



Planning & Environment

ASSESSMENT REPORT

Section 75W

George Bass Drive, Barlings Beach, Tomakin Eurobodalla Local Government Area DA 77-03-2002 MOD 9

1. BACKGROUND

This report is an assessment of a modification request seeking approval to modify the development consent for a residential subdivision at George Bass Drive, Barlings Beach, Tomakin (DA 77-3-2002 MOD 9). The request has been lodged by President Property Group, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act), seeking to modify the approved subdivision layout to increase the size of eight residential lots and reduce the total number of lots from 201 to 200.

2. SUBJECT SITE

The subject site is located on George Bass Drive, Tomakin, in the Eurobodalla Local Government Area and is legally described as Lot 81 in Deposited Plan 1158006. To the north the site has frontage to George Bass Drive, to the east is a caravan park, to the south is the Barlings Beach dunal system, and to the west are low density residential developments (see Figure 1).

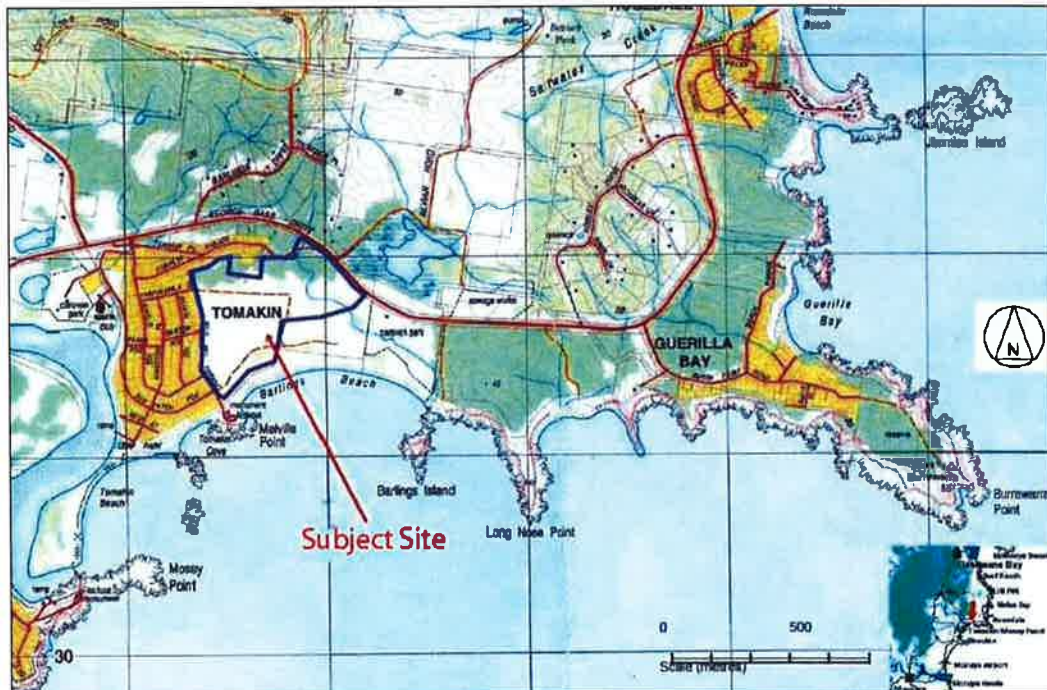


Figure 1: Site Location

The site has approval for a residential subdivision, to be constructed over five stages. To date, subdivision certificates have been issued for stages 1 and 1a and subdivision works within Stage 2 have commenced.

3. APPROVAL HISTORY

On 17 December 2005, the then Minister for Planning granted development consent for a 159 lot residential subdivision, including clearing of vegetation, filling, construction of roads, associated infrastructure and the provision of conservation zones and open space over five stages.

The approved development has been modified on eight occasions to:

- increase the number of lots from 159 to 201;
- amend the corner allotment setbacks from 3 m to 2 m;
- modify the wording of conditions E1(b) and (f), E2, E5, E6, E8 and E9 to allow staging and future works prior to subdivision certificates being issued;
- realign John Penn Drive to allow for services within the road reserve;
- increase the depth of lots 45 to 55, 86 to 90 and 130 to 135 and integrate the APZ into these lots;
- amend conditions E3 and F1 to describe the relevant lot numbering and to permit the construction of an Aboriginal cultural/retail facility on Lot 202; and
- various minor administrative changes related to the payment of bonds to Council.

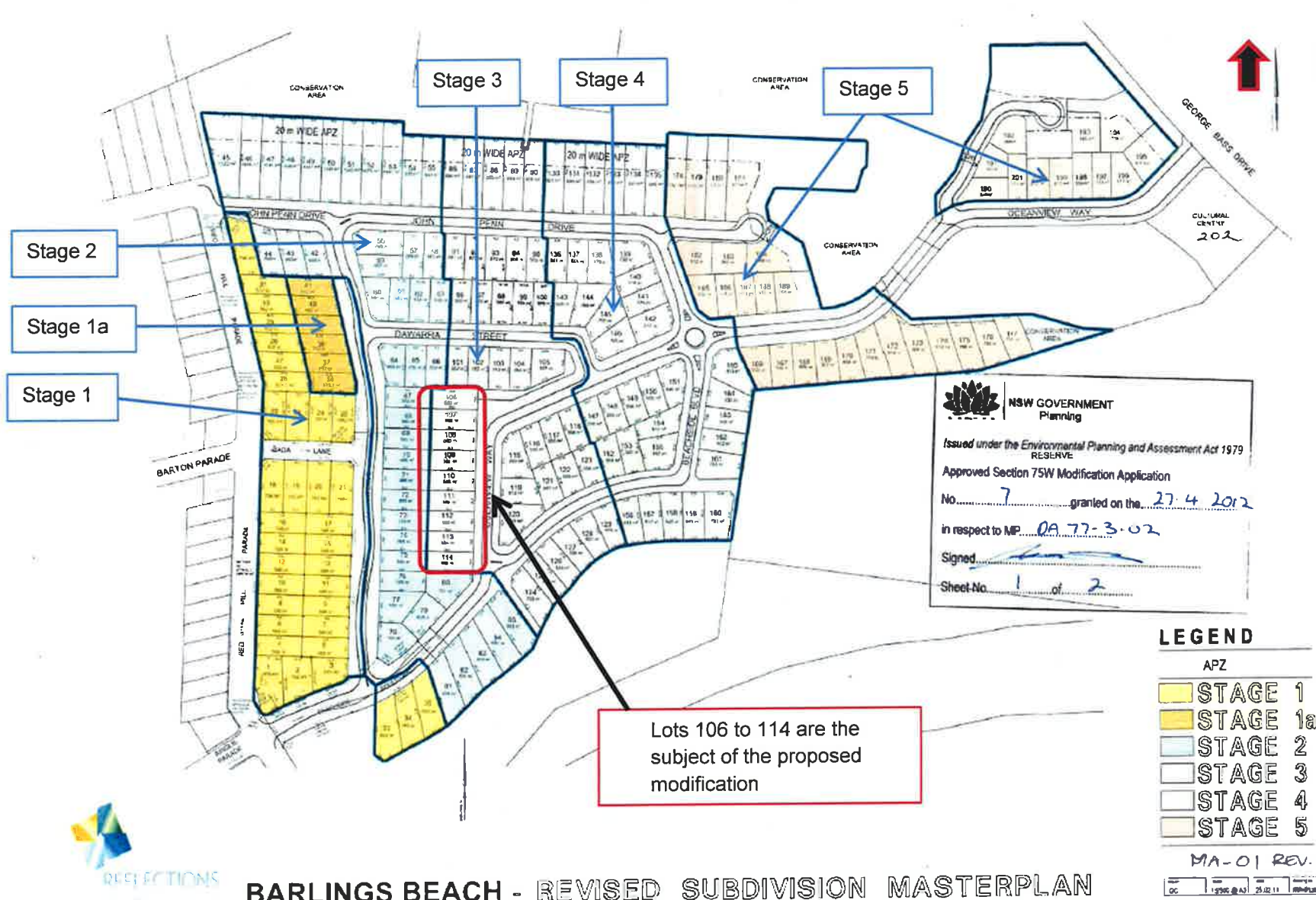
4. PROPOSED MODIFICATION

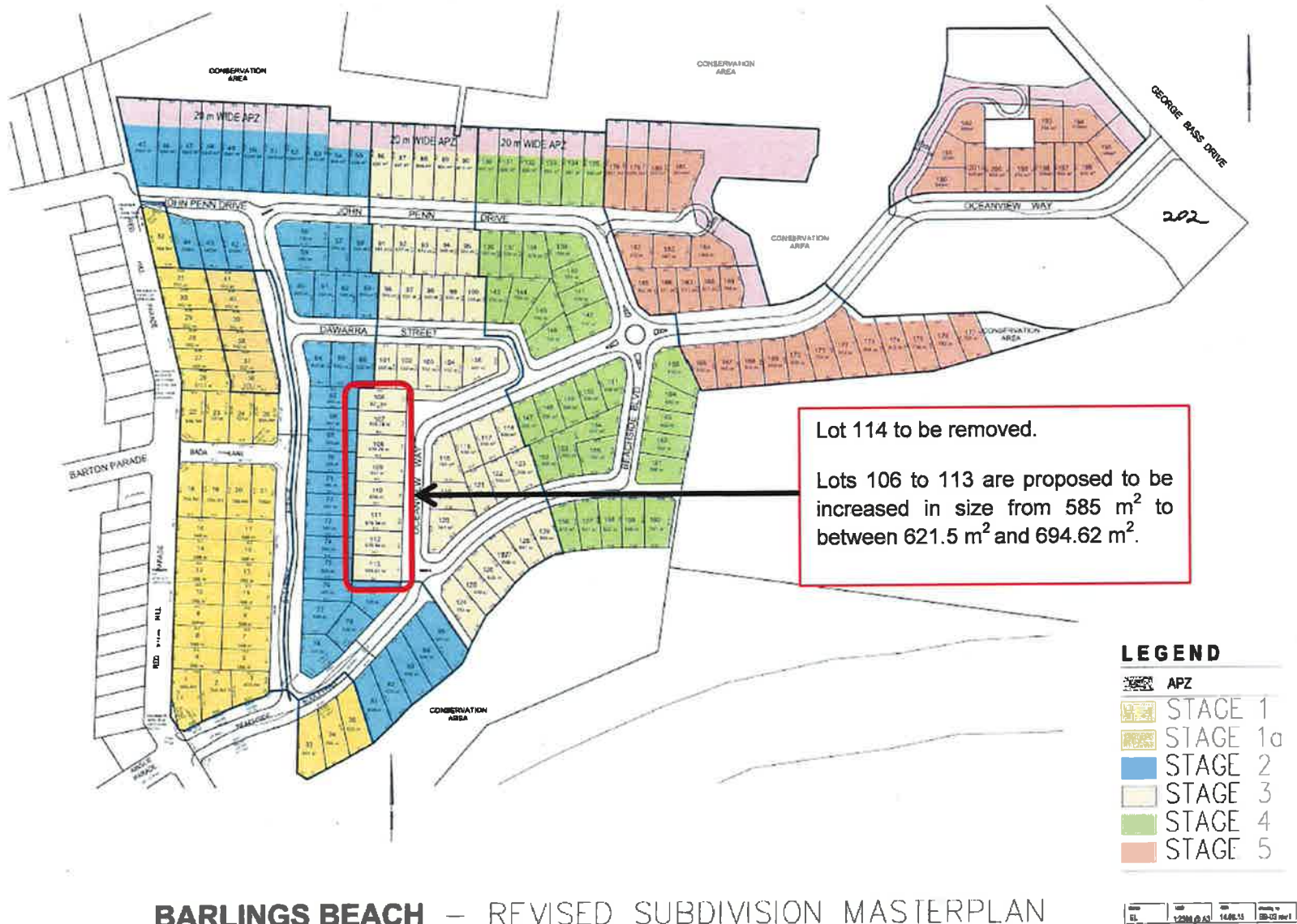
On 9 September 2015, the Proponent lodged a section 75W modification request (DA 77-03-2002 MOD 9) seeking approval to delete Lot 114 and increase the size of lots 106 to 113. This will reduce the total number of lots across the site from 201 to 200.

The proposed modifications have been sought to respond to increased market demand for larger lots close to the foreshore.

A comparison of the approved and the proposed Plan of Subdivision is provided in **Figures 2 and 3** overleaf.

Conditions A1, A2 and E9 of the consent are proposed to be modified to reflect the proposed modifications to the approved Plan of Subdivision.





BARLINGS BEACH – REVISED SUBDIVISION MASTERPLAN

Figure 3: Proposed Plan of Subdivision

5. STATUTORY CONSIDERATION

5.1 Approval Authority

Under the Instrument of Delegation dated 16 February 2015, the then Minister for Planning delegated responsibility for the determination of section 75W modification requests to Directors and Managers who report to the A/Executive Director, Social Projects and Industry Assessments where:

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

The proposal complies with the terms of the delegation as Eurobodalla Shire Council (Council) did not object to the proposal, a political disclosure statement has not been made in relation to the modification request, and no public submissions were received in the nature of objections. Accordingly, the A/Director, Industry Assessments may determine the modification request in accordance with the Minister's delegation.

5.2 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, continues to apply to section 75W modifications to State significant development applications transitioned to Part 3A of the EP&A Act pursuant to clause 8J(8)(c) of the EP&A Regulation.

The Department of Planning and Environment (the Department) is satisfied that the proposed changes constitute a modification to the original development consent and are within the scope of section 75W of the EP&A Act as:

- the primary function and purpose of the approved development would not change as a result of the proposed modification; and
- the environmental impacts associated with the development remain unchanged, and can be appropriately managed through the existing or modified conditions of consent.

Accordingly, the Department considers that the modification request can be determined under section 75W of the EP&A Act.

6. CONSULTATION

The modification request was made publicly available on the Department's website and referred to Eurobodalla Shire Council for comment on the 9 September 2015. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

The Department received a submission from Eurobodalla Shire Council who raised no objection to the application and did not provide any additional comments. It should be noted that no public submissions have been received.

7. ASSESSMENT

In its assessment of the modification request the Department has considered the following:

- the planning report provided to support the proposed modification (see **Appendix A**); and
- the Director-General's assessment report for the original development application and subsequent modification requests.

The application is seeking approval to delete Lot 114 and to increase the size of lots 106 to 113 from 585 m² to between 621 m² and 694 m² as depicted in **Figure 4** overleaf:

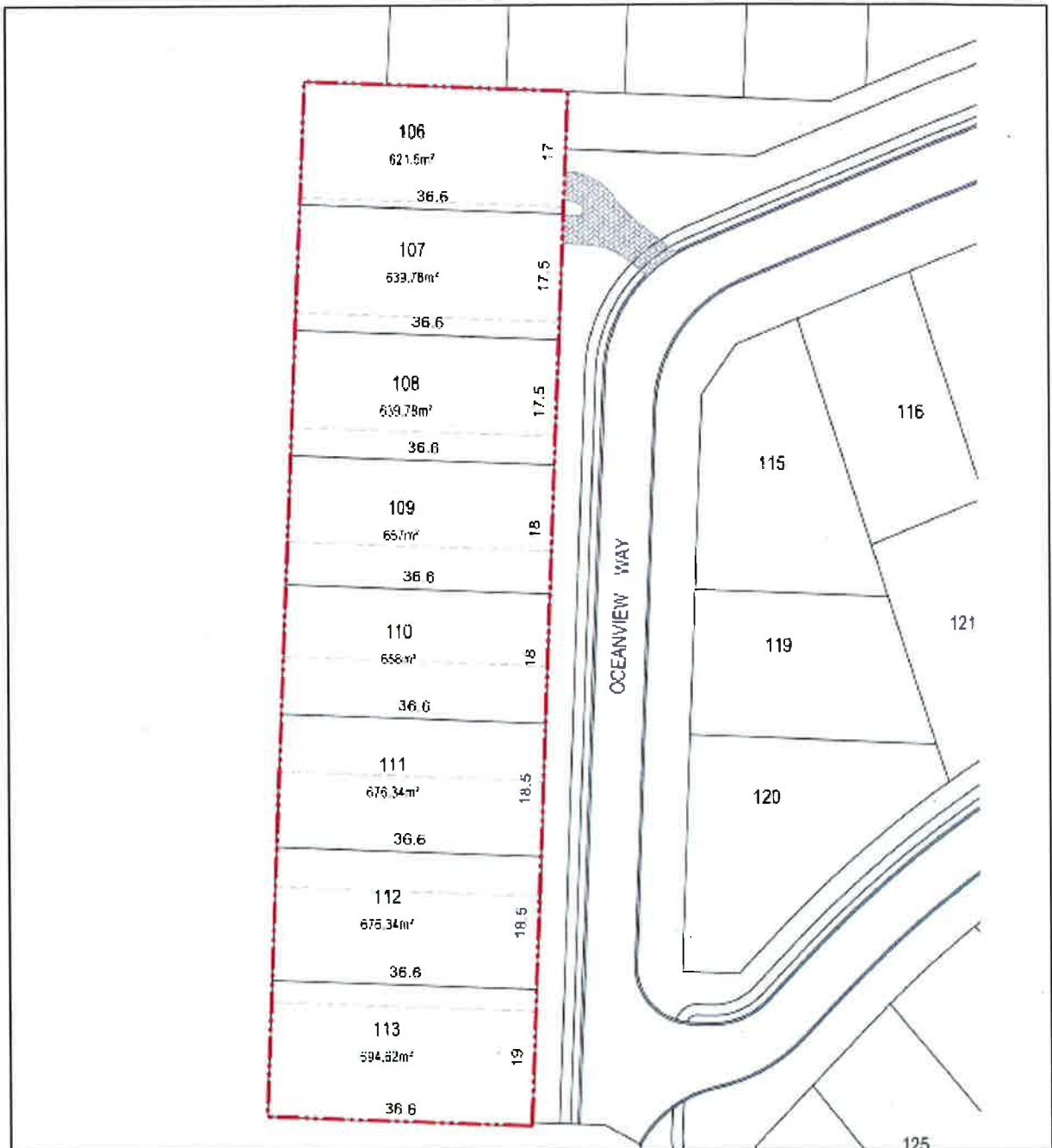


Figure 4: Proposed Lot Sizes

The proposed lots sizes remain consistent with the overall lot sizes of the approved subdivision, which generally range between approximately 552 m² and 900 m². The minimum lot size for land zoned 'Low Density Residential R2' in the *Eurobodalla Local Environmental Plan 2012* is 550 m², which the proposed lot sizes will comply with.

The Department has assessed the proposed modifications to the approved Plan of Subdivision and has concluded that:

- the lots sizes are generally consistent with the overall original approval;
- the original approval did not approve building envelopes or details within Lots 106 to 113;
- the proposed modification will not generate the need for additional servicing infrastructure; and
- the proposed modification will not result in any additional environmental impacts beyond those assessed under the original development application, or the previous modification requests.

Accordingly, the Department supports the proposed modifications to the subdivision layout.

8. CONCLUSION

The Department considers the proposed modification is appropriate on the basis that:

- the application will still facilitate the creation of residential lots; and
- will not result in any additional environmental impacts beyond those assessed under the original development application or previous modification requests.

Consequently, the Department has concluded that the modification application should be approved subject to the conditions recommended in the Instrument of Modification at **Appendix B**.

9. RECOMMENDATION

It is recommended that the A/Director, Industry Assessments, as delegate of the Minister for Planning, approve DA 77-03-2002 MOD 9, subject to the conditions recommended in the Instrument of Modification at **Appendix B**.



Peter McManus
A/Team Leader
Industry Assessments

19/10/15



Kate MacDonald
A/Director
Industry Assessments

19/10/15

APPENDIX A: MODIFICATION REQUEST DA 77-03-2002 MOD 9

Refer to the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7269

APPENDIX B: INSTRUMENT OF MODIFICATION
