

## ASSESSMENT REPORT

### Section 75W Modification Dolphin Point Residential Subdivision MP 05\_0016 MOD 4

#### 1. INTRODUCTION

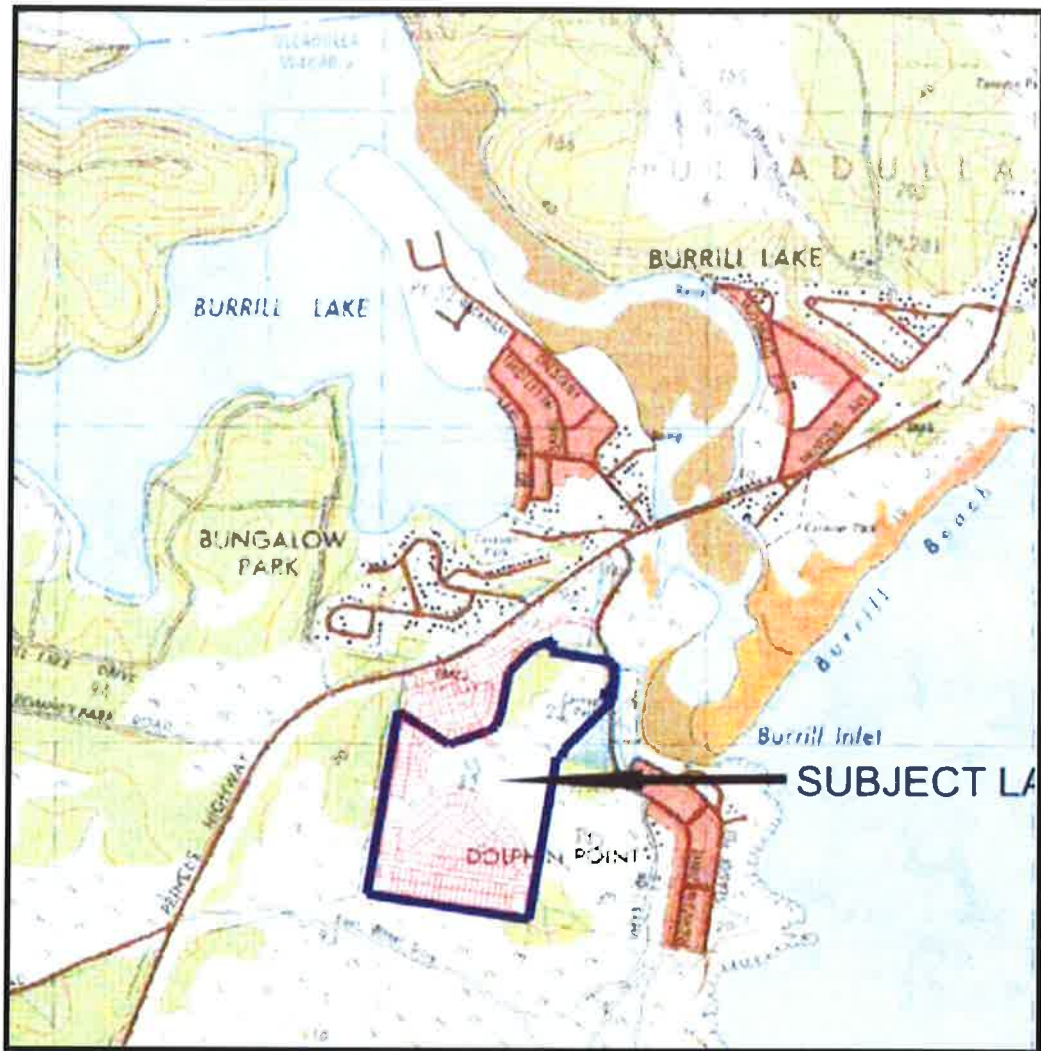
This report is an assessment of a request to modify the Concept Plan and Project Application for the Dolphin Point residential subdivision (MP 05\_0016) at Dolphin Point in the Shoalhaven Local Government Area. The request has been lodged by Australian Property Growth Fund (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and seeks to make a minor change to the staging.

#### 2. SUBJECT SITE

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 approximately 1,400 people.



**Figure 1:** The site context with the subject site shaded red.



*Figure 2: The broader site location context (project site outlined in bold line)*

### 3. APPROVAL HISTORY

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 approvals permit the development of the site in 3 precincts, including:

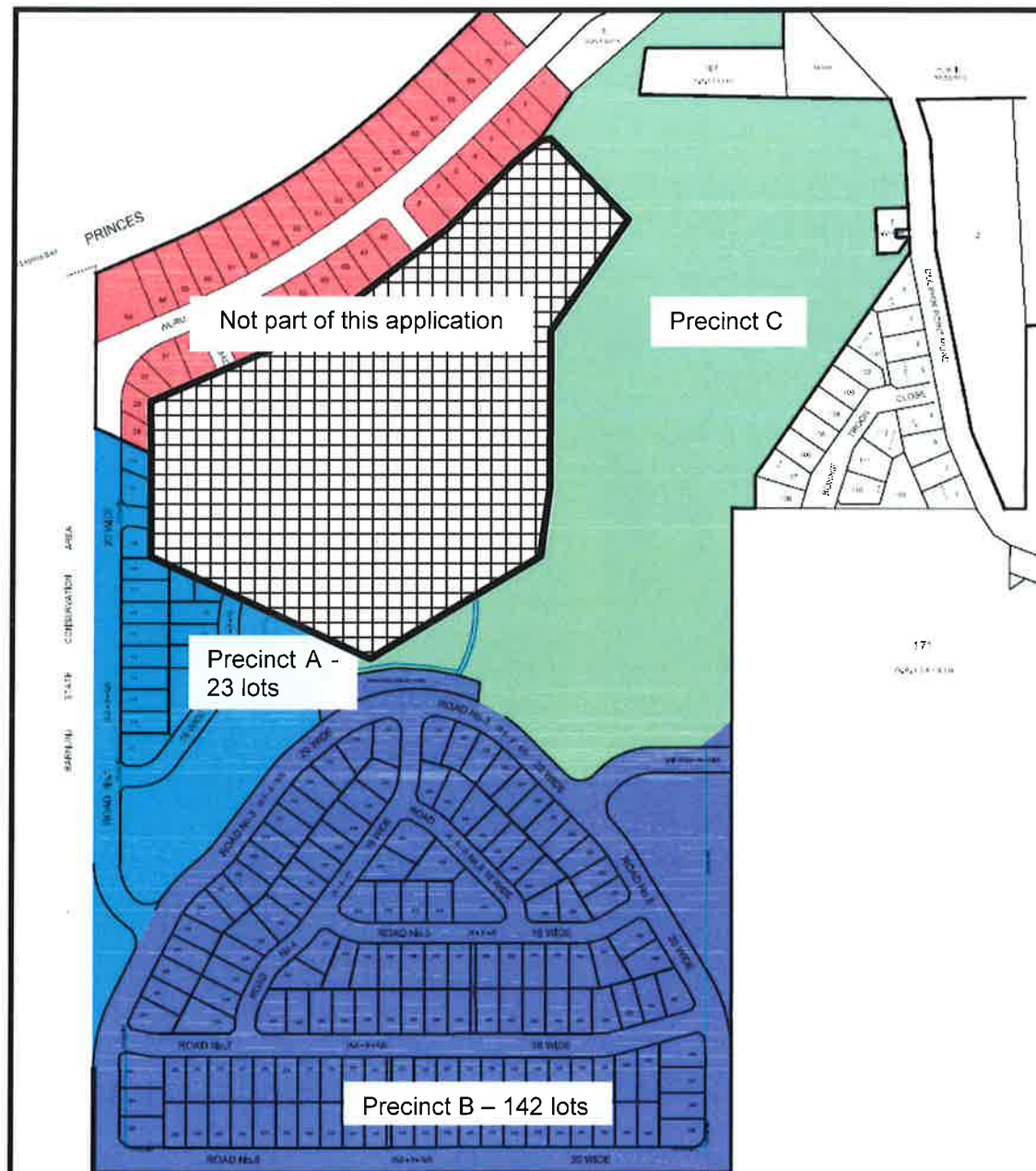
- staged subdivision into 164 residential lots in Precinct A & Precinct B
- creation of roads to service the subdivision
- creation and embellishment of one allotment as a neighbourhood park in Precinct A
- creation and embellishment of an informal neighbourhood park in Precinct B
- construction of pedestrian/cycle paths through all precincts
- landscaping
- revegetation works to riparian zones in all precincts
- provision of services and infrastructure
- identification of potential future development parcels within Precinct C for community or education purposes (to be subject to development consent under Part 4 of the EP&A Act).

The concurrent approvals have been modified on 3 occasions as outlined in **Table 1**. The approved subdivision layout following the modifications is shown in **Figure 3**. The approved staging is shown in **Figure 4**.

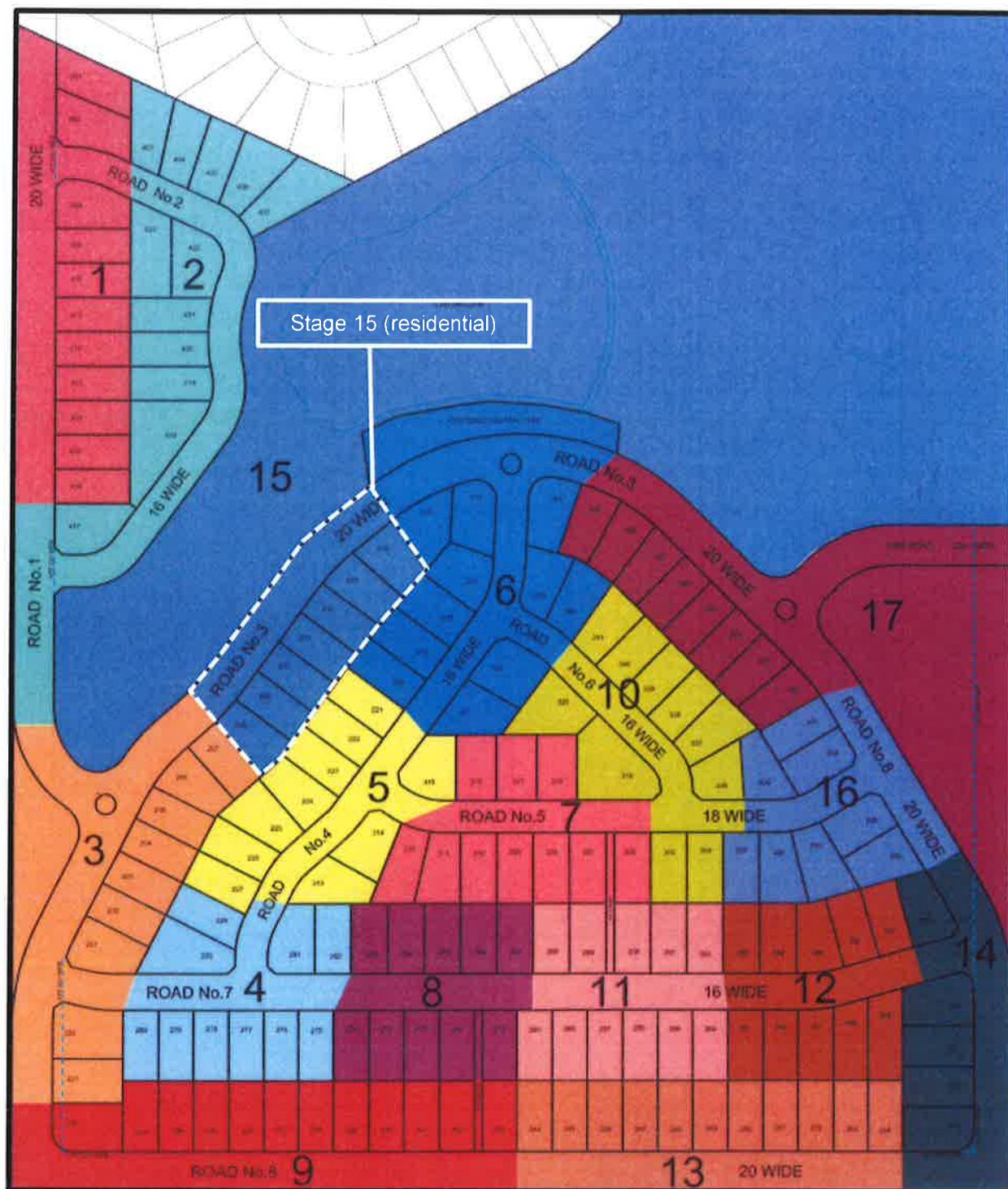


**Table 1** - previous modifications to MP 05\_0016

Mod no.	Proposal	Determination
1	To extend the lapse date.	25 February 2013
2	Remove one neighbourhood park and replace it with an additional residential allotment and permit changes to the staging, updates to land title, ownership and staging references.	16 May 2014
3	Modify Condition B9 to ensure consistency with Condition B8.	11 June 2014



**Figure 3:** Approved Subdivision Layout as modified by MOD 2



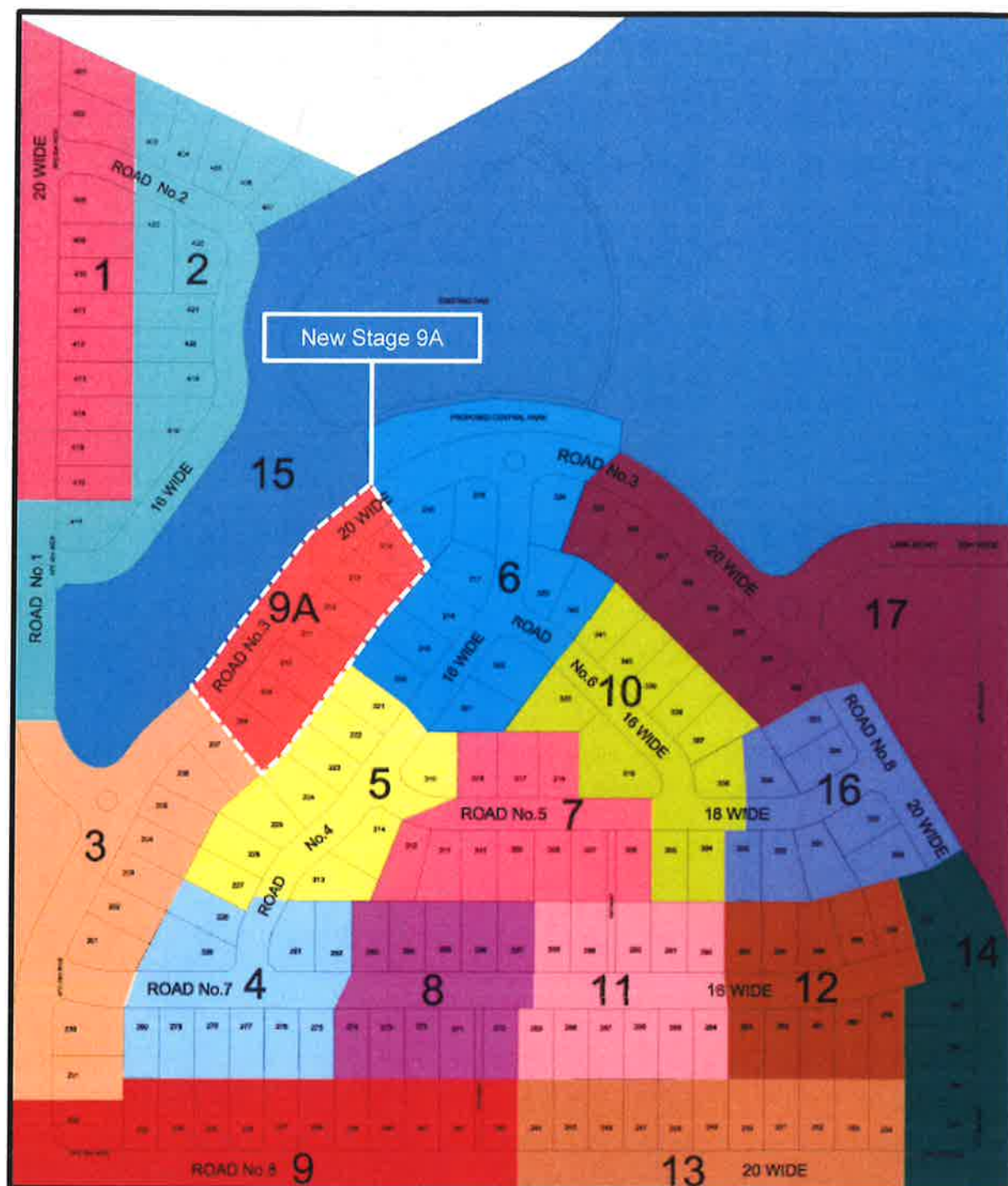
**Figure 4:** The approved staging plan

#### 4. PROPOSED MODIFICATION

On 19 October 2017, the Proponent lodged a section 75W modification request MP05\_0016 (MOD 4) seeking approval to modify the staging of the subdivision. It is sought to bring the residential component of existing stage 15 forward to create a new Stage 9A. The Proponent advises the changes are sought to provide better access to the existing residential lots in stages 3-6.

The proposed staging plan is shown in **Figure 5**.





*Figure 5: The proposed staging plan*

## 5. STATUTORY CONSIDERATION

### 5.1 Section 75W

The Concept and Project approvals were originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to the approvals must be made under the former section 75W of the Act. The Department is satisfied that the proposed changes are within the scope of section 75W of the EP&A Act, and the proposals do not constitute a new application.

## **5.2 Approval Authority**

The Minister for Planning is the approval authority for the request. However, the Director, Modification Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

## **6. CONSULTATION**

### **6.1 Consultation and Submissions**

The Department made the modification request publicly available on its website, and consulted with Shoalhaven City Council (Council) about the proposed modification.

**Council** provided a response on the 3<sup>rd</sup> November and raised no objections to the proposed modification. Council supported the proposal in that it would result in improved access for the development of the site. However, Council raised concerns in relation to inconsistencies in the documentation and potential for impacts to the timing of riparian vegetation works.

No **public** submissions were received.

### **6.2 Response to Submissions**

The proponent provided a response to Council's comments on the 7<sup>th</sup> November 2017, confirming the proposed change to bring forward the residential component of Stage 15 would not result in any changes to the timing or delivery of the re-vegetation works.

## **7. ASSESSMENT**

The proposed modification seeks to include the residential component of Stage 15 in a new substage (Stage 9A) to provide better access to the lots in Stage 3-6.

The Department considers the proposed staging would result in a more logical and orderly sequence of development. Further, the proposal would not result in any physical changes to the approved development or any changes to conditions which specify the timing for delivery of infrastructure and environmental works. As such, the proposal would not result in any adverse environmental impacts beyond those already assessed in the original application.

Accordingly, the Department recommends the Concept and Project approvals be modified in accordance with the recommended modification instruments (at **Appendix A**).

## 9. RECOMMENDATION

It is recommended that the Director, Modification Assessments, as delegate for the Minister for Planning:

- **Consider** the findings and recommendations of this report
- **Determine** that the request [MP05\_0016 MOD 4] falls within the scope of section 75W of the EP&A Act
- **Modify** the approval MP05\_0016
- **Sign** the attached modification of approval (Attachment A).

Recommended by:



Tim Green  
**Planning Officer**  
**Modification Assessments**

---

## DECISION

The recommendation is Approved by:



Anthony Witherdin  
**Director**  
**Modification Assessments**  
as delegate of the Minister for Planning.

## **APPENDIX A: MODIFICATION REQUEST 05\_0016**

---

Refer to: [http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8379](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8379)



## **APPENDIX B: MODIFICATION INSTRUMENT 05\_0016 MOD 4 PROJECT APPLICATION**

---

Refer to: [http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8379](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8379)