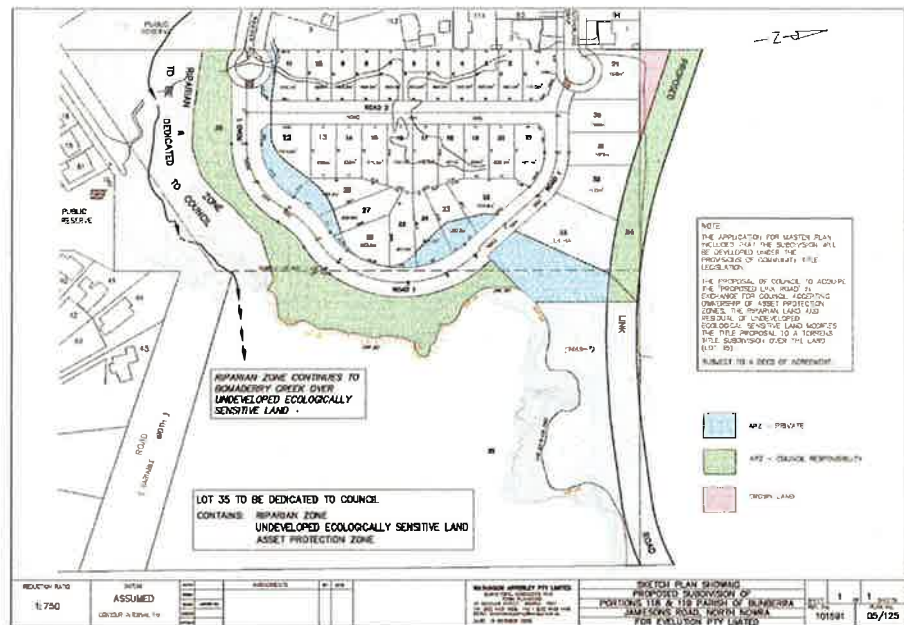




**MODIFICATION REQUEST:
To Amend the Approved Conditions to Allow
for Staging of the Subdivision.**

**Lots 118 & 119 Jamieson Road, Nowra
MP 06_0090 MOD 3**



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

July 2012

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1. BACKGROUND

The site (refer **Figure 1**) has a total area of 11.08 hectares (ha). Lot 118 has an area of 5.01ha and Lot 119 has an area of 6.07ha. The site is located to the north of the Shoalhaven River and the Nowra town centre. Lot 119 is located adjacent to the Bomaderry Creek Regional Park, and Lot 118 is located west of Lot 119 and is adjacent to the existing residential areas of Warren Avenue and Sutherland Drive.

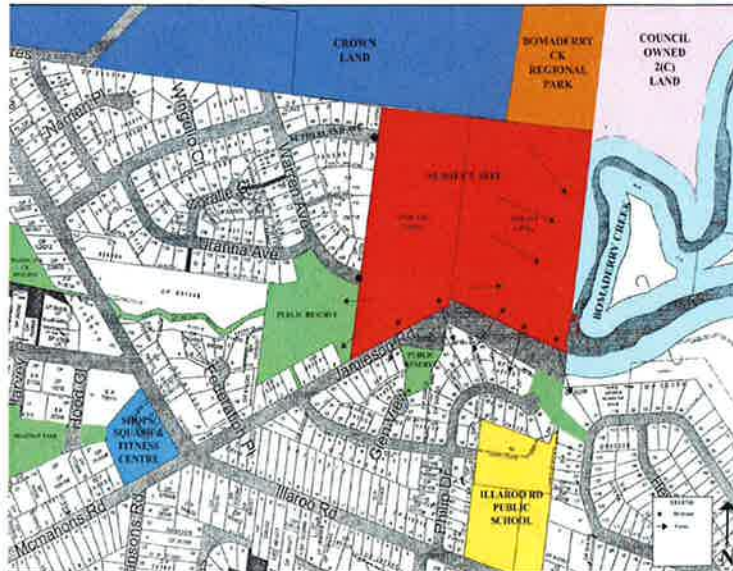


Figure 1 – Subject Site

On 15 October 2007, the then Minister for Planning granted Project Approval (06_0090) to subdivide land at Jamieson Road, North Nowra (Lots 118 & 119 DP 751258) into 35 lots including 33 residential lots, 1 lot containing a riparian zone, asset protection zone and ecologically sensitive areas and another containing a proposed road link (refer **Fig 2**).



Figure 2 – Approved layout

Previous Modifications

MP06_0090 (MOD 1) – Modification to the approved stormwater management system and landscape plan. The modification also amended the timing of payment of the Section 94 Contributions.

MP06_0090 (MOD 2) – Modification to amend condition B4 Vegetation Management Plan to apply to the study area being the residential development area and the asset protection zones within Lot 35.

2. PROPOSED MODIFICATION

The modification proposes the subdivision be staged. Stage 1 will deliver lots 1 to 21 and lots 29 to 32 and the residue lot. Stage 2 proposes to deliver lots 22 to 28 and lots 33, 34 and 35 being the North Nowra Link Road corridor, and the public reserve to be dedicated to Council.

The modification will require a number of changes to the previously approved conditions. Council have provided their preferred wording for the conditions to be modified. The proponent has no objection to Council's preferred conditions.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

The modification application was lodged with the Director-General pursuant to Section 75W of the Act, which provides for the modification of a Minister's approval including *'revoking or varying a condition of the approval or imposing an additional condition of the approval'*.

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

The Minister's approval for a modification is not required if the project, as modified, would be consistent with the existing approval under this Part. In this instance, approval is required as it will change an approved condition of the approval.

3.2 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division where there are less than 10 public submissions, where Council has not objected and where no political donations have been made.

Council supports the amended condition, no public submissions were received and the Proponent has confirmed that they have not made any declarable political donations now or at the time of the original application. The modification may therefore be determined by the Director – Metropolitan and Regional Projects South.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and was referred to the Shoalhaven City Council. Due to the minor nature of the proposed modification, the modification request was not exhibited by any other means.

Council advised that they do not object to the proposed modification provided the Department amend the approval conditions with Council's recommendations.

The proponent raises no objection to Council's recommended conditions.

5. ASSESSMENT

The Department considers that the key issue relate to amending the approval conditions to reflect the proposed staging of development. The affected conditions are as follows:

- **Amendment to conditions**

Condition B13 Monetary Contributions

The staging of the residential subdivision requires an amendment to condition B13 (1) and the appropriate contribution tables for each stage of development. The Department considers the S94 contributions provided by Council to be appropriate for each stage of the development.

New condition B13a Water and Sewer Contributions

The development promises reticulated water and sewer to each lot. This requires the proponent to liaise with Shoalhaven Water to receive a *Development Notice* based on the proposed 2 stage development. Council requests that an additional condition to B13 be included for the water and sewer contributions.

The Department considers that this is an appropriate request and has recommended an additional condition be included to ensure water and sewer payments are made to Shoalhaven Water as is referenced in S109 of the EP&A Act.

New condition B22 Temporary Turning Bay

A temporary vehicle area is required to enable emergency and Rural Fire Service (RFS) vehicles to turn around at the ends of the Stage 1 roads within the residue lots.

The Department supports the provision of temporary vehicle areas as this is essential for manoeuvrability of emergency and RFS vehicles.

New condition E2a Easement for Drainage over Unconstructed Stages

The proposal includes the construction of roads as extensions of Sutherland Drive and Warren Avenue and a proposed road that will link them. The drainage works for Stage 1 will be directed through the Stage 2 portion of the development with discharge points to land that will be dedicated to Council as public reserve in the future.

Council requests a modification to the approval conditions to create easements within the Stage 2 development for drainage infrastructure. These easements may become redundant when the Stage 2 road is constructed and dedicated to Council.

The Department considers that the easements are appropriate to ensure the efficient management of on site drainage and to ensure that drainage does not impact the land to be dedicated to Council for a public reserve.

Amending Statement of Commitments no.8 Bushfire Risk

The land is subject to bushfire risks. Council request that the proponent update their Statement of Commitments no. 8 Bushfire Risk to create an easement for bushfire Asset Protection Zones (APZ) burdening the owner of the undeveloped portion (Stage 2) for lots 32, and lots 12-21 inclusive. The APZs and treatment of no through roads are to be assessed according to current bushfire planning legislation *Planning for Bushfire Protection 2006*.

The proponent has updated their statement of commitments.

Additional conditions have been included to each part of the consent to be applicable to the relevant stages of development

6. CONCLUSION AND RECOMMENDATIONS

The Department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved.

It is therefore recommended that, subject to the amended conditions, the proposed modification be approved.

It is **RECOMMENDED** that the Director, Metropolitan and Regional Projects South, as delegate for the Minister for Planning and Infrastructure:

- **note** the information provided in this report;
- **approve** the modification request, subject to conditions; and
- **sign** the attached modifying instrument.

Endorsed by:



Jodie Leeds
Planning Officer
Metropolitan & Regional Projects South



David Rohloff
A/Team Leader
Metropolitan & Regional Projects South

Approved by:



Alan Bright
A/ Director
Metropolitan & Regional Projects South

APPENDIX A MODIFICATION REQUEST

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX B SUBMISSIONS

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
