

SUBJECT: VINCENTIA COASTAL VILLAGE (SHOALHAVEN LOCAL GOVERNMENT AREA)
MP06_0060 AND MP06_0058 MODIFICATION 14

PURPOSE

To determine a modification request for the Vincentia Coastal Village Concept Plan (MP06_0060) and Project Approval (MP06_0058) located on the corner of Wool and Naval College Roads, Vincentia (see **Figure 1**) (approximately 25 to 30 kilometres south of Nowra / Bombaderry and 2 kilometres west of the Vincentia town centre).

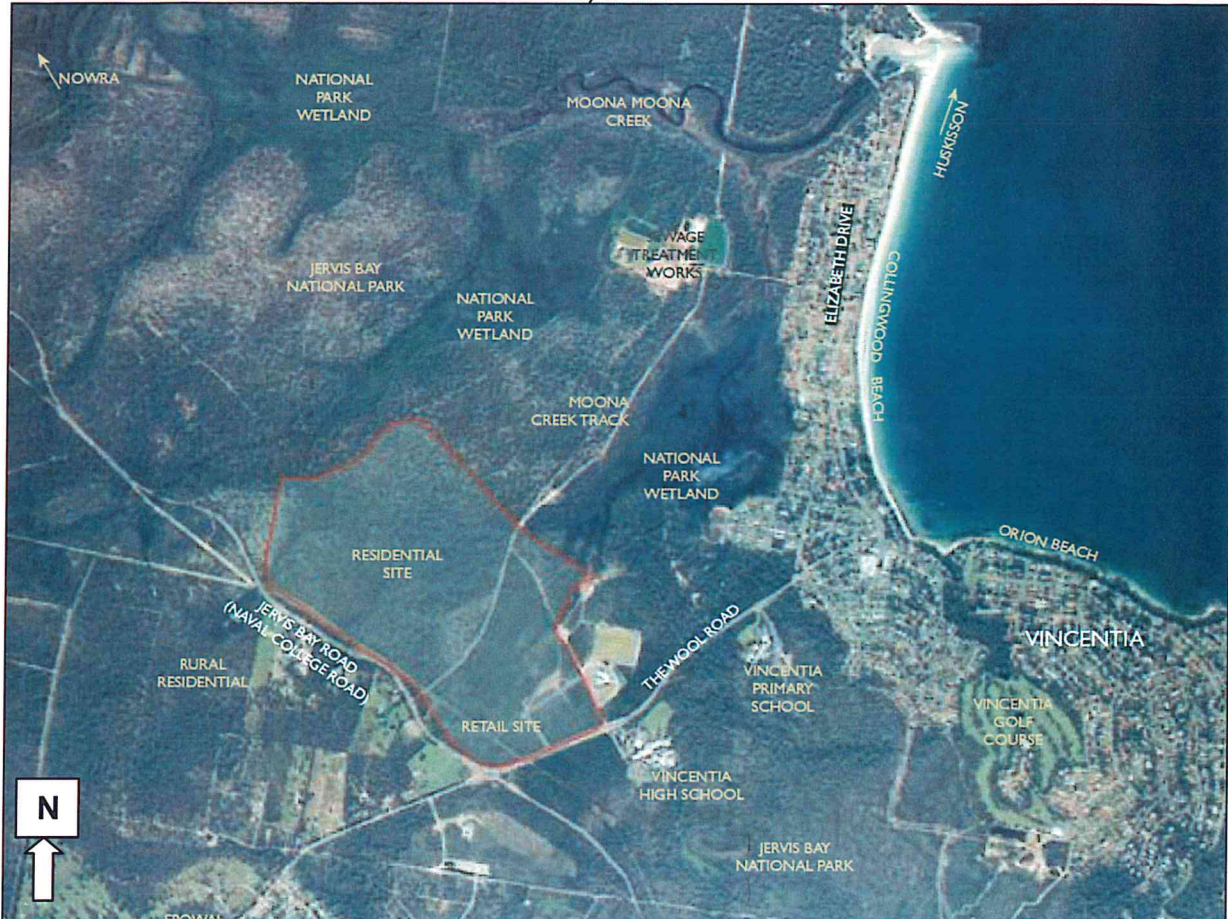


Figure 1: Vincentia Coastal Village site (red outline) and surrounding area (Source: Director-General's original Environmental Assessment Report, January 2007).

BACKGROUND

On 25 January 2007, the then Minister for Planning approved a Concept Plan (MP 06_0060) and a Project Approval (MP06_0058) concurrently for the Vincentia Coastal Village and District Centre. The original Concept Plan and Project Approval approved the use of the site for a 604 lot residential subdivision, adaptable housing, a commercial development (district town centre) and environmental conservation areas. The Project Application related only to the residential subdivision component.

Works in accordance with the project approval are currently being carried out on the site. The approvals (MP 06_0060 and MP 06_0058) were subject to a number of conditions and have been modified on 12 occasions (as detailed in **Tag A**).

On the 28 January 2009, the then Minister for Planning approved a Project Approval (MP08_0096) for the Bayswood Retirement Living Village (RLV) the location of the RLV is shown in Figure 2. The approval included a 8.73ha super lot for the RLV site, the construction of 166 dwellings (attached and detached) and a village centre for retirement village residents only.

Consequently, the site shown as stage 12 in Figure 2 below (proposed super lot 6002) has approval for both a residential lot subdivision (under project approval MP06_058) and a retirement village (under project approval MP08_0096).

PROPOSED MODIFICATION

The Concept Plan (MP06_0060) as modified allows for up to 595 residential lots and Project Approval (MP06_0058) as modified is for a 614 residential lot subdivision and environmental protection measures on the remaining land with no super lots proposed (see Figure 2).

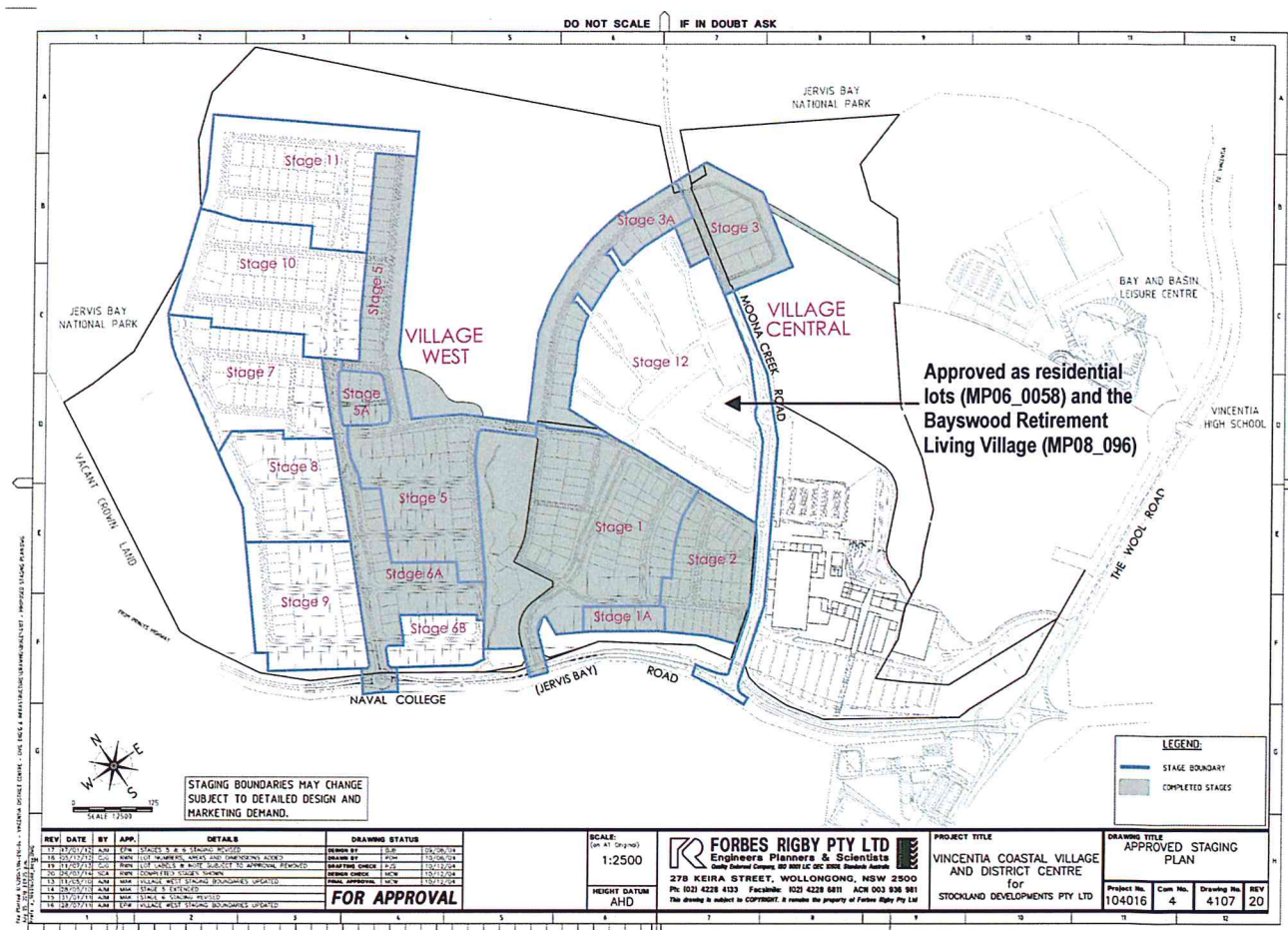


Figure 2: Current approved lot layout and stages (Source: Vincentia Coastal Village MP06_0060 and MP06_0058 Modification 14 Application, March 2014). Note: Figure 2 also shows the retirement living layout which is a separate approval shown for contextual purposes only and does not imply that the retirement living layout replaces the underlying approved subdivision.

On 13 May 2013, the proponent (Stocklands Developments Pty Ltd) submitted a Section 75W modification request (MP 06_0060 and MP06_0058 Mod 14) proposing to make a number of amendments to the Concept Plan and Project Approval.

The proponent seeks to modify the Concept Plan and Project Approval by creating **four separate super lots** (see Figure 3) for the remaining undeveloped stages of the residential development (**Tag B**). The modification would result in more than one proponent acting upon the approvals.

In order to achieve the above modification the proponent has requested the following modifications to the Concept Plan and Project Approval:

- The development description in Table A1 in the Concept Plan and Project Approval is to be amended to include four super lots. The description of the super lots is provided below (see **Figure 3**):
 - Lot 6001 with an area of 7,261m² being land that will ultimately be dedicated to Council;

2. Lot 6002 comprising of 8.847 ha being the approved development site;
3. Lot 6003 consisting of 21.48 ha being the remainder of the western precinct, comprising of two parts – a large portion of the western precinct and a small portion adjacent to Naval College Road; and
4. Lot 6004 includes 37.66 ha comprising of four parts and environmentally zoned land that is intended to be transferred to an appropriate Government entity.

- Amending the following Statement of Commitments (SoC):
 1. Delete SoC No.15 that requires house plans to be submitted to Stockland Design House;
 2. Update SoC No.16(a) in relation to the updated bushfire management assessment; and
 3. Replace the references to “Stockland” with “the proponent”.
- The proponent has requested that the definition of “proponent” be amended in Schedule 1, Table A1 of the concept plan and Schedule 3, Table A1 of the project approval to include any person(s) acting upon the Approvals, rather than specifying “Stockland Developments Pty Ltd” as the sole proponent.

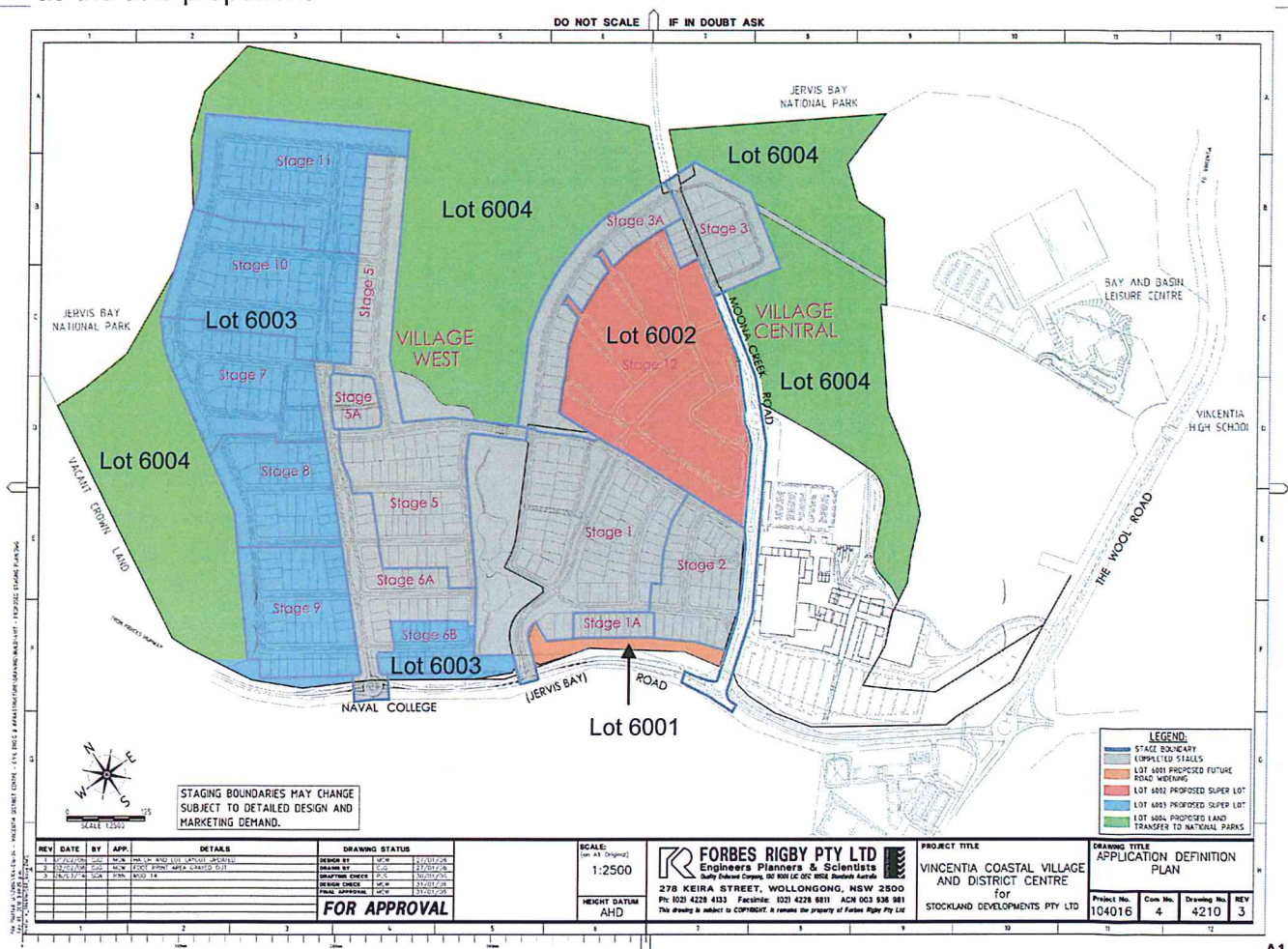


Figure 3: Proposed super lots (Source: Vincentia Coastal Village MP06_0060 and MP06_0058 Modification 14 Application, March 2014) Note: Figure 3 also shows the retirement living layout which is a separate approval shown for contextual purposes only and does not imply that the retirement living layout replaces the underlying approved subdivision.

MODIFICATION JUSTIFICATION

The current Concept Plan and Project Approval do not allow for separate titles (super lots) and therefore the transfer of the title to another owner is not possible under the current approval. The proponent has decided to sell the remaining undeveloped stages of the residential subdivision. The modification is required to enable the creation of four separate super lots and consequently

enable parts of the development to be sold to another owner. The creation of super lots would also enable the environmental lands to have separate titles and be transferred to an appropriate government authority. The proponent will continue to complete the existing stages already under construction.

CONSULTATION

In accordance with section 75X of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and clause 8G of the *Environmental Planning & Assessment Regulation 2000*, the modification request was made available on the Department of Planning and Environment's (the Department) website. Due to the minor nature of the proposed modification, the request was not exhibited by any other means. A copy of the modification was sent to the Commonwealth Department of Sustainability, Environment, Water, Population and Communities (now known as the Australian Department of Environment (ADoE)), Shoalhaven City Council (Council), Shoalhaven Water, the Office of Environment and Heritage (OEH) and the Rural Fire Service (RFS) for comment.

Each of the public authorities listed above provided submissions. One public submission was also received. The details of those submissions are summarised below.

Public Authority Submissions

ADoE suggested that the proponent should:

- rehabilitate the existing Bay and Basin Leisure Centre access road;
- provide traffic calming measures along The Wool Road; and
- develop Environmental Management Plans (EMPs) in consultation with the OEH and submit the EMPs in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approval (dated 30 July 2007).

Council did not object to the modification. However, Council requested that the staging in SoC No. 55 be amended as stage 6 is now included in the land proposed as Part Lot 6003 adjacent to Naval College Road.

Shoalhaven Water recommended water and sewer infrastructure conditions, in particular a certificate of compliance for each stage of the subdivision.

The **OEH** requested SoC No. 7 reflect the most recent EMP in order to manage the requirements of the EPBC Act approval.

RFS requires the four new super lots be designed in accordance with Appendix 2 *Planning for Bush Fire Protection 2006*, and recommended that where the super lots include reserves that a plan of management be developed.

Public Submission

One public submission was received which raised the following concerns:

- the deletion of SoC No. 15 would result in the loss of a restrictive covenant and design requirements for existing and future developments;
- land adjacent to the south west boundary of Lot 301 (proposed to be included in Lot 6002) should be retained as bushland and not approved for a retirement living site;
- pedestrian access to the Bay and Basin Leisure Centre, Vincentia; and
- bus stops identified in the Environmental Assessment have not been provided within the subdivision.

The Department has considered the issues raised in all of the submissions in its assessment of the proposed modification.

DELEGATED AUTHORITY

On 14 September 2011, the functions and powers of the Minister under section 75W of the EP&A Act were delegated to the Directors in the Major Projects Assessment Division in cases where all of the following circumstances are satisfied:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

Accordingly, the application is able to be determined by the Director, Industry, Key Sites and Social Projects, under delegation.

KEY ISSUES

The Department has carefully considered the modification request and the submissions received from the public and public authorities. Following the submission of the Response to Submissions (**Tag C**), the Department considers the key issues for the proposed modification to be:

- creation of super lots; and
- deletion of SoC No.15 - removal of restrictive covenant and design requirements.

Creation of super lots

The current approved residential subdivision is for 614 residential lots with no super lots. As the proponent wishes to sell the remaining stages of the residential subdivision, the creation of super lots and separate titles is required to enable the land to be transferred (sold) to another owner. The proponent will continue to complete the remaining stages of the development which are currently under construction.

The Department agrees that in order to facilitate the sale of the remaining stages of the project, the creation of super lots is required. This would result in there being more than one proponent acting upon the approvals.

At present, the definition of proponent is 'Stockland Developments Pty Ltd' which means no other proponent may act on the approvals. The Department supports the proposed amendment of the definition of 'proponent' to include "Stockland or the relevant person acting upon all or any part of the approval, and includes any person certified by the Minister to be the proponent".

Deletion of SoC No. 15 - removal of restrictive covenant and design requirements

SoC No.15 requires a restrictive covenant on the title of each residential subdivision which requires land owners to submit dwelling plans to the Stockland Design House to demonstrate compliance with the Design Guidelines before lodging a Development Application with Council or obtaining a Complying Development Certificate. The proponent states that if they are no longer the land owner then they should not retain the responsibility of reviewing the dwelling plans.

The community raised the deletion of SoC No.15 as a concern due to the loss of design requirements for existing and future developments. The Department believes that the residential design requirements should be transferred to any new site owner to ensure the continuity of the existing and future developments. Following the request from the Department to retain part of SoC No. 15, the proponent has modified SoC No.15 as follows (**Tag D**):

~~"Stockland will create a restrictive covenant on the title of each residential lot which will require owners to submit plans for dwelling houses to the Stockland Design House to demonstrate compliance with the Design Guidelines before lodging a Development Application with Shoalhaven City Council or obtaining a Complying Development Certificate. The instrument will identify both Stockland and the Shoalhaven City Council as a benefiting party".~~

"The Proponent will create a restrictive covenant on the title of each residential lot which will require dwelling houses to be consistent with the Design Guidelines before lodging a Development Application with Shoalhaven City Council or obtaining a Complying Development

Certificate. The instrument will identify both The Proponent and Shoalhaven City Council as a benefiting party”.

The Department is satisfied that the proposed revised SoC No.15 will ensure that the design requirements for existing and future developments are maintained.

Other Issues

The Department's assessment of other issues is provided in Table 1.

Table 1: Assessment of Other Issues

Issue	Consideration	Recommended Conditions
Inconsistency with the number of residential lots in the Concept Plan and Project Approval	The project approval was modified on 7 November 2011 (modification 11) to include 614 residential lots. The Department notes that the Concept Plan as modified (modification 10) is for “up to 595 residential lots”. In order for the Concept Plan and Project Approval to be consistent the Department believes that the Concept Plan approval should be modified to include “Up to 614 residential lots”.	The A1 Table and condition A2(1)(a) should be modified to include 614 residential lots.
Lot Numbers	The Department notes that the lot and Deposited Plan (DP) numbers which apply to the original Concept Plan and Project Approval have changed as the project has progressed. In order for the approvals to apply to the same land as originally approved the Department has modified Table A1 in Schedule 1 and 3 in regards to the description of the lot and DP numbers from “On land comprising” to “On land formerly known as:”	Table A1 in Schedule 1 and 3 should be modified to “On land formerly known as:”
Requirements under the EPBC Act	The requests made by SEWPaC detailed above are outstanding matters related to the EPBC Act approval dated 30 July 2007. These matters are unrelated to this modification request. The proponent is responsible for ensuring compliance with all relevant legislation including the EPBC Act and any further approval that may be required as a result of the modification.	No conditions necessary
Servicing (water and sewer infrastructure)	Shoalhaven Water requested a certificate of compliance for water and sewer infrastructure for each stage of the subdivision. The Department considers that the requirement for a Certificate of Compliance for water and sewer infrastructure was adequately incorporated as part of Condition 25 in modification 11 and no additional requirements are generated by the current modification request	No conditions necessary
Bushfire	The proponent submitted a Bushfire Protection Assessment (Ecological, 29 May 2013) with the modification request to address the bushfire impacts associated with the super lots. SoC No. 16(a) requires Asset Protection	No conditions necessary. SoC No. 16(a) has been updated to include the Bushfire Protection

Issue	Consideration	Recommended Conditions
	<p>Zones (APZ), the SoC has been updated to include the Bushfire Protection Assessment (Ecological, 29 May 2013) which identified APZ's for the super lots.</p> <p>The Department also notes that the following is required in the SoC:</p> <ul style="list-style-type: none"> • A Section 88B instrument for each stage, to provide easements for APZ's on private land and bushfire fuel management; • A fuel management and APZ maintenance plan; and • A fire management plan for the environmental core land. <p>Additionally, the conditions of consent for the Concept Plan and the Project Approval require compliance with the Planning for Bushfire Guidelines. The Department is satisfied that the bushfire impacts can be appropriately managed through the SoC and conditions of consent.</p>	<p>Assessment (Ecological, 29 May 2013)</p>
SoC No. 55	<p>SoC No. 55 relates to the construction of a roundabout at Access C (on the corner of Naval College Road and Moona Creek Road). The timing of implementation of this condition was previously linked to Stage 6. Access C is located close to the District Town Centre and Lot 6002. The proponent has modified the timing of the SoC. The roundabout shall now be constructed prior to the occupation of the first stage of the District Town Centre or prior to the issue of a subdivision certificate for residential development within proposed super lot 6002 whichever is sooner.</p> <p>The Department believes the amendments to the timing of the construction of the roundabout for Access C is appropriate.</p>	<p>No conditions necessary.</p> <p>SoC. No 55 has been updated.</p>

RECOMMENDATION

It is RECOMMENDED that the A/Director:

- approve the modification request; and
- sign the attached recommended modification instrument (**Tag E**).

Prepared by:

 16/5/14

Kate Masters
A/Senior Planner
Industry, Key Sites & Social Projects

Approved by:

 16/5/14

Chris Ritchie
A/Director
Industry, Key Sites & Social Projects

Previous Modifications

The approvals (MP 06_0060 and MP 06_0058) were subject to a number of conditions and have been modified on 13 occasions as follows:

- **MOD 1** by the Executive Director, Strategic Sites and Urban Renewal on 8 October 2007 to clarify that the approvals are inclusive of a display village, and to provide greater certainty on the conditions which apply to the display village.
- **MOD 2** by the Minister for Planning on 9 July 2008 to implement Exempt and Complying Development provisions.
- **MOD 3** by the Executive Director, Strategic Sites and Urban Renewal on 6 February 2009 to amend the boundaries of allotments to create three additional lots (total residential lots increased from 604 to 607).
- **MOD 4** by the Executive Director, Strategic Sites and Urban Renewal on 13 February 2009 to require payment of local infrastructure contributions prior to the issue of a subdivision certificate, rather than construction certificate.
- **MOD 5** by the Director-General on 20 April 2009 to reduce the number of residential lots from 607 to 603.
- **MOD 6** by the Executive Director, Urban Renewal and Major Sites on 11 December 2009 to amend the design guidelines "*Design Essentials – a guide to building your home at Bayswood*".
- **MOD 7** was withdrawn.
- **MOD 8** by the Acting Director, Regional Projects on 2 September 2010, to consolidate residential lots and reduce the number of lots from 603 to 582 and modify roads and landscaped areas.
- **MOD 9** by the Director, Metropolitan and Regional Projects South on 24 March 2011 to create 21 additional residential lots (increasing the total number of lots from 574 to 595 and amend conditions relating to the postponement of the construction of the roundabout intersection at Access A.
- **MOD 10** by the Director, Metropolitan and Regional Projects South on 14 March 2011 to consolidate residential lots by reducing the number of lots to 574 and enable the construction of a new display village to replace the existing display village.
- **MOD 11** by the Deputy Director-General, Development Assessment and Systems Performance on 7 November 2011 to subdivide four lots to create 23 lots (increasing the total number of lots from 595 to 614).
- **MOD 12** by the Director, Strategic Assessments on 31 May 2012 to delete references to *Exempt and Complying Development Vincentia Coastal Village*, as the document was repealed.
- **MOD 13** by the Executive Director, Development Assessment Systems and Approvals on 9 April 2013 to modify SoC No. 59 for the provision of pedestrian/cycleway underpass to enable the construction of a 'mid-block' signalised pedestrian crossing.