



17 September 2010
Our Ref: 6376B.25DK

The Director-General
Department of Planning
GPO Box 39
SYDNEY 2000

Attention: John Phillpott

Dear John

Section 75W Modification of Concept Plan Approval (MP06_0060) and Project Approval (MP06_0058) – Modification No. 10

Vincentia Coastal Village & District Centre, Corner of Wool Road and Naval College Road, Vincentia – Western and Central Villages

We refer to previous correspondence between Don Fox Planning (DFP) and the Department of Planning (the Department) regarding proposed modifications to the approved residential subdivision layout at Vincentia.

This letter has been prepared in accordance with the provisions of s.75W(2) of the *Environmental Planning & Assessment Act* (the Act) to request that the Minister for Planning (the Minister) modify the Concept Plan Approval (MP 06_0060), the Project Approval (MP06_0058) and the Statement of Commitments that relate to the Vincentia Coastal Village & District Centre development.

An application under Section 75W was submitted to the Department on 16 June 2010. The Department carried out a preliminary assessment of the application and requested additional information by way of an email from Emma Barnett, Environmental Planning Officer, Regional Projects dated 1 July 2010.

Since preparing and submitting the original application on 16 June 2010, the scope of the S.75W application has been amended and a need has arisen to split the various components of the application as originally submitted into 2 separate applications. We understand that the Department does not have an issue with this approach. The two applications which will be lodged contemporaneously will broadly deal with the following:

Modification 9

- Provision of 21 lots in the Western Precinct on R2 zoned land adjacent to Naval College Road including associated amendments to Statements of Commitments
- Amendment to Commitment No. 53 relating to the timeframe for the provision of a roundabout at Access A on Naval College Road.

Modification 10 (subject application)

- Amendment to the lot layout in Stage 3 of the Central Village
- Amendment of the Project application to seek approval of a display village in the Western Precinct.



- associated amendments to Statements of Commitment.

The letter describes the proposed modification, provides an environmental assessment of the subject application and addressed the additional matters that the Department has requested in its email 1 July 2010 as are of relevance to this application.

1.0 Background

A combined Concept Plan and Project application was approved by the Minister for Planning on 25 January 2007, and has been modified under Section 75W on a number of occasions. The Concept Plan and Project approvals were last modified on 2nd September 2010 (Modification No 8). The yield approved under this most recent modification resulted in a minor reduction from the previously approved 603 lots to 582 lots as a result of re-organising the subdivision layout in the western precinct.

The proposal the subject of the s.75W modification application (Modification No 10) detailed herein seeks the Minister's consent to modify the Concept Plan Approval (MP 06_0060), Project Approval (MP06_0058) and the Statement of Commitments that relate to the Vincentia Coastal Village & District Centre development.

The application form is attached to this letter at **Attachment 1**.

2.0 Subject Site

The land to which the Concept Plan and Project approval relates included the following parcels:

- Lot 801 DP 1022286
- Lot 802 DP1022286
- Lot 72 DP 874040
- Lot 73 DP 874040
- Lot 74 DP 874040
- Lot 75 DP 874040

The abovementioned parcels have been further subdivided as development of the early residential stages has progressed. The land to which the s.75W relates is now known as Lot 321 DP1141762.

Land owner's consent to the lodgement of the s.75W application is provided on the application form at **Attachment 1**.

3.0 Summary of Proposed Modification

The proposed changes to the approved residential subdivision layout are detailed as follows:

Central Village

Reconfiguring the subdivision layout in Stage 3 of Central Village between Moona Creek Road and Coaster Circuit, reducing the yield in this street block from 24 lots to 14 lots (to provide fewer larger lots to respond to market demands). The lots are numbered 326-334 inclusive. A copy of the amended residential subdivision layouts for the Western Village is provided at **Attachment 2**.



Display Village

The existing display homes in Central Village are intended to be occupied and used for residential purposes until mid next year. Stockland therefore proposes to construct a new display village for the Western Precinct. Eight (8) new display home sites are proposed as illustrated in **Attachment 3**.

The existing sales office and car park in the Central Village will remain operational to service the new display village. Pedestrian access to the western precinct will be through the open space, across the footbridge and into Belay Drive. This pedestrian route is also accessible for people with disabilities.

The operational conditions of the display village will be the same as those approved for the Central Village.

Modification to Statement of Commitments

Amendments to the following Statements of Commitments are required as a result of the above amendments:

- Modify Commitment No. 16(a) in relation to provision of APZs for the amended layout of Stage 3; and
- Add a new commitment (No. 76a) in relation to the display village for the Western Village.

4.0 Proposed Modification to Concept Plan and Project Approvals

A copy of the amended residential subdivision layouts for the Central Village is provided at **Attachment 2**. The proposed modifications will result in a reduction from 24 lots to 14 lots in Stage 3 of the Central Village. The Table below shows the change in lot number as part of this application and Modification No. 9 (for contextual purposes).

The proposed modification will result in:

- reconfiguration of the subdivision layout in Stage 3; and
- a decrease in the number of residential lots from 582 to 572 as set out below.

○ Approved via Modification No 8	582
○ Reduction from 24 to 14 lots in Stage 3 - Central Village	- 10
Sub Total	572 (subject application)
○ 21 lots along Naval College Road (Modification No. 9)	+21
Total	593 (if Mod 9 and 10 approved)

The modifications sought to the Concept Plan and Project approvals are detailed below.

4.1 Concept Approval (MP06_0060) and Project Approval (MP06_0058)

- Amend the approvals to reference 572 residential lots (or 593 if Modification 9 is approved before Modification No. 10)
- Amend the approvals to reference the revised residential subdivision layout plans.
- Amend the approvals to reference the amended Statement of Commitments.
- Amend the Project approval to include a display village in the Western Precinct.



4.2 Statement of Commitments

4.2.1 Statement of Commitment No. 16a

Statement of Commitment No 16a is proposed to be amended to reflect the specific bush fire planning requirements for the amended components of the subdivision. The commitments in relation to the bush fire planning measures for the remainder of the approved subdivision are retained. Amendments to the commitment are shown in underlined text.

Item No.	Item	Commitment	Timing
16a	Fire Management	<p>Stockland will establish Asset Protect Zones (APZs) in accordance with:</p> <ul style="list-style-type: none"> i. the Bushfire Assessment, January 2006, prepared by Bushfire and Environmental Services Pty Ltd and as per the modified Cardno Forbes Rigby plan (Drawing SK08 Rev P1 and SK18 Rev P3) as part of the nominated residential allotments for maintenance by lot owner; ii. <u>the APZ and AS3959 Construction Standard plans prepared by Ecological Australia attached to their letter dated 3 September 2010 in relation to the lots 326-334 in Stage 3 of the Central Precinct.</u> <p>APZs within the public open space containing WSUD will be dedicated to Shoalhaven City Council, as part of the WSUD infrastructure.</p> <p>Only fire retardant, low maintenance species which have limited growth height at maturity will be planted in the APZs.</p>	Prior to the release of the subdivision certificate by Shoalhaven City Council or Accredited Certifier for each stage

4.2.2 Statement of Commitment No. 76a

Statement of Commitment No. 76 relates solely to the display village in the Central Village. For clarity a new commitment is proposed to relate only to the display village proposed for the Western Village. The commitment contains the same or similar parameters as Commitment No. 76, but modified to be relevant to the Western Village.

Item No.	Item	Commitment	Timing
76a	Display Village - Western Village	<p>Stockland will design, construct and operate a housing display village in the Western Village of the residential subdivision.</p> <ul style="list-style-type: none"> • The design and siting of the display village will conform with the following: <ul style="list-style-type: none"> ○ The display village will be confined to proposed Lots 531-535 and Lots 550-552. ○ Each of the display homes are capable of complying with all requirements of the Concept Plan and Project Approval prior to registration of the allotments and occupation for residential purposes. ○ All display homes will comply with the built form controls and design guidelines of the Bayswood Design Essentials dated 10 December 2009, except the requirement for a rainwater tank. ○ The approved and constructed display office area and customer car parking (minimum 26 car car parking spaces) located in the Central Village will continue to operate for the life of the Western 	The operation of the display village will continue until such time as market conditions do not warrant such a village, or a maximum of 24 months after the registration of the final stage of the residential subdivision development.

Item No.	Item	Commitment	Timing
		<p>Village display homes.</p> <ul style="list-style-type: none"> ○ The provision of utility services adequate for the operation of the display village inclusive of amenities for sales staff and customers, with provision to ensure full services can be connected to all lots prior to registration. ○ Final plans, demonstrating compliance with the above requirements, together with a signage plan and landscape plan, shall be prepared and certified to be in accordance with the requirements of the Concept Plan and Project Approvals by a person authorized to issue a complying development certificate for housing in the Shoalhaven Local Government Area, prior to the issue of a Construction Certificate. • Vehicular access to the display village will be established within the proposed public roads connecting to Naval College Road prior to commencement of operations. • The hours of operation of the display village will be limited to 9am to 5pm, Monday to Sunday. • No display home will be occupied for residential purposes until after the cessation of the operation of the display village and registration of the lots and issue of Occupation Certificates. • All display homes shall be subject to works to ensure compliance as required for use as a dwelling-house prior to occupation. • The display office, car parking and any associated works not relevant to the long term residential occupation of the site will be decommissioned and works undertaken as required to render the proposed lots suitable for proposed residential occupation. 	

An updated copy of the Statement of Commitments can be provided in due course if required by the Department.

5.0 Consistency with the Concept Plan and Project Approvals

The proposed modification is considered to be generally consistent with the Concept Plan and Project approvals issued in relation to the Vincentia Coastal Village & District Centre for the following reasons:

1. Despite the reconfigurations made to the subdivision pattern, the residential subdivision layout for the Central Village will remain conceptually similar to the approved layout.
2. Although the lot yield has reduced slightly from the original approval in 2007 and most recently Modification No. 8, it is noted that the objective of diversity in product is still able to be achieved throughout the subdivision.
3. The reduction in the total residential lot yield will not have any perceptible impacts.
4. The road layout, structure and hierarchy is consistent with the Concept Plan and Project approvals with the principle of the central spines and perpendicular roads leading off these central spines being retained.
5. The display village homes will be constructed consistent with the Stockland Design Essentials, 10 December 2009 to ensure that the display homes are consistent with the character of future dwellings within the residential subdivision.



The modifications proposed are therefore considered to be consistent with the Concept Plan and Project approvals.

6.0 Environmental Assessment

This s.75W application is supported by a traffic impact assessment, bushfire protection assessment and an acoustic impact assessment. In addition an acoustic treatment plan and APZ plans have been prepared.

6.1 Bushfire Protection Assessment

An updated Bushfire Protection Assessment to address the matters raised in the Department's email of 1 July 2010 has been prepared by EcoLogical can be found at **Attachment 4**. Please note that this report addresses the lots fronting Naval College Road in the Western Village as well as Stage 3 in the Central Village. The components of Bushfire Protection Assessment report that relate to the Central Village are relevant to the subject application. The following summarises the results of the assessment.

Stage 3 Central Village

EcoLogical has reviewed the amended layout for bushfire planning purposes. The perimeter road previously provided part of the APZ and fire truck access to the lots east of Moona Creek Road. The APZ is now contained partly within the 4m wide gravel fire trail and partly within the area containing the WSUD measures. The 4m wide gravel fire trail is provided around the perimeter of the lots which is clear of the WSUD measures approved under an earlier construction certificate. Neither the APZ nor the fire trail is located within the Environmental Zone.

The report recommends that the bushfire construction levels required for future dwellings constructed on the proposed lots vary from BAL40 to BAL12.5.

Fire Trail

The Department's email of 1 July 2010 requires the fire trail to be addressed. The approved subdivision layout has perimeter road around Stage 3, and the road provided fire truck access and was part of the APZ. This application removes the perimeter road and a fire 4m wide gravel fire trail is proposed in place the perimeter road.

EcoLogical has reviewed the fire trail and considers that it complies with the Planning for Bushfire Protection Guidelines.

Maintenance of bushfire trail and APZs

The Department's email of 1 July 2010 requires the maintenance of the bushfire trail and the APZs to be addressed. **Figure 1** is an extract from the EAR, prepared by ERM dated February 2006 and illustrates the location of the approved APZs for the approved subdivision.



Figure 1: Location of approved APZs

The following discussion relates only to the APZ and new bushfire trail around Stage 3 of the Central Village. All other APZs have previously been approved as part of the Project approval.

In relation to Stage 3 of the Central Village, **Figure 1** illustrates that an APZ has previously been approved around Stage 3 in the Central Village and comprises the front setback to houses, road carriageway and part of the road reserve on the Environmental Zone side of the road. The proposed APZ is located within the land comprising the fire trail and WSUD elements. The WSUD elements comprise the majority of this land, which has always intended to be transferred to Council, and Council would then assume the responsibility for their maintenance. The fire trail is gravel which would be low maintenance and the WSUD elements which comprise the majority of the area are required to be maintained by Council in any event. The perimeter edge location of the APZ is no different to the APZ around the perimeter of the remainder of the subdivision which will be maintained by Council.

The location of the APZs has changed slightly but the principle of maintenance of the APZs by Council has not changed from that originally intended and approved as part of the Concept Plan and Project approvals.

6.2 Display Village

The new display will be serviced by the existing sales office and car parking in the Central Village. Customers will walk across the open space to the new display homes.

The display village is located on land zoned R2 – Low Density Residential zone under the Major Development SEPP (Part 29 to Schedule 3). A display village is defined as an exhibition village. Exhibition villages are a prohibited land use within the R2 zone. Despite the prohibition Section 75J(3) of the EP&A Act, 1979 provides that “*the Minister may (but is not required to) take into account the provisions of any environmental planning instrument that would not (because of section 75R) apply to the project if approved. However, the regulations may*

preclude approval for the carrying out of a class of project (other than a critical infrastructure project) that such an instrument would otherwise prohibit.”

Clause 8N of the EP&A Regulation 2000 precludes the approval for a project application under Part 3A, that:

- “(a) *is located within an environmentally sensitive area of State significance or a sensitive coastal location, and*
- (b) *is prohibited by an environmental planning instrument that would not (because of section 75R of the Act) apply to the project if approved.”* [our emphasis]

Figure 2 is an extract from the Shoalhaven LEP 1985 which maps the *sensitive coastal location*. The site is not within a *sensitive coastal location*. **Figure 2** also shows that the residential subdivision is located within a Coastal Zone, however SEPP 71 does not apply to this site (as per clause 5 to Part 29 of Schedule 3 of the Major Development SEPP).

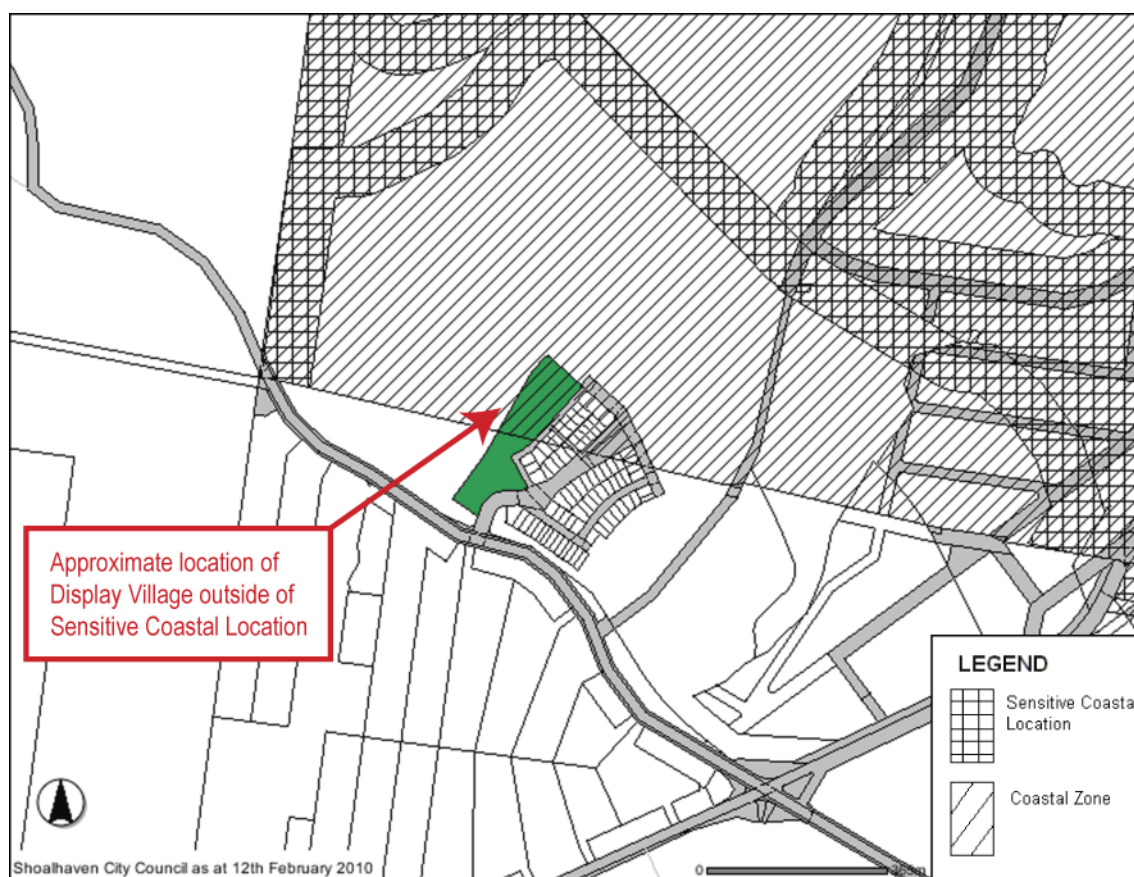


Figure 2: Coastal Sensitive Location, Shoalhaven LEP 1985

The Minister cannot grant approval if both provisions (a) and (b) apply. **Figure 2** clearly demonstrates that the residential subdivision is located outside the *sensitive coastal location*. In this instance, both provisions do not apply as the land is not a sensitive coastal location, nor is it *environmentally sensitive area of State significance*. Therefore, whilst the exhibition village is prohibited, for the purposes of clause 8N, the Minister is able to approve the s.75W modification for the proposed exhibition village.



7.0 Summary and Conclusion

The proposed modification to the Concept Plan and Project approval is submitted in accordance with the provisions of s.75W of the Act to request that the Minister modify the Concept Plan Approval (MP 06_0060), the Project Approval (MP06_0058) and the Statement of Commitments that relate to the Vincentia Coastal Village & District Centre development.

The environmental issues of bushfire management have been reviewed and the impact mitigation responses proposed are similar to those mitigation measures employed elsewhere in the approved subdivision. The Statement of Commitments has been amended accordingly to reflect the additional requirements for the affected lots.

The proposed modifications to the approval are considered to be consistent with the approval and are not expected to give rise to any adverse environmental impacts.

Should you have any questions in relation to this application please do not hesitate to contact David Kettle on 9980 6933.

Yours faithfully

DON FOX PLANNING PTY LIMITED

A handwritten signature in black ink, appearing to read 'D. Kettle', written over a horizontal line.

DAVID KETTLE
SENIOR TOWN PLANNER

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Encl.

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| Attachment 1 | Application form |
| Attachment 2 | Amended residential subdivision layouts for the Central Village |
| Attachment 3 | Location of display village in Western Village |
| Attachment 4 | Bushfire Protection Assessment report prepared by Ecological dated 3 September 2010 |