



16 April 2019

**Narrawallee Residential Subdivision Modification to Project Approval  
MP 06\_0276 MOD 3**

**1. INTRODUCTION**

1. On 22 February 2019, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning and Environment (**Department**) a modification application (**Application**) from Hazcorp Pty Limited (**Proponent**) to amend the existing Project Approval, to create six additional residential lots and make several other amendments within a 166-lot residential subdivision (**Project**) in the township of Narrawallee in the Shoalhaven local government area (**LGA**).
2. The project is a transitional Part 3A project under clause 2 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (**Transitional Regulation**), and the Commission is the consent authority in respect of such transitional Part 3A projects under the Minister for Planning's delegation of that function to the former Planning Assessment Commission (**PAC**) by instrument of delegation dated 14 September 2011. The Commission is to be taken to be the same legal entity as the PAC, pursuant to clause 7 of the Transitional Regulation.
3. The ability to modify transitional Part 3A projects under section 75W (**s75W**) of the Environmental Planning and Assessment Act 1979 (**EP&A Act**) is being discontinued, however as the request for this Application was made before 1 March 2018, the provisions of Schedule 2 continue to apply.
4. Under the Minister's delegation dated 14 September 2011, the Commission is the consent authority in respect to the Application because:
  - the Project constitutes a development of a kind declared by an environmental planning instrument as development for which a public authority (other than a Council) is the consent authority; and
  - the Department received more than 25 submissions from the public objecting to the Application.
5. Professor Mary O'Kane AC, Chair of the Commission, nominated Soo-Tee Cheong (Chair), and Stephen O'Connor to constitute the Commission determining the Application.

**1.1 Site and locality**

6. According to the Department's Modification Assessment Report (**Department's MAR**), the site is: "*located on the western edge of the coastal town of Narrawallee on the NSW South Coast, approximately one-kilometre (km) north of the township of Mollymook, three km east of Milton and 5.7 km north of Ulladulla*".

*"The site is approximately 21.43 hectares (ha) in area and comprises two parcels of land (Lot 1 in DP 1087105 and Lot 4 in DP 1087106) (the **Site**).*

... To date, construction certificates have been issued for stages 1 to 6 of the project and 68 lots have been created along the eastern boundary of the site”.

7. The Commission noted during its inspection of the Site and locality on 1 April 2019, that land uses surrounding the Site comprise low density residential development to the south and east of the Site. The northern and western boundaries of the Site adjoin Garrad Reserve and Narrawallee Inlet, Creek and Wetlands and the Narrawallee Creek Nature Reserve are located further to the north.
8. A site inspection was conducted by the Commission on 1 April 2019 (see section 3.4) to gain an understanding of the physical attributes of the Project. From the site inspection, the Commission noted the area that comprises the southern open space reserve, and the existing public reserve to the south of the subdivision, which comprises pockets of dense vegetation and sections that have been cleared and mounds of overburden associated with the disused silicon quarry. Notes of the site inspection and locality tour were made available on the Commission’s website on 4 April 2019. The Site and the Site’s surrounding local context are shown in *Figure 1* below.

**Figure 1: Site Location and Surrounding Local Context, Source: Department’s MAR**



## 1.2 Background to Development Application

9. The Department’s MAR provides an overview of the Site’s approval history. Based on this information, the Commission understands the Project history to be:
  - the Milton Ulladulla Structure Plan (**Structure Plan**) was adopted by Shoalhaven City Council (**Council**) in 1996, which recommended the western expansion of Narrawallee to accommodate new residential development;
  - the Site was rezoned Residential 2(c) and 7(a), 7(d2) Environmental Protection in

- June 2003, in line with the recommendations of the Structure Plan;
- in June 2013, Council registered the land zoned environmental protection as a Biobank site;
- in August 2006, the then Minister for Planning approved a Master Plan (Master Plan 11-5-2003) for a 163-lot residential subdivision on the Site;
- on 15 June 2008, the then Minister for Planning granted Project Approval (MP 06\_0276) (**Project Approval**) for the subdivision of the Site into:
  - 166 residential lots;
  - one open space reserve of 4,051 m<sup>2</sup> and two bushland reserves of 7,445 m<sup>2</sup> and 1.58 ha; and
  - construction of associated services and infrastructure;
- Modification 1 – approved 22 December 2008, sought to amend a number of conditions to enable the staged issue of Construction Certificates (MOD 1);
- Modification 2 – approved 27 June 2014, sought to amend a condition to facilitate works-in-kind associated with the construction of Bishop Drive, the Southern Link Road and Matron Porter Drive; (MOD 2); and
- Modification 3 – lodged 16 June 2017 with the Department, the Application currently before the Commission and the subject of this report.

### 1.3 Summary of Modification Application

10. According to the Department's MAR, the Proponent submitted its Application on 16 June 2017, which sought approval to:
  - *“increase the number of residential lots from 166 to 188 and reconfigure the approved Subdivision to:*
    - *convert the southern open space reserve into six residential lots*
    - *reduce the size of the central bushland reserve from 1.58 ha to 7,400 m<sup>2</sup>, permit active uses such as a croquet club and car parking within the bushland reserve, and convert the remainder of the reserve into 12 residential lots*
    - *relocate the playground area from the southern open space reserve to the northern bushland reserve, change the use of the reserve to active open space, and convert the land identified for asset protection zones (APZs) into two residential lots*
  - *amend the staging arrangements to permit subdivision works in any sequence*
  - *amend Condition B10 to remove the requirement to provide a second traffic calming device along Leo Drive*
  - *delete conditions B12 to remove the requirement to prepare and implement the vegetation management plan for the central and northern bushland reserves*
  - *delete condition B23 requiring the provision of a sewerage pumping station prior to the completion of stage 4 of the project*
  - *undertake administrative changes to the conditions of approval to reflect the above”.*
11. The Proponent revised the scope of the Application in its Response to Submissions (**RtS**). The Application, as amended by the RtS and that is currently before the Commission for determination is shown in *Figure 2*, seeks approval to:
  - *“increase the number of residential lots from 166 to 172*
  - *delete condition B23 to remove the requirement to provide a sewerage pumping station within stage 4*
  - *undertake administrative changes to conditions A1 to A3, B2, D6 and E27 to reflect the proposed changes to the subdivision layout”.*



12. The Department's MAR noted that the Proponent provided a revised Bushfire Assessment, an amended staging plan and revised engineering drawings in support of the revised Application, to:
- *"identify the proposed lots in the southern open space reserve will be delivered in the last stage of the development (Stage 8), following the construction of the surrounding road network*
  - *identify the APZs for the six residential lots*
  - *confirm the perimeter roads and APZs for stages 1 to 7 will be retained in their approved location and delivered in accordance with the staging arrangements identified in the Project Approval*
  - *clarify the land on the northern and western boundaries will continue to be managed as a 36 m wide APZ, as per the requirements of the Project Approval*
  - *depict the location of the second speed hump required along Leo Drive".*

#### **1.4 Stated need for Application**

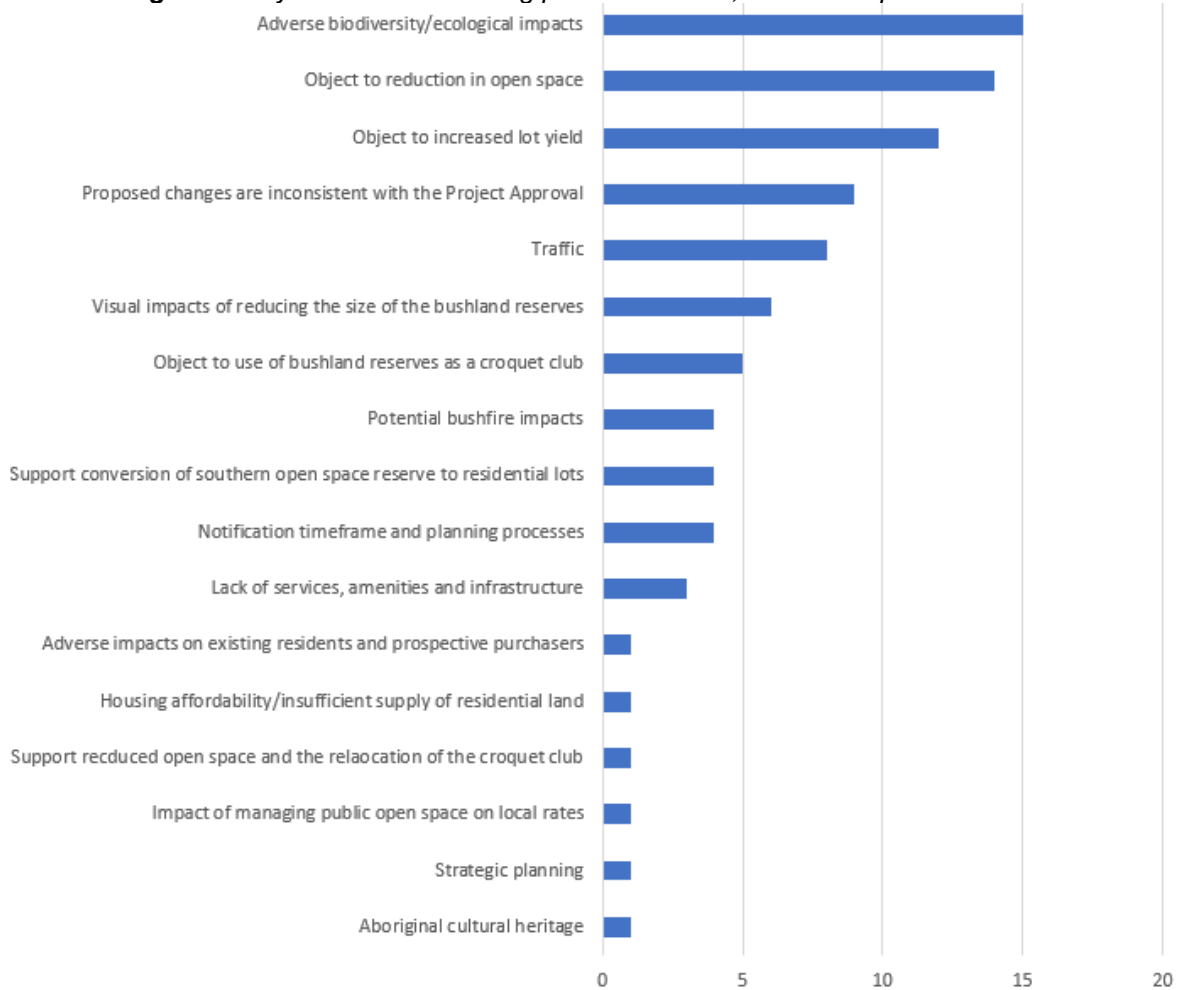
13. The Department's MAR stated that the Proponent advised the Department that the Application is required on the basis that:
- *"the southern open space reserve is an irregular shape with undulating topography which limits its utility as a local open space reserve, is immediately adjacent to an existing pocket park with playground equipment, and Council has confirmed the southern open space is surplus to its requirements*
  - *converting the open space reserve to residential lots would optimise the amount of land available for residential development within the R2 zone*
  - *a sewer main in Blake Place which provides additional servicing capacity in the locality and a sewerage pumping station is no longer required to service the lots within stages 4 to 7 of the project".*

## **2. THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION**

### **2.1 Key steps in Department's consideration of the Development Application**

14. The Department publicly exhibited the Application and made the documentation publicly available on its website, commencing on 25 September 2017, and concluding on 9 October 2017. During the exhibition period, the Department received 41 submissions, which included three public authority submissions, two submissions from local community groups and 36 public submissions.
15. A breakdown of the key issues raised, and the number of submissions during exhibition as summarised in the Department's MAR is provided in *Figure 3*. The Commission notes that these submissions relate to the Application that was originally submitted to the Department (as set out in paragraph 10) and not as amended in the RtS (as set out in paragraph 11).

**Figure 3: Key issues raised during public exhibition, Source: Department's MAR**



16. In addition, the Department made the RtS publicly available on its website and notified Council, the Office of Environment and Heritage (OEH) and the Rural Fire Service (RFS) of the revisions to the Application but did not formally re-exhibit the Application. Each agency provided comments on the RtS however, no public comments were received.
17. The Department has prepared a modification assessment report (referred to as the Department's MAR) in respect to the Application.

## 2.2 The Department's Modification Assessment Report

18. The Department's MAR identified the following as the key issues associated with the Application:
  - changes to the subdivision layout;
  - traffic; and
  - stormwater management.
19. The Department's MAR concluded that:

*"...the proposal is acceptable as:*

- *the northern and central bushland reserves will be retained, mitigating the biodiversity and potential visual impacts of the project*

- *the southern open space reserve is surplus to Council's requirements and is suitable for residential development*
- *the recommended conditions of approval will require the existing local open space reserve adjacent to the site to be upgraded*
- *the local road network can accommodate the traffic generated by the additional residential lots*
- *the recommended conditions of approval will require the Proponent to confirm the capacity of Council's drainage system and undertake additional upgrades if necessary*
- *Council and the RFS have confirmed the recommended conditions of approval will ensure the proposal incorporates the bushfire management measures required under PBP [Planning for Bushfire Protection] 2006*

*The Department's assessment therefore concludes the modification request is approvable, subject to the recommended conditions..."*

### **3. THE COMMISSION'S MEETINGS AND SITE VISIT**

#### **3.1 Meeting with the Department**

20. On 20 March 2019, the Department met with the Commission. A copy of the meeting agenda is available on the Commission's website, and a copy of the meeting transcript has been made available on the Commission's website since 27 March 2019.

#### **3.2 Meeting with the Proponent**

21. On 20 March 2019, the Proponent met with the Commission. A copy of the meeting agenda is available on the Commission's website, and a copy of the meeting transcript has been made available on the Commission's website since 27 March 2019.

#### **3.3 Meeting with Shoalhaven City Council**

22. On 20 March 2019, the Council met with the Commission by teleconference call. A copy of the meeting agenda is available on the Commission's website, and a copy of the meeting transcript has been made available on the Commission's website since 27 March 2019.

#### **3.4 Site inspection**

23. On 1 April 2019, the Commission met the applicant and its consultant and inspected the Site and locality. The Commission invited two local community representatives to attend and observe the site inspection. Notes from the site inspection were made available on the Commission's website since 4 April 2019. The community groups and representatives that attended the site inspection were:

- Jan Gregory, Ulladulla and Districts Community Forum; and
- Brigitte Nairn, National Parks Association of NSW - Milton Electorate.

#### **3.5 Public meeting**

24. On 2 April 2019, the Commission held a public meeting at the Ulladulla Civic Centre, 81B Princes Highway, Ulladulla NSW. The Commission received requests from four people to speak, all of whom elected to speak at the public meeting. A list of speakers

was made available on the Commission's website on 29 April 2019. The public meeting transcript was made available on the Commission's website on 3 April 2019. All persons were offered the opportunity to provide written comments to the Commission within seven days after the public meeting. A copy of the material tendered at the public meeting and written comments received were made available on the Commission's website since 12 April 2019. A summary of issues raised in written comments and by speakers is outlined below in paragraph 25.

25. In summary, the main issues raised included:
- removal of vegetation in the proposed location of the additional residential lots;
  - potential impacts to wildlife and native birds resulting from vegetation clearance;
  - support for retainment of the central and northern bushland reserves, which will continue to provide habitat for native wildlife;
  - support for provision of additional lots given the need for housing in the region;
  - concerns over clearing and removal of hollow bearing trees, which should be retained to provide a link to Garrad Reserve to the north of the subdivision;
  - need for additional lots in this subdivision has not be established;
  - potential amenity impacts resulting from removal of the southern open space reserve; and
  - concerns with amending an approved subdivision whereby lots have been sold on the premise of the southern open space reserve being part of the subdivision.

#### 4. THE COMMISSION'S CONSIDERATION

##### 4.1 Material considered by the Commission

26. In this determination, the Commission has carefully considered the following material (**Material**):
- Original Project Approval and subsequent modifications;
  - Request to Modify a Development Approval under Section 75W of the EP&A Act - 17 August 2017 and all associated documents;
  - Agency submissions on the Application from:
    - Office of Environment and Heritage - 6 October 2017;
    - Rural Fire Service - 31 October 2017; and
    - Shoalhaven Water Notice - 9 October 2017;
  - Shoalhaven City Council submission on the Application – 25 October 2017;
  - Response to Submissions - 13 April 2018 and all associated documents;
  - Revised Bushfire Protection Assessment Report - May 2018;
  - Shoalhaven City Council comments on the Response to Submissions - 22 May 2018;
  - Office of Environment and Heritage comments on the Response to Submission - 8 May 2018;
  - RFS comments on the Revised Bushfire Assessment - 20 July 2018;
  - Shoalhaven City Council comments on the Revised Bushfire Assessment - 26 June 2018;
  - Proponent Additional Information - Raised Threshold Plan - 21 May 2018;
  - MP 06\_0276 MOD 3 - Narrawallee Residential Subdivision Modification - Department's Assessment Report, 22 February 2019;
  - all submissions made to the Department in respect of the Application during the public exhibition;
  - Proponent meeting with the Commission on 20 March 2019;



- Council teleconference meeting with the Commission on 20 March 2019;
- additional information from the Department of Planning and Environment received 28 March 2019;
- additional information from Shoalhaven City Council received 29 March 2019;
- all oral comments made to the Commission at the public meeting held on 2 April 2019 and all written comments received by the Commission up until 9 April 2019;
- the visual observations made at the site and locality inspection on 1 April 2019; and
- matters for consideration specified by the EP&A Act, including s75W.

## 4.2 Subdivision layout and public reserve

### *Comments received*

27. The Commission heard concerns from speakers at the public meeting and received written comments regarding potential impacts as a result of the changes to the subdivision layout. Issues raised included:
- provision of additional lots is not warranted;
  - there is likely to be strong demand for additional residential lots in future;
  - clearing of bushland to create six additional lots is not supported; and
  - existing public reserve to the south of the subdivision should be retained in its current form.

### *Proponent's consideration*

28. The Proponent's original Modification 3 Application dated 16 June 2017 sought to modify the layout of the Project, to create an additional 22 residential allotments, and to reduce the number of public reserves from three to two.
29. Following public exhibition of the Application, the Proponent revised the Application in its RtS, dated 13 April 2018, which stated:
- "...we wish to revise our application to contain only the following components:*
1. *The conversion of the southern open space to six residential lots in a new Stage 8.*
  2. *The deletion of the sewer pump station required in Stage 4...*

*Due to the extensive public objection to the modification of the central and northern reserves, the proponent will retain these two bushland reserves in the development. The existing staging will be retained as the legal mechanism for development and release of subdivision certificates with an additional Stage 8."*

### *Department's assessment*

30. The Department's MAR stated that the amendment to the subdivision layout would ensure the supply of residential land is sustained, in line with the goals and directions of the *Illawarra Shoalhaven Regional Plan*. The Department's MAR further noted that conversion of the southern open space reserve would be consistent with Council's *Community Infrastructure Strategic Plan (CISP)*, which identifies a surplus of 12.2 ha of local open space in the locality. The CISP recommends disposal of surplus local open space to reduce maintenance costs and to facilitate the acquisition of district level open space. In addition, the Department's MAR stated: *"all lots within the subdivision are located within a five-minute walk from a park on the southern boundary of the site, as per the intent of the CISP"*.

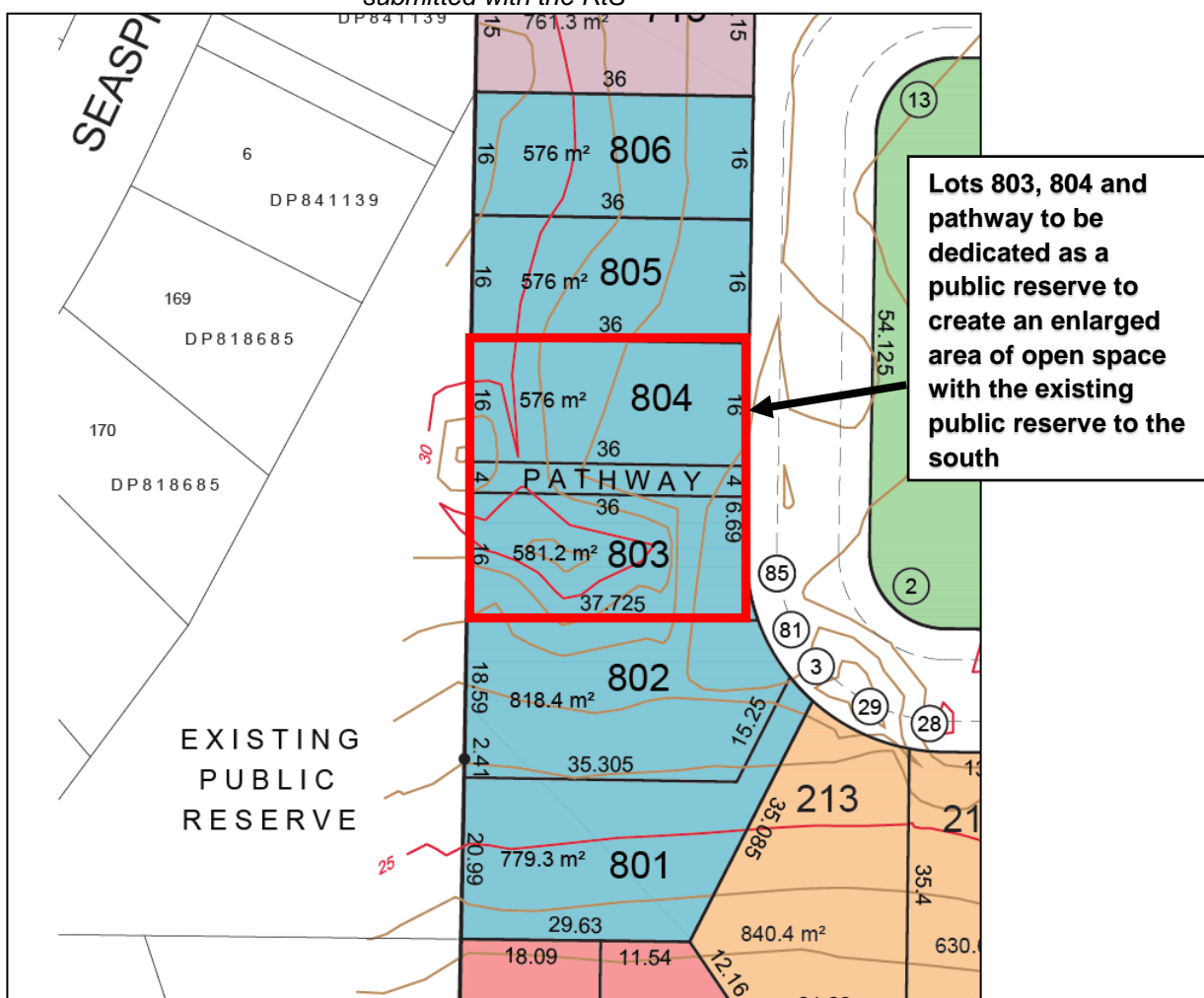
31. The Department's MAR stated: *"the central and northern bushland reserves will be retained as per the requirements of the Project Approval to mitigate the visual impacts of redeveloping the site for residential use"* (see Figure 2). The Department's MAR further stated that *"Council has provided revised infrastructure contributions to ensure the Proponent contributes toward upgrades to local services and infrastructure, as per the Shoalhaven Contributions Plan 2010"*.
32. Noting that the Application seeks to increase the number of residential lots and decrease public open space, to offset the reduction in public open space, the Department's MAR has recommended amendment to Condition B8 of the Project Approval, *"requiring the Proponent to provide new child play equipment and landscaping in the pocket park to the south of the site, or in an alternate location agreed with Council"*.
33. The Department's MAR concluded that *"the Department's supports the creation of the six additional residential lots proposed under the modification request, subject to conditions of approval requiring the provision of new children's play facilities and landscaping within the pocket park adjacent to the subject site"*.

#### *Commission's findings*

34. The Commission understands from the Material, including the observations made at the site inspection (see paragraph 8 and 23), that the Application proposes an additional six lots to be created in the location of the approved southern open space reserve, being proposed lots 801-806, including a pathway linking the proposed road adjacent to the central bushland reserve and the existing public reserve to the south of the subdivision.
35. The Commission notes that under the current Project Approval, Condition B8 requires the Proponent to submit plans to Council detailing the provision of child play facilities within the currently approved southern open space reserve, including the existing public reserve to the south of the subdivision. The Commission also understands that in its assessment of this Application, the Department has recommended an amendment to Condition B8, to require plans to be submitted to Council for the upgrade of the existing public reserve to the south of the subdivision or in an alternate location agreed with Council (see paragraph 32).
36. In its inspection of the locality, the Commission noted the distance of other children's playground facilities in the Narrawallee area. The Leo Drive Reserve Playground is located approximately 350 metres (m) from the southern extent of the subdivision and comprises limited play facilities. The Narrawallee Inlet Playground is located approximately 650 m to the north-east of the northern end of the subdivision. Accordingly, the Commission considers that there are limited child play facilities within a reasonable walking distance of the subdivision development.
37. Further, the Commission notes that an additional six residential lots in this location has the potential to impact on the prominence of the public reserve and future playground and its accessibility from the public realm. Based on its observations during the site inspection, the Commission is also concerned with the potential for concealment and impact on safety of users, given viewpoints to the public reserve would be blocked from the public footpath and roadway. The Commission further notes that development of the additional lots as proposed, has the potential to impede connectivity of green space through the subdivision, given the proximate location of the central bushland reserve (see Figure 2).

38. The Commission acknowledges the position of Council as set out in the Department's MAR (see paragraph 30) regarding a surplus of public open space in the area and the long-term maintenance burden on Council. It also notes the position set out in Council's CISP in relation to the disposal of surplus local open space to allow for the development of multi-use destination parks across the LGA.
39. Based on the Material and acknowledging the concerns raised by the public, as referenced in paragraphs 25 and 27, and the Council, as referenced in paragraphs 30 and 38, the Commission has determined to approve an additional four lots, being proposed lots 801, 802, 805 and 806, with the residual land being dedicated to Council as a public reserve (as illustrated in *Figure 4*), in accordance with Condition A1, for the reasons set out below in paragraph 41.

**Figure 4:** Lots 803, 804 and pathway to be dedicated as a public reserve, Source: Extract from Plan submitted with the RtS



40. In addition, the Commission finds that the provision of child play facilities within the existing public reserve is necessary given that other child play facilities in the area are located some distance from the Site (see paragraph 36). The Commission is also of the view that Condition B8, as currently drafted, does not provide assurance that child play facilities would be provided within the existing public reserve to the south of the Site (see paragraph 35).

41. The Commission therefore finds that dedicating lots 803, 804 and pathway (see *Figure 4*) as a public reserve and amending Condition B8, to remove the reference to the possibility of the provision of child play facilities being provided in an alternate location, is appropriate because it would:
- enhance accessibility and increase prominence of the existing public reserve and future playground in this location (see paragraph 37 and 39);
  - increase opportunities for public surveillance from the footpath and roadway, thus minimising the potential for concealment and potential impacts on the safety of future users (see paragraph 37);
  - ensure child play facilities are provided within reasonable walking distance to support the residents of the subdivision into the future, in line with what was envisaged under the existing Project Approval (see paragraph 35 and 40);
  - be appropriately landscaped and children’s play facilities established, for approval by Council, in accordance with Condition B8; and
  - enable connectivity of the existing public reserve to the south of the subdivision with the central bushland reserve to the north (see paragraph 37).

### 4.3 Traffic management

#### *Comments received*

42. The Commission notes that submissions made to the Department raised concern with the potential for increased traffic as a result of the additional lots, the potential for drivers to speed along Leo Drive and the need to install traffic calming measures to address the issue.

#### *Proponent considerations*

43. The Proponent’s Application sought to amend Project Approval Condition B10 to delete the requirement for two speed humps on Leo Drive as: *“a speed hump exists on Leo Drive between Sagittarius Way and Aries Place and there is insufficient room for two further traffic calming devices in locations that will satisfy Shoalhaven City Council”*.
44. Following feedback from Council, the Proponent subsequently amended the Application to provide a second speed hump along Leo Drive, between Aries Place and Scorpio Grove.

#### *Department’s assessment*

45. The Department’s MAR stated: *“Council’s traffic engineer confirmed there is insufficient room along the subject section of Leo Drive... Council advised an additional speed hump could be provided on Leo Drive north of Aries Place to further reduce vehicle speeds along Leo Drive, as per the intent of the Project Approval”*.

*The Department has reviewed the amended proposal in consultation with Council and agrees the installation of a speed hump between Aries Place and Scorpio Grove would reduce vehicle speeds and road related noise, as per the intent of Condition B10”*.

#### *Commissions finding*

46. During the meeting with Council, the Commission heard that Council had received objections from local residents as to the location of the proposed second speed hump,

due to its proximity to the other speed hump on Leo Drive and the potential for noise impacts.

47. Based on the Material, acknowledging the concerns raised by the public, as referenced in paragraphs 42 and 46, the Commission considers that a second speed hump is necessary to reduce speed of vehicles travelling along Leo Drive and is satisfied that proposed new location of the speed hump is appropriate, for the reasons set out in paragraph 45.

#### 4.4 Flooding and stormwater management

##### *Comments received*

48. The Commission notes that submissions to the Department during the public exhibition of the Application raised concerns regarding stormwater management and the potential for the subdivision to increase the potential for flooding.

##### *Department's assessment*

49. In relation to stormwater management, the Department's MAR noted that the existing Project Approval includes Condition B15 which requires the Proponent to verify that the stormwater management system would not result in adverse flooding impacts downstream of the subdivision prior to issue of the Construction Certificate for Stage 1. Should adverse impacts be identified, Condition B15 requires the Proponent to augment the system prior to the release of the Subdivision Certificate for Stage 1.
50. The Department's MAR stated: *"the Proponent confirmed that augmentation works were completed prior to the release of the Subdivision Certificate for the lots within Stage 1 of the project, as per the requirements of Condition B15 of the Project Approval... Council reviewed the proposal and advised there is sufficient capacity within the existing drainage system to accommodate six additional lots, and additional on-site detention could be provided at a later date, if required"*.
51. The Department has recommended an amendment to Condition B15 to require the Proponent to submit a revised drainage report to verify that the existing stormwater infrastructure in the locality has the capacity to accommodate the additional residential lots and that the creation of the lots will not generate any additional flooding impacts within or downstream of the development. In addition, if the capacity of the system is determined to be inadequate, augmentation works will be required, as per Condition B15A.
52. The Department's MAR stated: *"The Department is satisfied that any potential stormwater impacts generated by the proposal can be managed and/or mitigated via the recommended conditions of approval"*.

##### *Commission's finding*

53. The Commission sought clarification from Council regarding stormwater management and whether Council was aware of any instances of flooding since development of the subdivision had commenced. The Council provided a response on 29 March 2019, which stated: *"Council is aware of complaints which allege stormwater concerns relate to this subdivision development... The Developer is however required to upgrade the stormwater network (as per Cond. B15).*

*“...Council is planning to be undertaking stormwater network upgrading works in April 2019”.*

54. During the site inspection, the Commission observed stormwater drainage features along the constructed roadways adjacent to Stages 4 and 5 of the subdivision. In addition, the Proponent pointed out areas where stormwater infrastructure and drainage works had commenced and described outstanding components that were proposed.
55. Based on the Material and acknowledging the concerns raised by the public, as referenced in paragraph 48, and the clarifications provided by Council, as referenced in paragraph 53, the Commission is satisfied that provision has been made, should the stormwater management system be identified as inadequate to accommodate the additional four lots, augmentation work would be required to rectify the system, in accordance with Condition B15A.

#### **4.5 Sewer management**

56. The Proponent’s original Application sought to amend the Project Approval to delete Condition B23 requiring a sewer pumping station to be delivered as part of Stage 4 of the development.
57. The Application stated that a sewer pumping station was no longer required because the Proponent has negotiated an easement with land owners to construct a sewer main from a proposed manhole at the end of the existing sewer line: *“This new sewer main extension will be sufficient to service the remaining lots in the subdivision...This extension has now been constructed with Council approval”...and “negates the need for the pump station provision in Stage 4”.*
58. In relation to the deletion of Condition B23, the Department’s MAR stated: *“the deletion of Condition B23 is supported as the sewerage pumping station is no longer required”.*
59. Based on the Material, the Commission finds that a sewer pumping station is no longer required in Stage 4, for the reasons set out in paragraph 57.

#### **4.6 The public interest**

60. In determining the public interest of the Application, the Commission has had regard to the objects of the EP&A Act.
61. Under section 1.3 of the EP&A Act, the relevant objects applicable to the Project are:
  - a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
  - b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
  - c) *to promote the orderly and economic use and development of land,*
  - e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
  - f) *to promote the sustainable management of built and cultural heritage,*
  - g) *promote good design and amenity of the built environment,*
  - h) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, and*

i) *to provide increased opportunity for community participation in environmental planning and assessment.*

62. The Commission finds that the Application is generally consistent with the objects of the EP&A Act, because the Application achieves an optimal balance between the relevant economic, environmental and social considerations that form part of the decision-making process. The outcome will be that the size of the southern public reserve will be reduced thereby addressing Council's concerns regarding increased maintenance costs in the future. The Application will also enable some additional residential lots to be created to satisfy the likely demand for housing in the future. In addition, the Application would achieve orderly and economic use and development of the Site and remain consistent with the requirements of the Project Approval.
63. The Commission finds that the Application is in the public interest because:
- the amendment to the subdivision layout, including dedication of lots 803, 804 and the pathway as a public reserve is acceptable as it would enhance accessibility, increase public surveillance and ensure provision of child's play facilities, within a reasonable walking distance, to support residents of the subdivision into the future, as discussed in paragraphs 39-41;
  - the amended subdivision layout would enable connectivity of the existing public reserve to the south and the central bushland reserve to the north, as discussed in paragraphs 39-41;
  - the traffic calming measure and the revised location is appropriate, as discussed in paragraph 47;
  - augmentation of the stormwater management system will be completed as required and an extension of the sewer main negates the need for a new sewer pumping station, as discussed in 55 and 57; and
  - the revised subdivision will continue to provide benefits as originally envisaged under the Project Approval with minimal environmental impacts.

## **5. HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING DECISION**

64. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process) and from members of the public who spoke at the public meeting as discussed and summarised in paragraphs 25, 27, 42 and 48.
65. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in **Section 4** above.

## **6. CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION**

66. After carefully considering all the Material before it, including the community's views, the Commission has determined to approve the Application subject to conditions of consent that amend the subdivision layout to create four additional lots, and other amendments to conditions as discussed above.
67. The Commission finds that the Application is within the broad scope of s75W, and therefore the request to modify can be considered under s75W.
68. The Commission is of the view that the Application is in the public interest, finding that:

- the amendment to the subdivision layout, including dedication of lots 803, 804 and the pathway as a public reserve, is acceptable as it would enhance accessibility, increase public surveillance and prominence of the public reserve and future playground in this location, as discussed in paragraph 39-41;
- the amended subdivision layout would ensure provision of child play facilities, within reasonable walking distance, to support the residents of the subdivision into the future, in line with what was envisaged under the existing Project Approval, as discussed in paragraph 39-41;
- the amended subdivision layout would enable connectivity of the existing public reserve to the south of the subdivision with the central bushland reserve to the north, as discussed in paragraph 39-41;
- the traffic calming measure and the revised location is appropriate, as discussed in paragraph 47;
- augmentation of the stormwater management system will be completed if identified as required prior to the issue of the Construction Certificate for Stage 8, as discussed in paragraph 55;
- an extension of the sewer main negates the need for a new sewer pumping station, as discussed in 57; and
- the revised subdivision will continue to provide benefits as originally envisaged under the Project Approval with minimal environmental impacts.

69. For the reasons above, the Commission has determined that the application can be approved, subject to the amended conditions. These conditions are designed to prevent, minimise and/or offset adverse environmental impacts and impacts on the community.

70. The reasons for the Decision are given in this Statement of Reasons for Decision dated 16 April 2019.



**Soo-Tee Cheong (Chair)**  
Member of the Commission



**Stephen O'Connor**  
Member of the Commission