



ASSESSMENT REPORT

Section 75W Modification Residential Subdivision - Dolphin Point Road and Wuru Road, Dolphin Point 05_0016 MOD 3 (Project Application)

1. BACKGROUND

This report is an assessment of a minor administrative request to modify a 164 lot residential subdivision Project Approval at Dolphin Point in the Shoalhaven Local Government Area (MP05_0016). The request has been lodged pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and seeks to rectify an error in the previous modification instrument for the project approval (MP05_0016 MOD 2).

The site is located on Dolphin Point and Wuru Roads, between Burrill Lake and Dolphin Point, approximately 5 kilometres south of Ulladulla (**Figures 1 and 2**). Burrill Lake/Dolphin Point is a small coastal town with limited retail and commercial facilities and a population of around 1,400 people.

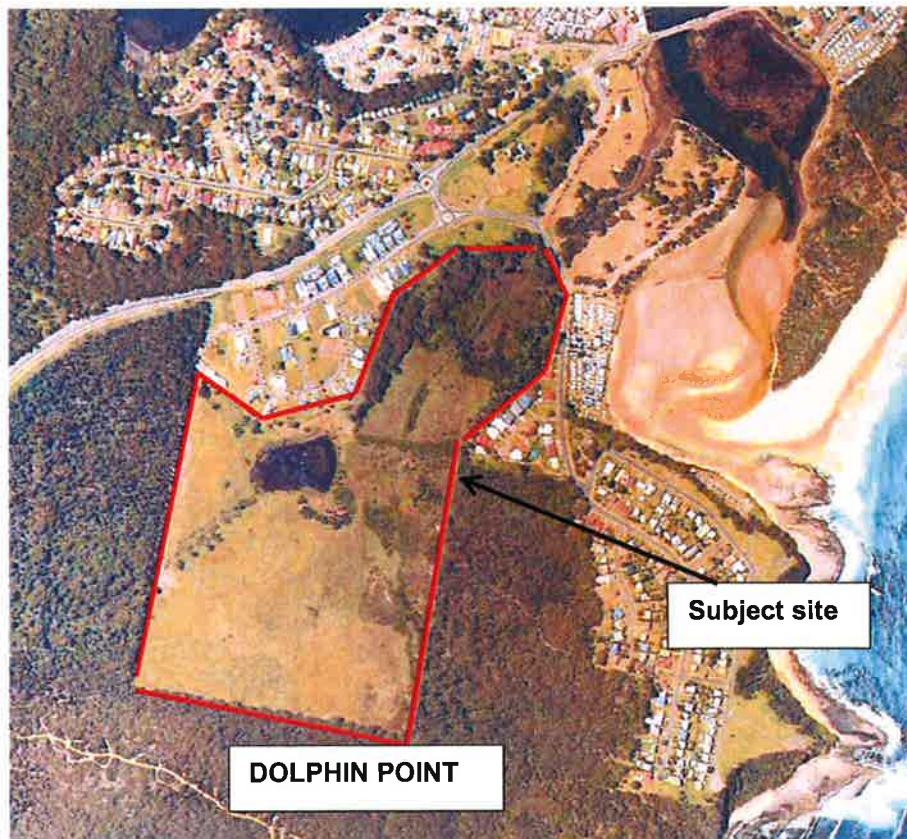


Figure 1: Site Context (Project site outlined in red)

The site was previously legally described as Lot 11, DP1104789 and portion of Part Lot 72 DP1073600 (at the time of the concept plan and project approval). The legal description of the site has changed to: Lots 2, 3 and 4, DP1123774 (the site). The site has a total area of 47.19 hectares.

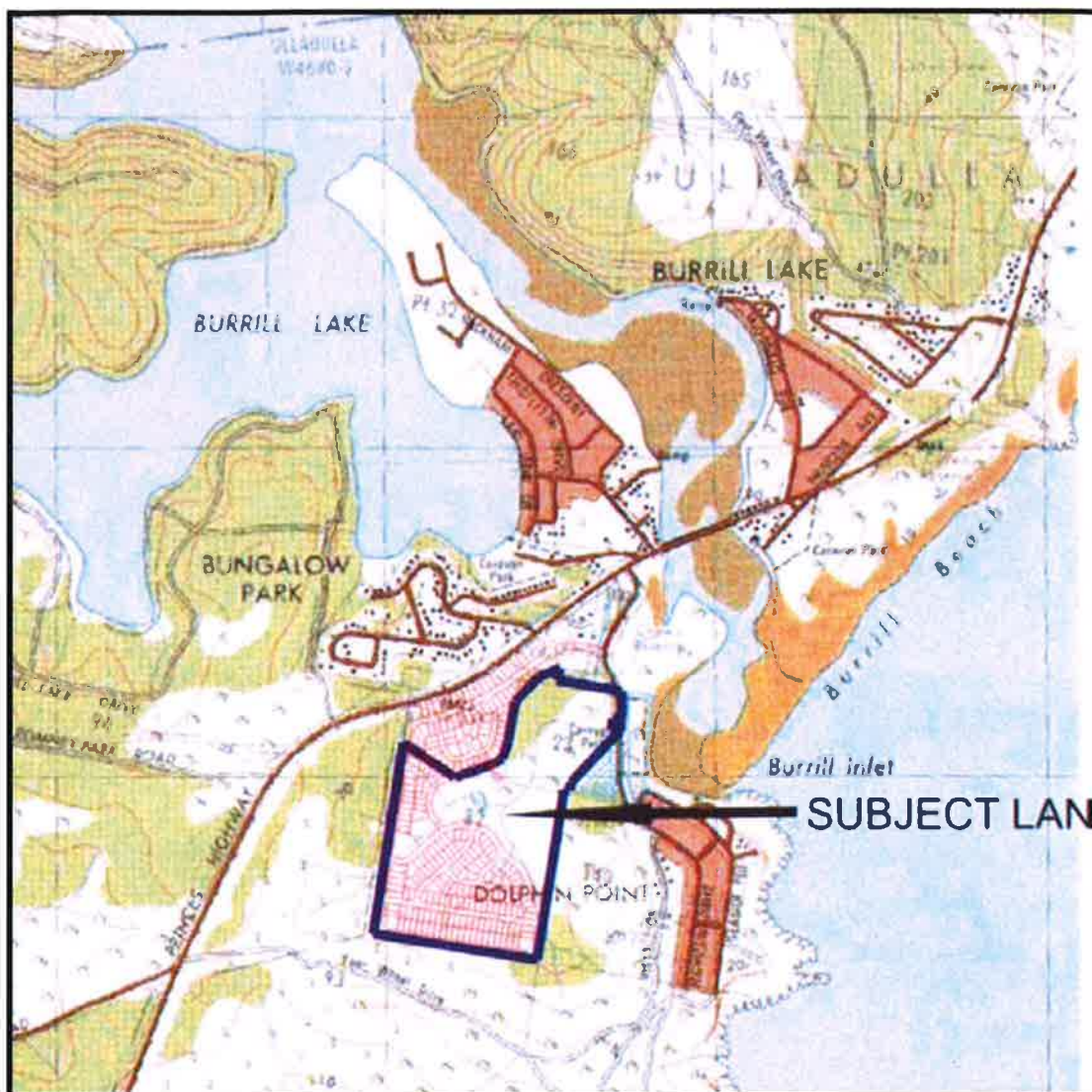


Figure 2: Broader Site Location Context (Project site outlined in bold)

On 12 March 2008, the then Minister for Planning granted concurrent approval to a Concept Plan and Project Application for a residential subdivision of the site under Part 3A of the EP&A Act. The concept plan comprised:

- staged subdivision into 164 residential lots (Stage 2 (Precinct B) & 3 (Precinct A));
- creation of roads to service the subdivision;
- creation and embellishment of one allotment as a neighbourhood park in Precinct A;
- creation and embellishment of an informal neighbourhood park in Precinct B;
- construction of pedestrian/cycle paths through all precincts;
- landscaping;
- revegetation works to riparian zones in all precincts;
- provision of services and infrastructure; and
- identification of development parcels within Stage 5 (Precinct C).

The concept plan restricts the future development of Stage 5 to community facilities and structures for educational and recreational purposes, subject to development consent under Part 4 of the EP&A Act. The approved concept plan as modified by MOD 2 is shown at **Figure 3**.

The project approval comprised the subdivision of Stages 2 and 3 and construction of roads, services and infrastructure. Stages 1 and 4 of the residential subdivision were previously approved by Shoalhaven Council.

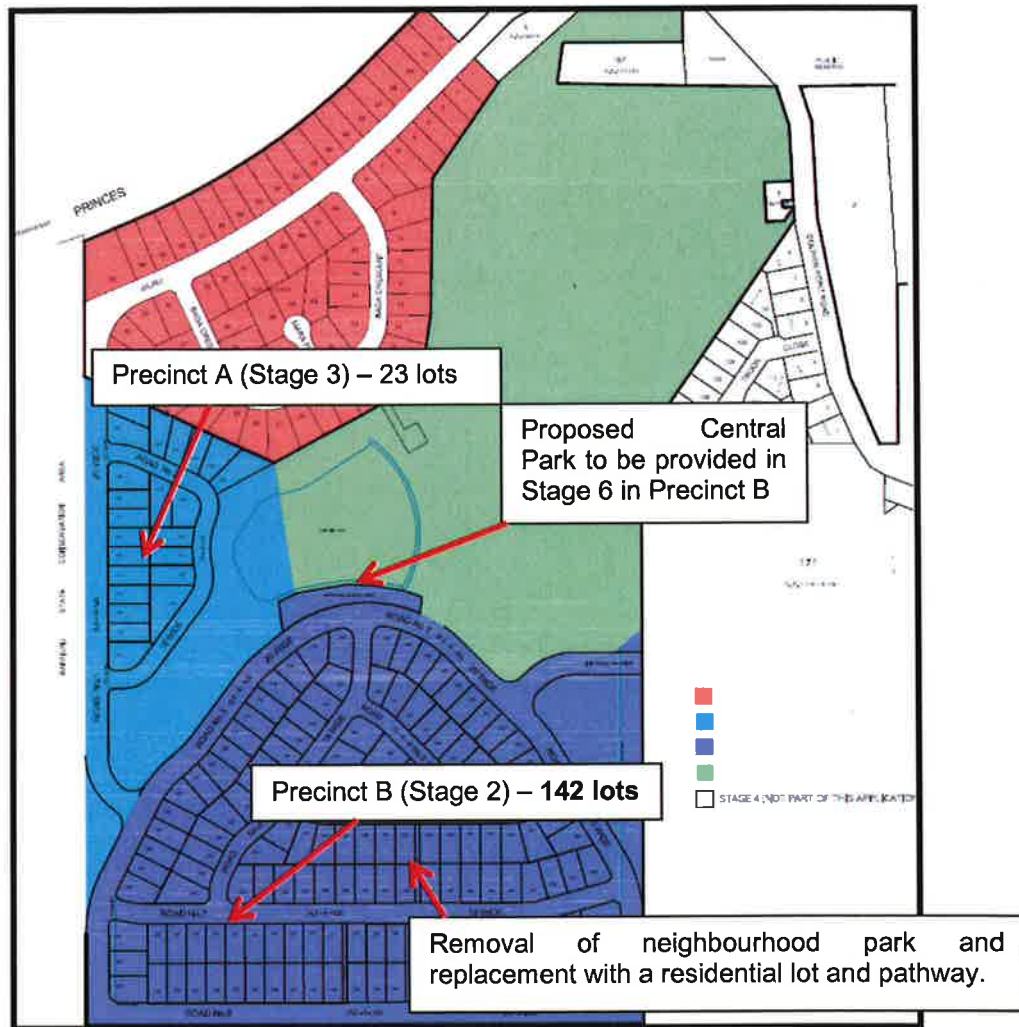


Figure 3: Approved Subdivision Layout as modified by MOD 2

On 25 February 2013, the concept plan was modified under delegated authority to permit an extension to the time period on which the concept approval was liable to lapse (from 12 March 2013 to 1 October 2016) (MOD 1).

On 16 May 2014, the concept plan and project approval were modified under delegated authority to permit procedural changes to the staging, and updates to land title, ownership and staging references (**Figure 3**).

2. PROPOSED MODIFICATION

On 11 June 2014, the proponent submitted a request (MOD 3) to modify Condition B9 of the project approval such that it is consistent with Condition B8 (see **Appendix A**). Currently, Condition B8 permits a registered surveyor and a civil engineer to prepare final stormwater and drainage works design plans. Condition B9 permits a civil engineer only to prepare final road works design plans.

The modification request seeks to rectify the misdescription which occurred in the drafting of the modification instrument for MOD 2. The proposed modification to Condition B9 will ensure it is consistent with Condition B8 by enabling a registered surveyor and a civil engineer to prepare the relevant final design plans required by both conditions. The proposed modification to Condition B9 is indicated in **bold** below:

B9 Road Works Design

- (1) The collector road (road to the south of Precinct C) and the perimeter road are to be constructed with a 9m road pavement width. All roundabouts are to be designed to make provision for pedestrians to cross the road at all splitter islands in accordance with the

Austroads guidelines. Traffic control devices are to be incorporated into the design of roads in accordance with the requirements of Element RE4 of Shoalhaven DCP 100.

- (2) Final design plans of the roads for the relevant stage within the proposed subdivision, incorporating these requirements, prepared by a qualified practicing Civil Engineer **or Registered Surveyor** and in accordance with the requirements of Shoalhaven City Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate for each stage.

The proposed modification will be consistent with Condition B8 (as modified by MOD 2) (which permits a civil engineer or registered surveyor to prepare final design plans for stormwater and drainage works). The proposed modification will rectify a minor administrative error made in the drafting of the modification instrument for MOD 2.

3. STATUTORY CONSIDERATION

Section 75W

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A to the EP&A Act, continues to apply to Section 75W modification application for Part 3A projects.

The modification request has been lodged with the Secretary pursuant to section 75W of the EP&A Act. The Minister's approval is not required if the project as modified will be consistent with the original approval. As the modification request seeks to amend the project approval, it requires approval.

The proposed changes constitute a modification. They are within the scope of section 75W of the EP&A Act and do not constitute a new application. Therefore, the Minister (or her delegate) has the ability to determine the modification application.

Consequently, this report has been prepared in accordance with the requirements of Part 3A of the EP&A Act and associated regulations, and the Minister (or her delegate) may approve or disapprove of the carrying out of the project under section 75J of the EP&A Act.

Approval Authority

On 14 September 2011, the functions of the Minister for Planning under section 75W of the Act to modify Part 3A approvals were delegated to Directors in the Major Projects Assessment Division where all of the following circumstances are satisfied:

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

The application meets the delegation and is referred to the Director for determination.

Consultation

Under section 75X(2)(f) of the EP&A Act, the Secretary is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the modification request was made publicly available on the Department's website. Given the minor nature of the modification request, it was not publicly exhibited or notified to Shoalhaven City Council or agencies.

4. ASSESSMENT

The modification request seeks to correct an error in Condition B9 of the previously approved modification. The effect of the modification request will be to permit a registered surveyor (as well as a civil engineer) to prepare final design plans for subdivision road works. This will provide the proponent with flexibility in the choice of consultants who are permitted to prepare final design plans for the approved subdivision.

The modification request is consistent with the wording of Condition B8 which permits a registered surveyor and a civil engineer to prepare final design plans for stormwater and drainage works. The modification request will also be consistent with the previous modification request (MOD 2). Council did not previously object to the modification of Conditions B8 and B9 (MOD 2).

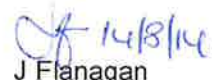
The modification request does not raise any new issues or change the nature of the environmental impacts assessed by the Department for the previous modification. Accordingly, the Department recommends the project approval be modified in accordance with the recommended modification instrument (at **Appendix B**).

5. CONCLUSION

The Department considers the project, as proposed to be modified, will achieve the same objectives as the original project. The Department's original assessment considered the proposed development would provide additional residential land to accommodate future growth in the region. The modification request will ensure that objective can still be achieved. It is therefore recommended that the modification request be approved.

6. RECOMMENDATION

It is recommended that the Director, Industry, Key Sites and Social Projects, as the delegate of the Minister for Planning, under section 75W of the EP&A Act, approve the proposed modification (MOD 3) to MP05_0016, as set out in the recommended modification instrument (**Appendix B**).

 14/8/14.
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APPENDIX A: MODIFICATION REQUEST 05_0016

Refer to <http://majorprojects.planning.nsw.gov.au>

APPENDIX B: MODIFICATION INSTRUMENT 05_0016 MOD 3 PROJECT APPLICATION

APPENDIX A: MODIFICATION REQUEST 05_0016

Refer to <http://majorprojects.planning.nsw.gov.au>