
Address

Signature

Owner/Applicant

Date

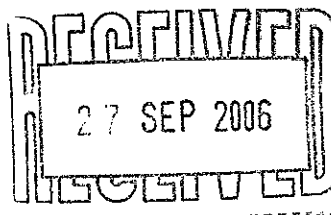
COFFS HARBOUR CITY COUNCIL



Our Ref: 1441078-1416973 (DA 575/03)

25 September 2006

The Secretary
Noubia Pty Ltd
PO Box 6215
PYMBLE NSW 2073



Dear Sir/Madam

**Approval to variation of Development Consent No. 575/03
Lots 1 and 2, DP 773626, Lot 1, DP 402432, Lot 4, DP 852521 and Part Lot 9,
DP 401212, North Boambee Road, North Boambee Valley**

Reference is made to your application dated 6 July 2006 in respect of the above matter.

In accordance with Section 96 of the Environmental Planning and Assessment Act, (1979), Development Consent No. 575/03 is amended by substituting condition 1 with the following:

"Acquisition of Land for Public Purpose:

1.
 - *The applicant must transfer or dedicate the lands set aside for acquisition within the approved plan of subdivision the subject of the development application, being those lands identified in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan for koala management, traffic management, water quality and community facilities.*

The lands must be transferred or dedicated to the Council in fee simple free of encumbrances, other than those acceptable to Council at or prior to the registration of the plan of subdivision.

The Council must compensate the applicant for the lands. The value is to be determined at the date of transfer or dedication in accordance with Section 54(1) of the Land Acquisition (Just Terms Compensation) Act 1991 with the relevant matters to be considered as set down by Section 55 of the Act.

- *Acquisition of public land by Council is to occur on a staged basis. The staging is to coincide with the release of adjoining land by the developer unless other arrangements have been made to the satisfaction of Council.*

• Communications to: The General Manager, Locked Bag 155, Coffs Harbour 2450 • Administration Building,
2 Castle Street, Coffs Harbour • Tel: (02) 6648 4000
• Fax: (02) 6648 4199 • DX: 7559 • ABN 79 126 214 487
• Email: coffs.council@chcc.nsw.gov.au
• Website: www.coffsharbour.nsw.gov.au

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COFFS HARBOUR SHIRE 1956 - 1988
COFFS HARBOUR CITY COUNCIL 1988 - 2006



- *Additional lands proposed by the developer for public ownership not detailed in the North Boambee Valley Stage 1 Release Area Developer Contributions Plan are to be dedicated at no cost to Council at the time of linen plan registration.*
- *Lands being dedicated to or acquired by Council for a public purpose being improved by the removal of dead and dangerous trees, weeds, rubbish and all plants on Council's list of undesirable species and left in a usable and mowable condition to the satisfaction of Council."*

Section 96(6) of the Environmental Planning and Assessment Act (1979) confers a right of appeal to the Land and Environment Court on any applicant dissatisfied with a decision of Council under that Section. Appeal forms are available from any Court House.

For further information please contact Mark Hannon on (02) 6648 4631.

Yours faithfully

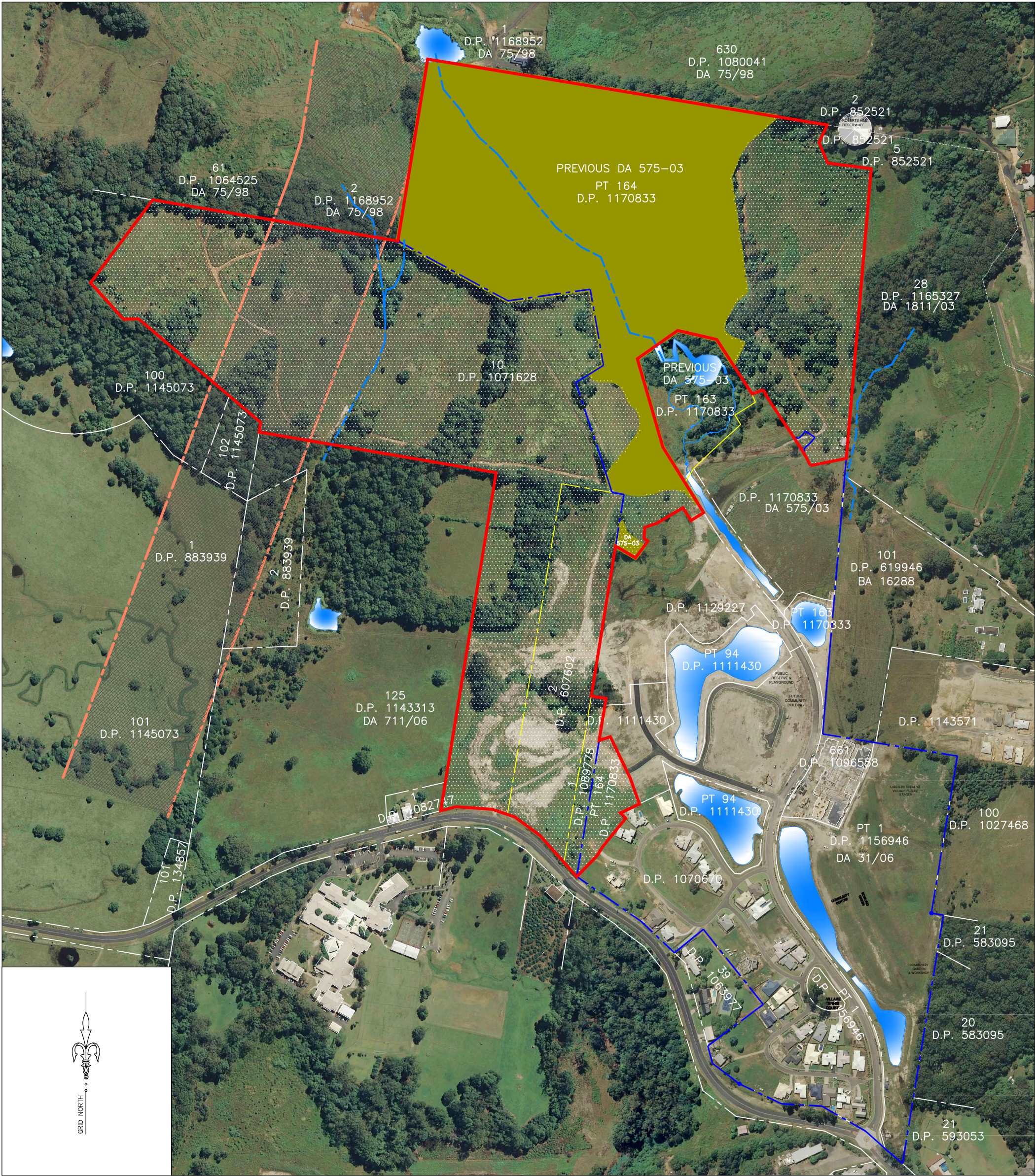
PM Salter
Acting Director Land Use, Health & Development

per:


MSH:njj

APPENDIX B





LEGEND

- WATERWAY
- SUBJECT SITE
- SUBJECT SITE AREA
- FUTURE HIGHWAY BI-PASS CORRIDOR

AMENDMENTS			
ISSUE	DRAWN	DESCRIPTION	DATE
A	DD	PRELIMINARY FOR COUNCIL APPROVAL	03/11/10
B	DD	STAGE 3B SKETCH ADDED	15/11/11
C	DD	DRAWING REDRAWN. NUMBER RE-USED	20/07/12
D	DD	DEPT. OF PLANNING SUB-MISSION	27/08/12
E	DD	DEPT. OF PLANNING RE SUB-MISSION	09/04/13
F	DD	AMENDMENTS AS PER CONDITIONS OF APPROVAL	23/01/14
G	DD	75W MODIFICATION	27/03/14
NOTES:			
Lengths shown are in metres. Distances & Areas are subject to further Survey.			
Building setbacks according to DCP are as follows:			
6 metre setback from Primary Street Frontage.			
3 metre setback from Secondary Street (Corner Lots)			
20 metre setback from Creek & Major water Courses.			
900mm setback from side or rear boundaries and			
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CHECKED	DRAWN	SCALE	
KS	DD	0 25 50 100 150m	
PROJECT No.		SCALE 1 : 5000 @ A3	
912			
LOT No.	DWG No.	REV. No.	
-	A001	G	



ASTORIA GROUP PTY LTD
55 Grandview Street,
Pymble NSW 2073
TEL: 9488 6800
FAX: 9144 6864

CLIENT

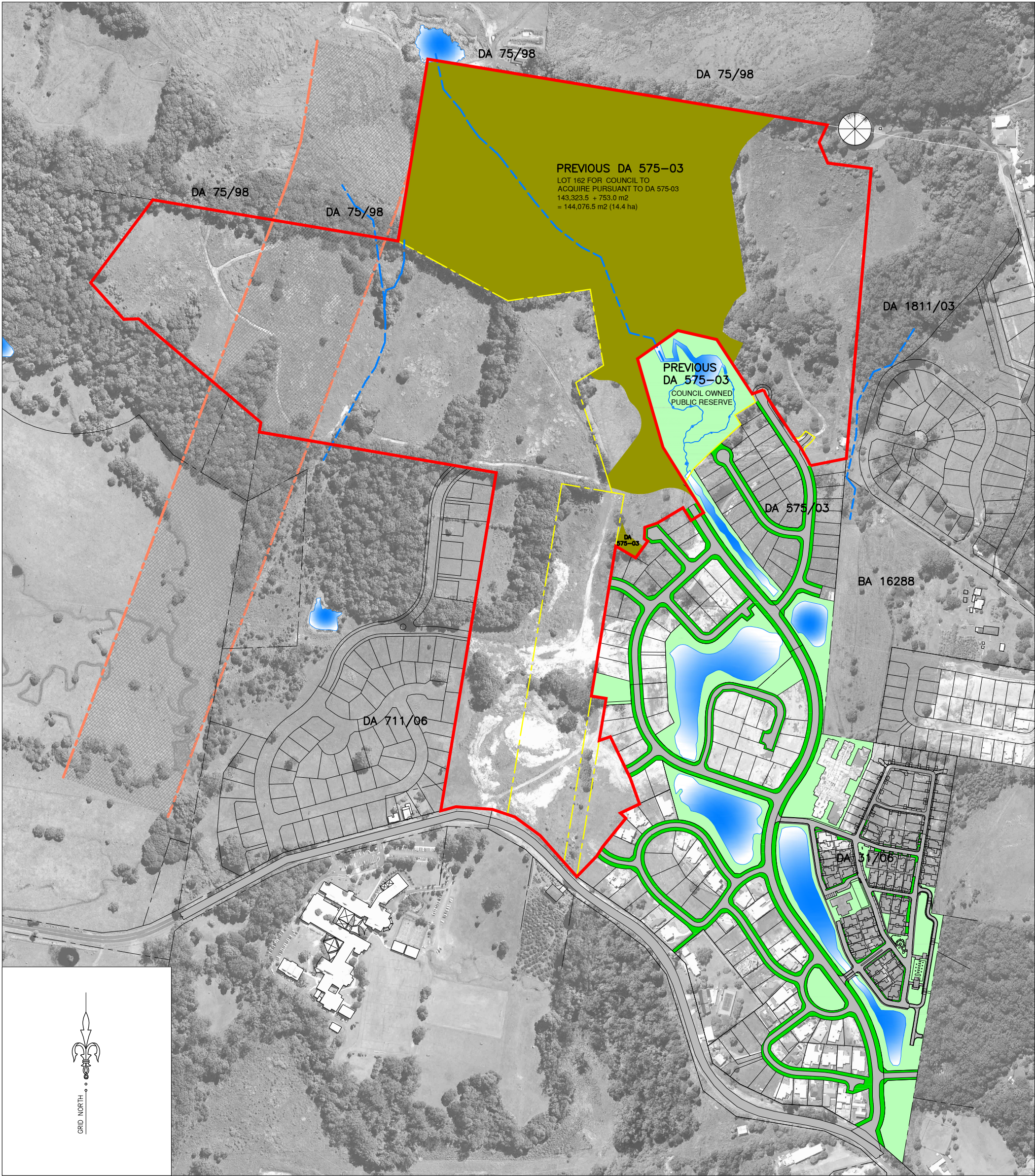
NOUBIA PTY LTD
55 Grandview Street, Pymble
NSW 2073
TEL: 9488 6800
FAX: 9144 6864

PROJECT TITLE

LAKE DRIVE, NORTH BOAMBEE,
COFFS HARBOUR FUTURE SUB-DIVISION

DRAWING TITLE


LOCATION PLAN



LEGEND

- WATERWAY
- SUBJECT SITE
- FUTURE HIGHWAY BI-PASS CORRIDOR
- OPEN SPACE - EXISTING
- NATURE STRIP - EXISTING
- ROAD - EXISTING

AMENDMENTS			
ISSUE	DRAWN	DESCRIPTION	DATE
A	DD	PRELIMINARY FOR COUNCIL APPROVAL	03/11/10
B	DD	STAGE 3B SKETCH ADDED	15/11/11
C	DD	DRAWING REDRAWN. NUMBER RE-USED	20/07/12
D	DD	DEPT. OF PLANNING SUB-MISSION	27/08/12
E	DD	DEPT. OF PLANNING RE SUB-MISSION	09/04/13
F	DD	AMENDMENTS AS PER CONDITIONS OF APPROVAL	23/01/14
G	DD	75W MODIFICATION	27/03/14
NOTES:			
Lengths shown are in metres. Distances & Areas are subject to further Survey.			
Building setbacks according to DCP are as follows:			
6 metre setback from Primary Street Frontage.			
3 metre setback from secondary Street (Corner Lots)			
20 metre setback from Creek & Major water Courses.			
900mm setback from side or rear boundaries and			
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CHECKED	DRAWN	SCALE	
KS	DD	0 25 50 100 150m	
PROJECT No.		SCALE 1 : 5000 @ A3	
912			
LOT No.	DWG No.	REV. No.	
-	A002	G	



ASTORIA GROUP PTY LTD

55 Grandview Street,
Pymble NSW 2073

TEL: 9488 6800
FAX: 9144 6864

CLIENT

NOUBIA PTY LTD

55 Grandview Street, Pymble
NSW 2073

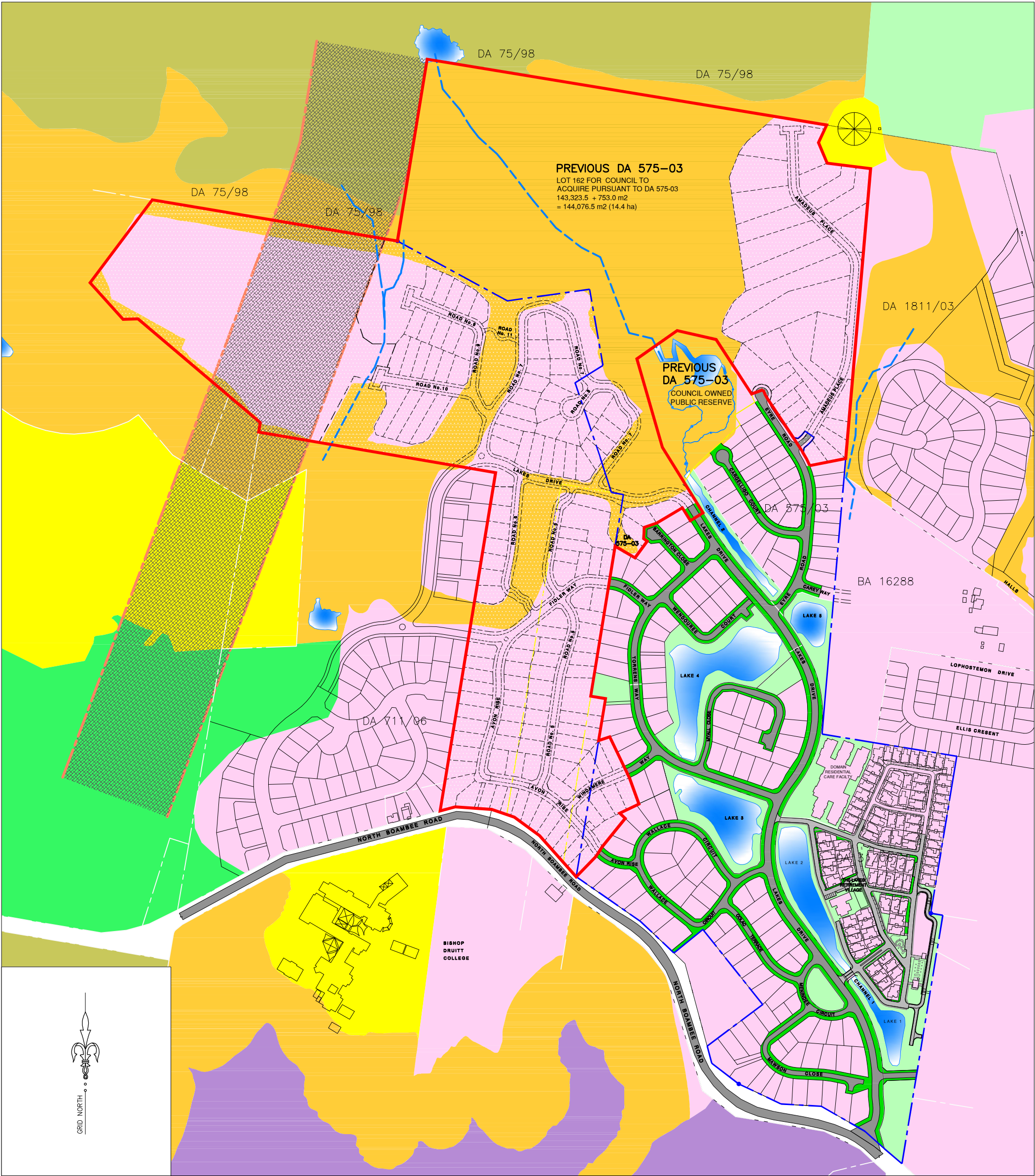
TEL: 9488 6800
FAX: 9144 6864

PROJECT TITLE

LAKES DRIVE, NORTH BOAMBEE,
COFFS HARBOUR FUTURE SUB-DIVISION

DRAWING TITLE

SURROUNDING DEVELOPMENTS PLAN



LEGEND

- WATERWAY

SUBJECT SITE

FUTURE HIGHWAY
BI-PASS CORRIDOR

OPEN SPACE - EXISTING

NATURE STRIP - EXISTING
- ROAD - EXISTING

1A RURAL AGRICULTURE

2A RESIDENTIAL LOW DENSITY

4A INDUSTRIAL
- 5A SPECIAL USES

6A OPEN SPACE PUBLIC
RECREATION (EXISTING)



6C OPEN SPACE PRIVATE
RECREATION (EXISTING)

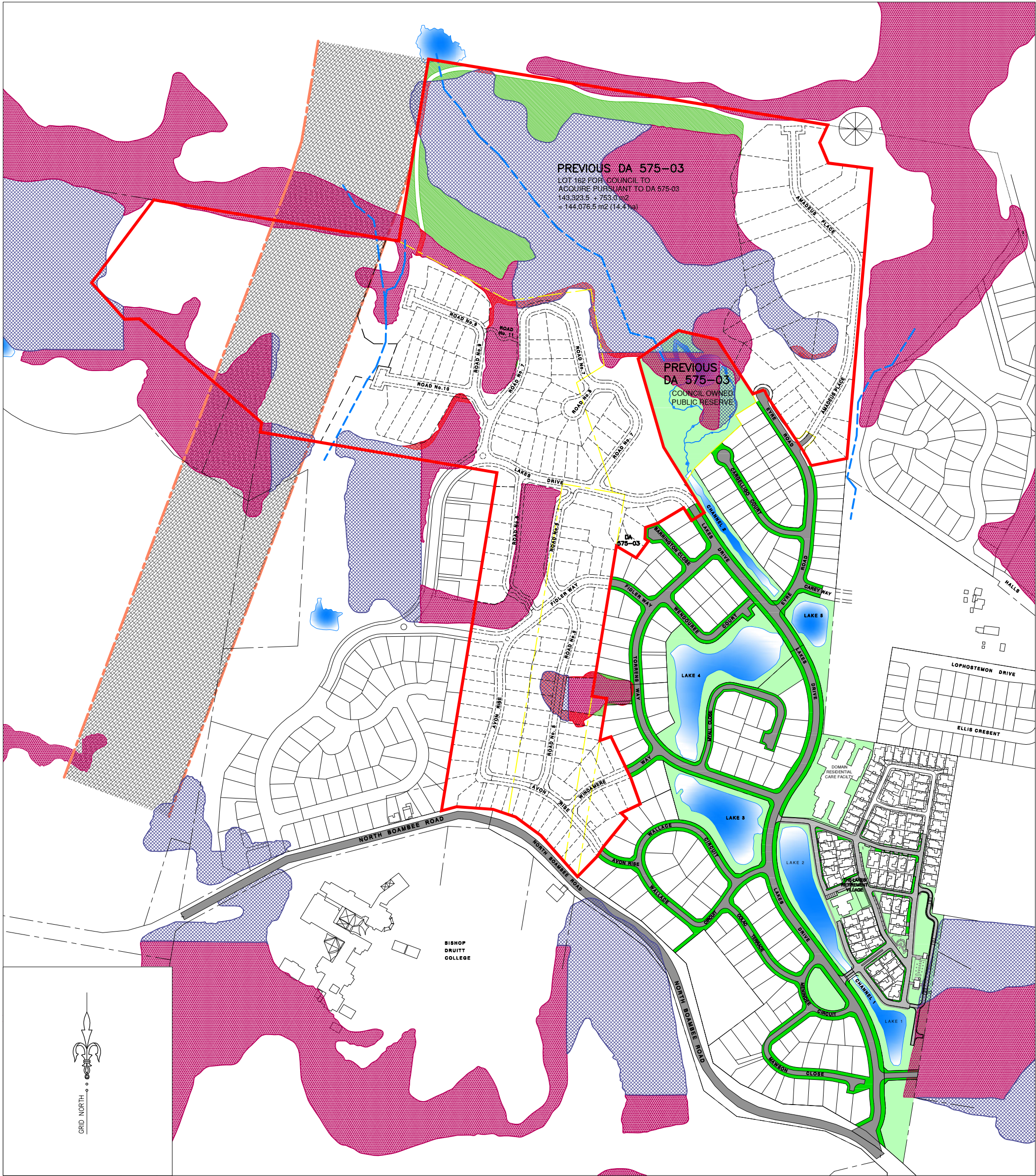
7A ENVIRONMENTAL
PROTECTION HABITAT
& CATCHMENT

AMENDMENTS			
ISSUE	DRAWN	DESCRIPTION	DATE
A	DD	PRELIMINARY FOR COUNCIL APPROVAL	03/11/10
B	DD	STAGE 3B SKETCH ADDED	15/11/11
C	DD	DRAWING REDRAWN. NUMBER RE-USED	20/07/12
D	DD	LOT 142 ADDED.	09/08/12
E	DD	ROAD NAMES ADDED.	15/08/12
F	DD	DEPT. OF PLANNING SUB-MISSION	27/08/12
G	DD	AMENDMENTS FOR RFS & COUNCIL REQUESTS DEPT. OF PLANNING RE SUB-MISSION	09/04/13
H	DD	AMENDMENTS AS PER CONDITIONS OF APPROVAL	23/01/14
J	DD	75W MODIFICATION	27/03/14

NOTES:
Lengths shown are in metres. Distances & Areas are subject to further Survey.
Building setbacks according to DCP are as follows:
6 metre setback from Primary Street Frontage.
3 metre setback from secondary Street (Corner Lots)
20 metre setback from Creek & Major water Courses.
900mm setback from side or rear boundaries and

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 ASTORIA GROUP	ASTORIA GROUP PTY LTD 55 Grandview Street, Pymble NSW 2073 TEL: 9488 6800 FAX: 9144 6864	CLIENT	PROJECT TITLE	CHECKED	DRAWN	SCALE	
		NOUBIA PTY LTD 55 Grandview Street, Pymble NSW 2073 TEL: 9488 6800 FAX: 9144 6864	LAKES DRIVE, NORTH BOAMBEE, COFFS HARBOUR FUTURE SUB-DIVISION	KS	DD	 SCALE 1 : 5000 @ A3	
			DRAWING TITLE	PROJECT NO.	LOT No.	DWG No.	REV. No.
			ZONING PLAN	912	-	A003	J



LEGEND

- WATERWAY
- SUBJECT SITE
- FUTURE HIGHWAY BI-PASS CORRIDOR
- OPEN SPACE - EXISTING
- NATURE STRIP - EXISTING
- ROAD - EXISTING
- PRIMARY KOALA HABITAT
- SECONDARY KOALA HABITAT
- TREES PROPOSED TO BE REMOVED OR PRUNED IN A KOALA DESIGNATED AREA
- AREA PROPOSED TO BE ADDED TO A KOALA DESIGNATED AREA

AMENDMENTS			
ISSUE	DRAWN	DESCRIPTION	DATE
A	DD	PRELIMINARY FOR COUNCIL APPROVAL	03/11/10
B	DD	STAGE 3B SKETCH ADDED	15/11/11
C	DD	DRAWING REDRAWN. NUMBER RE-USED	20/07/12
D	DD	LOT 142 ADDED.	09/08/12
E	DD	ROAD NAMES ADDED. APZ LINE NOT SHOWN.	15/08/12
F	DD	DEPT. OF PLANNING SUB-MISSION	27/08/12
G	DD	AMENDMENTS FOR RFS & COUNCIL REQUESTS	09/04/13
H	DD	DEPT. OF PLANNING RE SUB-MISSION	
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CHECKED	DRAWN	SCALE	
KS	DD	0 25 50 100 150m	
		SCALE 1 : 5000 @ A3	
PROJECT NO.	LOT No.	DWG No.	REV. No.
912	-	A004	J



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PROJECT TITLE

LAKES DRIVE, NORTH BOAMBE,
COFFS HARBOUR FUTURE SUB-DIVISION

DRAWING TITLE

KOALA HABITAT PLAN

APPENDIX C

Table 1 – Statement of Commitments

NUMBER	ISSUE	COMMITMENT	RESPONSIBLE	TIMEFRAME
C0	Development Consent 575/2003	The Proponent commits to transfer or dedicate proposed Lot 162 to Coffs Harbour City Council in accordance with Development Consent 575/2003. The Proponent will make all necessary arrangements to complete Development Consent 575/2003.	Noubia Pty. Ltd.	Prior to Subdivision Certificates.
C1	Urban Design and subdivision Layout	The development of the subdivision will be undertaken in accordance with the subdivision layout prepared by Astoria Group Pty. Ltd., dated March 2014 and outlined within this Modification.	Noubia Pty. Ltd.	Construction and operation
C2	Urban Design and subdivision Layout	A Construction Management Plan ("CMP") will be prepared for each stage of civil construction works associated with the subdivision and will be prepared prior to construction of each respective Stage of the proposed subdivision.	Noubia Pty. Ltd.	Prior to construction of stage 1
C3	Infrastructure - Utilities	Construction and operation of the utilities in the proposed residential subdivision will be in accordance with the principles outlined in the Engineering Assessment prepared by Resource Design Management in December 2007 and amended in November 2008 as modified for the current proposal.	Noubia Pty. Ltd.	Review 2007 assessment-prior to construction; Construction and operation at construction stage
C4	Infrastructure - Utilities	The proponent commits to providing electricity and telecommunication to all lots in the subdivision. Negotiation will be held with Council and relevant service providers to determine the extent of electricity, gas and telecommunications provision and extension of the existing service.	Noubia Pty. Ltd.	Negotiations and discussions - Prior to construction; Construction and operation at construction stage
C5	Infrastructure - Utilities	The proponent commits to make all necessary allowances to enable adjoining land developers to connect into the 66kV power line and the sewer mains.	Noubia Pty. Ltd.	Construction
C6	Infrastructure - land transfer	In accordance with the provisions of the North Boambee Valley (East) release Area Developer Contributions Plan 2013 (the CP); Lot 161 will be created for the purposes of being acquired by Coffs Harbour City Council. Lot 161 includes bushland and open space land on the subject	Noubia Pty. Ltd.	Lot 161 to be created and registered as part of the subdivision.

Section 75 W Modification

MP05_0129 Lakes Estate Residential Subdivision

		<p>development site. This can occur by way of a private treaty sale of the land to Council as provided for at page 7 of the CP.</p> <p>The proponent further commits to discuss with the Council, the timing of the transfer of this land.</p>		Negotiations and discussions as per the CP - Prior to construction
C7	Infrastructure - land transfer	<p>The proponent commits to transferring to Coffs Harbour City Council, all the land occupied by road carriageways and pedestrian paths (that are not located on lots 161, 162 & 163) as follows:</p> <ul style="list-style-type: none"> ▪ Lakes Drive extension to be acquired by Council, consistent with previous similar negotiations; and ▪ LOCAL roads to be transferred at no cost to Council. 	Noubia Pty. Ltd.	Upon construction of roadworks
C8	Infrastructure – roadway works	The proponent commits to constructing roadworks on the subject site in accordance with the Roads and Movement Access Plan designed and built to the standards provided by Coffs Harbour Council.	Noubia Pty. Ltd.	Construction
C9	Infrastructure – roadway works	The proponent commits to restricting traffic flow and providing koala crossings in culverts under the roadway in the locations identified on the Roads and Movement Access Plan. The purpose of these actions is to minimize risk to koalas and other wildlife. The methods adopted in the various locations will vary according to the other purposes of the road in each location. Various methods for restricting traffic flow are identified in the Council's Koala Plan of Management and include signage and speed limits.	Noubia Pty. Ltd.	Construction
C10	Infrastructure – roadway works	Street tree planting will be undertaken in accordance with Council's standard requirements with regards to tree sizes, spacing and methods for planting.	Noubia Pty. Ltd.	Construction and operation
C11	Infrastructure – roadway works	The proponent commits to initiating discussion with Roads and Maritime Services (RMS) for the construction of the Pacific Highway Bypass for the provision of noise mitigation measures. These measures should be undertaken by the RMS as part of the design and construction of the bypass.	Noubia Pty. Ltd.	During construction phase
C12	Infrastructure – Fire trails	The proponent commits to providing fire trails in the locations identified in the Roads and Movement Access Plan.	Noubia Pty. Ltd.	Construction

Section 75 W Modification

MP05_0129 Lakes Estate Residential Subdivision

C13	Infrastructure – open space works	The proponent commits to providing a 'heritage park' in the location identified in the Open Spaces Plan. The heritage park will include any indigenous or non-indigenous heritage items found during the construction process. The purpose of the heritage park will, in addition to general recreation, provide some form of education of the local history. Note: this would be infrastructure that would be able to be considered as a material public benefit under the terms of the CP (see C15).	Noubia Pty. Ltd.	Construction
C14	Infrastructure – open space works	The proponent commits to providing a pedestrian and/or bicycle path network in the locations identified in the Roads and Movement Access Plan.	Noubia Pty. Ltd.	Construction
C15	Infrastructure – development contributions	The proponent commits to the payment of monetary contributions in accordance with the relevant sections of the CP. The total cash contribution to be paid would be off-set by the value of the public infrastructure land and works provided by the proponent through these commitments and Development Consent 575/2003 in accordance with the terms of the CP.	Noubia Pty. Ltd.	Prior to release of subdivision certificate.
C16	Infrastructure – development contributions (water and sewerage)	The proponent commits to the payment of development contributions for water supply and sewerage in accordance with the Wastewater Treatment & Carrier System Development Servicing Plan 2008 and Water Supply Development Servicing Plan 2008.	Noubia Pty. Ltd.	Prior to release of subdivision certificate.
C17	Infrastructure – Stormwater drainage management	The proponent commits to providing standard pits and pipes drainage for all residential lots to the 'five lakes and one wetland system' designed by Umwelt in 2003, approved by Council and already constructed to manage the post-development peak flows as well as the water quality.	Noubia Pty. Ltd.	Construction and operation
C18	Stormwater drainage management	The proponent commits to obtaining any necessary permits pursuant to Part 3 of the Water Management Act for proposed development close to drainage lines.	Noubia Pty. Ltd.	Construction and operation
C19	Environmental Management	Vegetation removal for development of proposed lots, roads and other infrastructure under this Project Approval within Primary and Secondary Koala habitat areas will be restricted only to those areas identified	Noubia Pty. Ltd.	Construction and operation

		"Trees proposed to be removed or pruned in a koala designated area" on the plan labelled 'Koala Habitat Plan'. The proponent commits to compensatory planting on Lot 161 in accordance with the Coffs Harbour Koala Plan of Management.		
C20	Environmental Management	The proponent commits to incorporating within the discussions and agreements for the transfer of lot 161, arrangements to ensure that the Council's relevant Plans of Management for the management of the bushland are complied with.	Noubia Pty. Ltd. & Coffs Harbour City Council	Prior to Construction
C21	Environmental Management	All domestic animals kept in association with future residential development must be registered with Council and not allowed outside the property unless on a lead or other restraint. This will be enforced through use of a covenant applied through s88B Instruments, and advisory signage will also be established within the estate.	Noubia Pty. Ltd.	Operation
C22	Flood management	All future dwellings will be constructed with a freeboard of 500 millimetres above the determined 1 in 100 year flood level. This requirement will be incorporated into any estate design guidelines or development Control Plan that applies to the subject site.	Noubia Pty. Ltd. & Coffs Harbour City Council	Operation
C23	Soil Contamination	The proponent commits for each relevant stage to: <ul style="list-style-type: none"> (a) Undertake a detailed site investigation of the areas of concern identified in Coffey report GEOTCOFH02233AA-AE dated 27 February 2008. The objective of this is to assess the extent and nature of soil contamination, and to inform the preparation of a Remedial Action Plan (RAP). (b) Based on the findings of the investigations prepare a RAP to remediate the areas of soil contamination. (c) Following consultation with Coffs Harbour City Council (CHCC) the need for a development approval to allow implementation of the RAP will be established and the RAP will be implemented on site with appropriate contractors and overseers; (d) Following completion of the remedial works prepare a site validation assessment to assess that the land has been made suitable for its intended use. 	Noubia Pty. Ltd.	Prior to Construction

C24	Geotechnical Engineering	<p>The proponent commits at each relevant stage to:</p> <ul style="list-style-type: none"> (a) Investigate the locations of proposed individual features such as retaining walls and road infrastructure, to allow structural engineers to undertake design of the features. Works would include preparation of detailed design parameters and pavement thickness designs as well as providing advice on foundations for culverts and other water sensitive infrastructure. (b) Provide guidance on where controlled filling should be undertaken to meet the guidelines of AS3798-2007 <i>Guidelines on earthworks for commercial and residential developments</i>. (c) Prepare site classification assessments to AS2870-2011 <i>Residential Slabs and Footings</i>. The site classification assessments can then be used to assess the site constraints at subdivision certificate stage. Where "P" classifications are noted, the reports shall include specific engineering advice on how to develop the site for residential use. This may include recommending further investigation an slope risk assessments on individual lots, or further investigation to allow provision of specific parameters and founding levels. (d) Investigate individual lots where site classifications note the need. Slope risk assessments should be undertaken in accordance with the Australian Geomechanics Society Practice. <p>Note: Guidelines for Landslide Risk Management (known as AGS 2007). The risk assessment process should include definition of site specific development guidelines for the individual lots. Based on the lot layout provided we do not expect a significant number of lots to be affected by slope stability constraints.</p>		
C25	Roadway - activities	<p>The proponent acknowledges the unnamed Crown public road on its north western boundary and commits to ensuring that they or their representatives do not undertake the following activities on that road:</p> <ul style="list-style-type: none"> ▪ Encroachment upon the road; 		

		<ul style="list-style-type: none"> Removal of any vegetation from the road; or Stockpiling of any materials or the storing of any equipment, machinery or plant on the road. 		
C26	Bushfire protection	The proponent commits to the management of bushfire risk by reference to the Asset Protection Zone as identified by Australian Bushfire Protection Planners Pty Ltd (ABPP) on plans A012-A014.	Noubia Pty. Ltd.	Construction and operation
C27	Bushfire protection - Covenant	<p>An 88B Covenant, in accordance with the provisions of the Conveyancing Act 1919, shall be created on the title of the future lots burdened by the Asset Protection Zones to ensure the ongoing management of the landscaped gardens/residual vegetation, in accordance with the prescriptions of an Inner Asset Protection Zone.</p> <p>Where the building footprint is likely to encroach beyond the line proposed by ABPP, (particular attention shall be given to lots 67, 76, 85-88, 127, 128 and 136) then that higher risk shall be conveyed covenant.</p>	Noubia Pty. Ltd.	Construction of each stage.
C28	Bushfire protection – Additional provisions	<ol style="list-style-type: none"> The ongoing management of the estate will include maintenance of the Asset Protection Zone as an Inner Protection Area in accordance with Appendix 5 of Planning for Bushfire Protection 2006 and the NSW Rural Fire Service's "Specifications for Asset Protection Zones". All future dwellings erected on those lots which are adjacent to the bushfire prone vegetation and which are impacted by the provision of the recommended Asset Protection Zones shall be constructed with a minimum construction standard of Level 3, in accordance with the specifications of Australian Standard A.S 3959 - Second Edition 1999 and Amendment 1, 2000, "Construction of Buildings in Bushfire Prone Areas". The development will include public access constructed to comply with the deemed-to-satisfy provisions of Section 4.1.3(a) of Planning for Bushfire Protection 2006. The development will include extension of the existing water 	Noubia Pty. Ltd.	<ol style="list-style-type: none"> Operation to 6. Construction of each stage.

		<p>supply main to service the future residential development, in accordance with the specifications of Australian Standard A.S 2419.2. All hydrants shall have a flow rate of 10 litres / second with blue pavement marks provided to locate hydrant positions.</p> <p>5. The development will ensure all fire hydrants shall be accessible and located such that a tanker can park within a maximum distance of 20 metres from the hydrant and the habitable building must be located such that a fire at the furthest extremity can be attacked by fire-fighters using two 30 metre hose lines and a 10 metre water jet. The hydrants will be allocated with regard to allowing a clear unobstructed path of 90 metres between the hydrant and the most distant point of the building.</p> <p>6. The development will include blue hydrant markers to locate the positions of the hydrants and shall be positioned on the hydrant side of the centreline of the road pavement.</p>		
	Heritage – Indigenous and Non-indigenous	<p>The proponent commits to providing and designating an area as “Heritage Park” as shown on the modified subdivision plan. Any artefacts uncovered during the development process will be relocated to this area.</p> <p>The proponent further commits to transferring this land to the Council to ensure that the reserve can be protected in perpetuity.</p>	Noubia Pty. Ltd.	Construction and operation