



ASSESSMENT REPORT

Section 75W Modification of Newcastle Coal Infrastructure Group Coal Export Terminal (MP 06_0009 MOD 1)

1. BACKGROUND

1.1 Introduction

The Newcastle Coal Infrastructure Group (NCIG) Coal Export Terminal on Kooragang Island within the Newcastle local government area was approved by the Minister for Planning on 13 April 2007 (see Figure 1).

The project will involve the following activities:

- foundation preparation/capping of a rail corridor traversing the existing Kooragang Island Waste Emplacement Facility for the development of the rail spurs, rail sidings and rail loops;
- construction of rail spurs, rail sidings and rail loop, rail overpass, train unloading stations and connecting conveyors;
- re-use of dredged materials from the south arm of the Hunter River as preload and engineering fill for construction of the coal storage area, rail corridor and wharf facilities;
- construction of a coal storage area including coal stockpiles, conveyors, transfer points and combined stacker/reclaimers;
- construction of wharf facilities (three shipping berths), two rail-mounted shiploaders, conveyors and two buffer bins, each capable of storing 2,000 tonnes of coal;
- development of water management infrastructure including site drainage works, stormwater settlement ponds, primary and secondary settling ponds, site water pond, water tanks and stockpile spray system;
- installation of electricity reticulation and control systems;
- development of access roads and internal roads;
- construction of administration and workshop buildings;
- other associated minor infrastructure, plant, equipment and activities; and
- operation of the Coal Export Terminal up to a capacity of 66 million tonnes per annum (Mtpa), including the unloading of coal trains, the stockpiling of coal, and the loading of coal to ships via wharf facilities and shiploaders.

The site is surrounded by industrial uses, principally associated with the coal industry. Land use in the vicinity of the site is shown in Figure 2.

1.2 Modification Request

In September 2004, the NSW Government placed out to tender a 35 year lease for nominated portions of land on Kooragang Island for general use (including the possible use as a coal export terminal). The NSW Government named NCIG as the successful tender for the lease of the project site on 25 August 2005.

Subdivision of the land, which is the subject of this modification request, is required in order to facilitate the registration of the leasehold over the land area from the State Property Authority. The State Property Authority will continue to be the landowner following subdivision of the land.

On 22 October 2007, NCIG requested a modification to the Minister's project approval (06_0009) under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to allow for the subdivision of land associated with the approved NCIG Coal Export Terminal.

The proposed modification relates to the subdivision of the land to enable it to be leased to NCIG. Once the lease agreement is in place, and provided all outstanding relevant consent conditions have been complied with, NCIG can commence construction works for the project. This does not preclude dredging of clean sediment in the Hunter River south arm. The description of the land that makes up the site and its tenure is outlined below in Table 1.

Table 1 - Land Tenure

Lot/Deposited Plan (DP)	Land Administrator	Land Owner
Part Lot 122 DP 874949	RLMC	Crown (NSW Treasury Crown Property Portfolio)
Part Lot 7 DP 1015754*	RLMC	Minister for Public Works and Services
Part Lot 6 DP 1015754	RLMC	Minister for Public Works and Services
Part Lot 20 DP 262325	NSW Maritime	NSW Maritime
Part Lot 2 DP 581473	Minister for Public Works and Services (RLMC)	Minister for Public Works and Services

*Since the preparation of the Environmental Assessment, Energy Australia has subdivided Lot 7 DP 1015754 into Lots 71, 72, 73 and 74 of DP 1119950 to enable the construction and operation of a substation to service the NCIG project and other developments on Kooragang Island. As a consequence of this subdivision, Lots 71 and 74 in DP 1119950 have been created as the residual land of the former Lot 7 DP 1015754. Since the Energy Australia subdivision has now been registered the former Lot 7 DP 1015754 no longer exists.

The location of the lots outlined in Table 1 are shown in Figure 3.

Lease areas (each divided into their respective lots) are required as part of the lease agreement tied to the ultimate capacity of the project, as shown on Figure 4 and outlined as follows:

- Lease area for 30 million tonnes per annum – subdivision to create Lots 1 and Pt 8;
- Lease area for remaining 36 million tonnes per annum – subdivision to create Lots 2, 3, 6, and Pt 7;
- Lease area for berthing facilities – subdivision to create Lots 61 and 62.

NCIG is not planning to lease any residual land that it does not intend to utilise as part of the project. The size of the proposed respective lots and their intended usage are detailed in Table 2.

It should be noted that the creation of Lots 61, 62 and 63 are within land owned by NSW Maritime. NSW Maritime has consented to the modification request but has advised that the subdivision of land to be leased from NSW Maritime will be dependent on the final configuration of wharf facilities. The subdivision boundaries will then be defined by a work-as-executed survey of the extremities of the structures constructed.

The abovementioned created lots include land required for the construction and operation of the NCIG Coal Export Terminal as well as residual land and land needed for various easements. The following easements are required:

- 45 m wide easement to Energy Australia for utility infrastructure requirements (Lot 18);
- Pacific National Access Road (Lot 18);
- Access to navigation aids (Pt 8);
- 35 m wide easement to NSW Roads and Traffic Authority for the operation of Cormorant Road (Lots 4, 5, 12 and 17); and
- various existing rights of carriageway as outlined in Figure 4.

Table 2 – Lot Areas and Intended Use

	Proposed Lot Number	Area (ha)	Intended Use
Land Based Lots	1	124.08	NCIG project with a capacity of 30 million tonnes per annum comprising coal stockpiles, rail line, train unloading station, inbound sampling station, primary settling pond, secondary settling pond, clearwater pond, tanks and pump station, administration and workshop area, wharf facilities.
	1 & 4	0.0561	Overhead conveyor.
	2	29.82	Coal stockpiles associated with the remaining 36 million tonne per annum capacity of the NCIG project.
	3	3.677	Wharf facilities associated with Lot 2.
	4	3.962	Cormorant Road
	5	0.210	Cormorant Road
	6	0.0868	Small land area to allow for potential movement in definition of access road onto/off Cormorant Road.
	Pt.7	7.266 (total)	Future rail area associated with remaining 36 million tonnes per annum capacity.
	Pt. 8	0.180	Shipping navigational aids
	9	8.750	Northern (future) rail spur corridor
	10	77.32	Residual land
	11	10.70	Residual land
	12	109.80	Residual land
	1 & 12	0.149	Delta Road underbridge/rail overbridge
	13	3.422	Residual land
	14	20.92	Residual land within rail loop
	15	2.245	Residual land (Raven Street)
	16	1.701	Residual land (existing drainage channel)
	17	2.988	Residual land (Cormorant Road)
	18	11.01	Residual land (Pacific National access road and easement for Energy Australia transmission lines)
	1 & 18	0.0266	Connection between sampling station and coal stockpiles
Water based lots	61		Berth K8, berth K9, shiploaders and eastern mooring dolphin
	62		Berth K10 and shiploader
	63		Navigational channel of the south arm of the Hunter River.

NCIG has consulted with NSW Roads and Traffic Authority and Energy Australia regarding easement requirements and the Department has sighted correspondence which indicates that these agencies are satisfied with the proposed subdivision plans. NCIG has requested and obtained landowners consent from both Regional Land Management Corporation (RLMC) and NSW Maritime for proposed subdivision of land in their ownership. RLMC acts on behalf of the Minister for Public Works and Services and the State Property Authority as land administrator.

The proposed subdivision does not involve any subdivision works. Additionally, the proposed subdivision does not impact on the operation of surrounding existing and future adjoining development.

1.3 The Site

The project site is located on Kooragang Island approximately 6 km north-west of the Newcastle central business district (CBD). The land is currently administered by the Regional Land Management Corporation (RLMC), NSW Maritime and the Minister for Public Works and Services. The site comprises part of the Kooragang Island Waste Emplacement Facility (KIWF) and reclaimed land located between the south arm of the Hunter River and existing industrial development on the island.

1.3.1 Surrounding Development

Kooragang Island is characterised by a combination of port, marine and industrial land uses in the south, the Kooragang Nature Reserve to the north and Kooragang Wetland Rehabilitation Project to the west. Land uses in the immediate vicinity of the site include Blue Circle Southern Cement, Origin Energy and Port Waratah Coal Services' Kooragang Coal Terminal as well as Delta EMD Australia's licensed landfill.

1.4 Statutory Context

1.4.1 Project Approval

The NCIG project was approved by the Minister for Planning on 13 April 2007 in accordance with section 75J of the EP&A Act. The project was assessed by the Department and also independently by an Independent Panel of Experts, established by the Minister for Planning on 4 October 2006 to assess specific aspects of the proposal. The Panel held public hearings on the project in November 2006. The Panel's report indicated that the Panel was satisfied that the project could be undertaken within acceptable environmental limits, subject to the imposition of conditions. The Department generally adopted the Panel's recommendations, where those recommendations directly related to the project and could be lawfully imposed as conditions of approval.

1.4.2 Approval Authority

On 7 June 2007, the Minister for Planning delegated his powers and functions under 75W of the EP&A Act to the Executive Director of Major Project Assessments, in the case where:

- 1) the development the subject of a modification request is less than 50% the capital investment value of the project as originally approved; and
- 2) there are fewer than 10 submissions from the general public in relation to the modification request; and
- 3) the modification does not increase the approved combined gross floor area of all buildings or the approved maximum height of any buildings.

The subject modification request complies with criterion one. Given that the modification will not involve any change to the use of the land, it was not required to be exhibited and so criterion two does not apply. Similarly, the proposed modification does not seek to change any buildings associated with the project and therefore criterion three does not apply.

Consequently, the Executive Director of Major Project Assessments may determine the modification request under delegated authority.

1.4.3 Permissibility

The project site is zoned 4(b) Port and Industry Zone under the Newcastle Local Environmental Plan, 2003 (LEP). The proposed modification is permissible with consent under the LEP. The LEP does not prescribe minimum lot sizes for land zoned 4(b) Port and Industry Zone.

1.4.4 Objects of the EP&A Act and Environmental Planning Instruments

As the proposed modification does not materially affect the project as approved, it is considered that the project remains consistent with the objects of the EP&A Act and the objectives of State Environmental Planning Policy (Major Projects) 2005.

Whilst the modification request does not need to comply with Council's DCP 2005 (in particular element 7.4.6 Subdivision), the applicability of the objectives relating to subdivision are limited by the existing project approval. Notwithstanding, specific provisions relating to access and easements have been considered.

1.5 Consultation

Under section 75W of the Act, a request for a modification of approval is not required to be publicly exhibited. Notwithstanding, in accordance with the requirements of section 75X of the EP&A Act, the Department has made the modification request publicly available on the Department's website and consulted with Newcastle City Council.

Newcastle City Council undertook a preliminary review of the proposed modification and requested that the Proponent provide details of each lot (including land area) and a brief summary of the infrastructure to be contained on each lot and its intended use. Council also indicated that the Proponent should give more thorough consideration to the layout of the proposed subdivision, having regard to the intended uses and the creation of appropriate easements for all lots. Council has also indicated that the Department should consult with the RTA regarding Cormorant Road. In addition, Council questioned whether the proposed development could be considered as a modification to the project approval.

In relation to comments made by Newcastle City Council in their submission, the Proponent provided additional information regarding lot areas, infrastructure and intended use for each lot and this information has been incorporated into Table 2 of this report. The Department has also reviewed the layout of the proposed subdivision and all parcels of land to ensure that all lots have been provided with adequate access and are not land locked. The Proponent has confirmed that there will be no land locked lots created as a result of the proposed subdivision.

The details and boundaries associated with the remaining sections of Cormorant Road are yet to be agreed to between RLMC and the RTA. The RTA was consulted about the modification request and was satisfied with the proposed subdivision plan and the dedication of a lot for the remaining section of Cormorant Road to occur at a later stage.

2. CONSIDERATION

The Department has assessed NCIG's modification request and Newcastle City Council's submission on the proposal. The proposed modification is consistent with the approved project in terms of land area, location and access requirements. The Department has no objection to the proposed subdivision of land noting that all residual land parcels do not become land locked as a result and are provided with a reasonable means of access.

The Department understands that the proposed subdivision does not involve any building works and therefore does not fundamentally change any aspect of the project subject to the Minister for Planning's approval dated 13 April 2007. It was determined that there was no need to notify the Proponent of additional environmental assessment requirements pursuant to section 75W(3) of the EP&A Act. Pursuant to section 75S of the EP&A Act, the relevant provisions of Part 4 and Part 4A, in relation to subdivision, apply. Certification of the subdivision, if approved, may be carried out by an accredited certifier by operation of section 109D(1)(d) of the EP&A Act and clause 11 of *State Environmental Planning Policy (Major Projects) 2005*.

The Department is satisfied that the proposed subdivision will not affect existing easements and rights of carriageway and will facilitate access to residual land. The Department is satisfied that the proposed modification will not change any of the impacts of the project (either beneficially or adverse) as approved.

3. CONCLUSION

The Department is satisfied that the proposed subdivision would not alter the impacts associated with the approved Coal Export Terminal in any way. The proposed modification is required for the facilitation of registration of the lease agreement between NCIG and the NSW Government (State Property Authority).

The Department is satisfied that the project as modified would remain consistent with the project approved by the Minister for Planning on 13 April 2007.

4. RECOMMENDATION

It is recommended that the Executive Director exercise the powers and functions delegated to him in the Minister's instrument of delegation, dated 7 June 2007, and:

- consider this report; and
- approve NCIG's modification request under section 75W of the EP&A Act by signing the attached instrument of modification approval (Tag A).

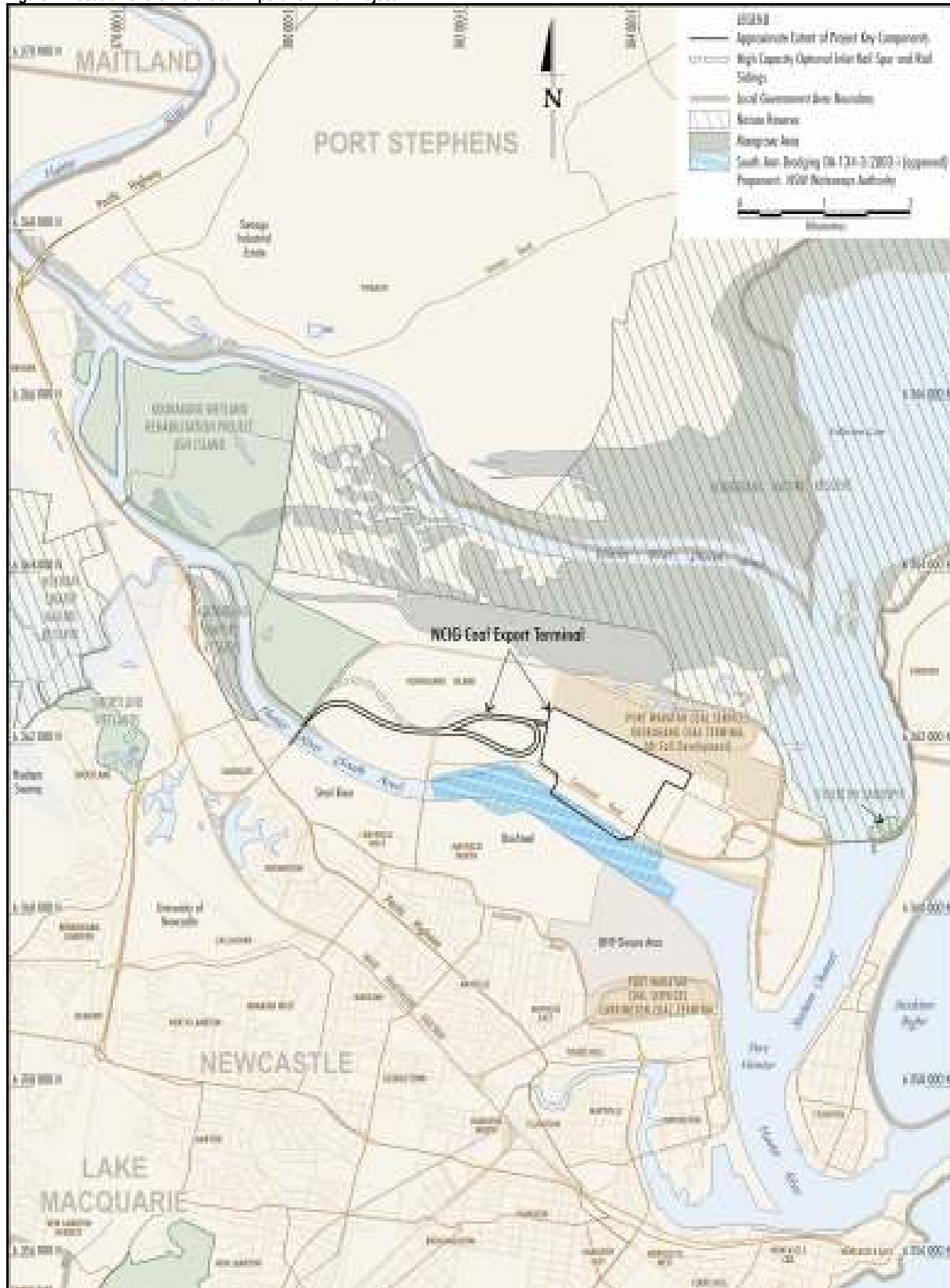
Glenn Snow
A/ Team Leader, Transport
Major Infrastructure Assessments

Lisa Mitchell
A/ Director
Major Infrastructure Assessments

Signed 27 November 2007

Chris Wilson
Executive Director
Major Project Assessment

Figure 1. Location of the NCIG Coal Export Terminal Project



Source: from Figure 1.1 of Environmental Assessment (Resource Strategies, July 2006)

Figure 2. Site and Surrounding Land Use



Source: Figure 1.2 from Environmental Assessment (Resource Strategies, July 2006)

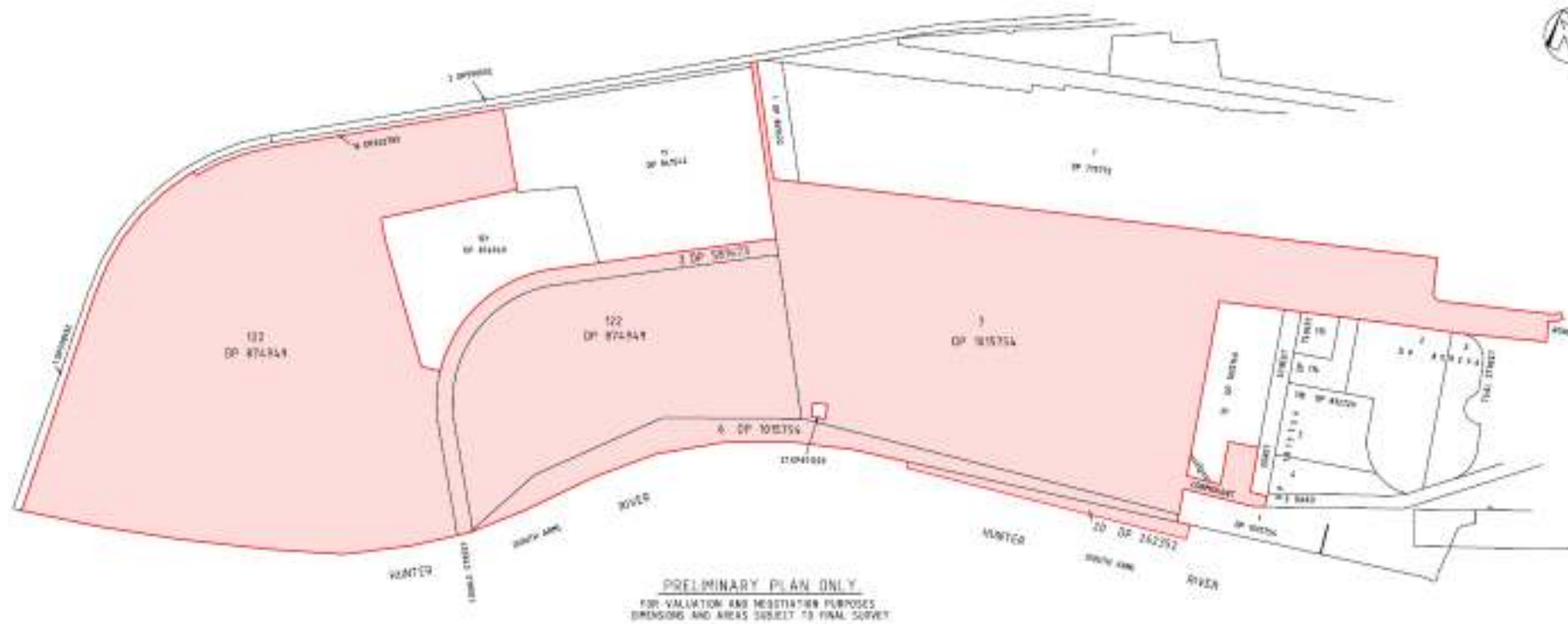
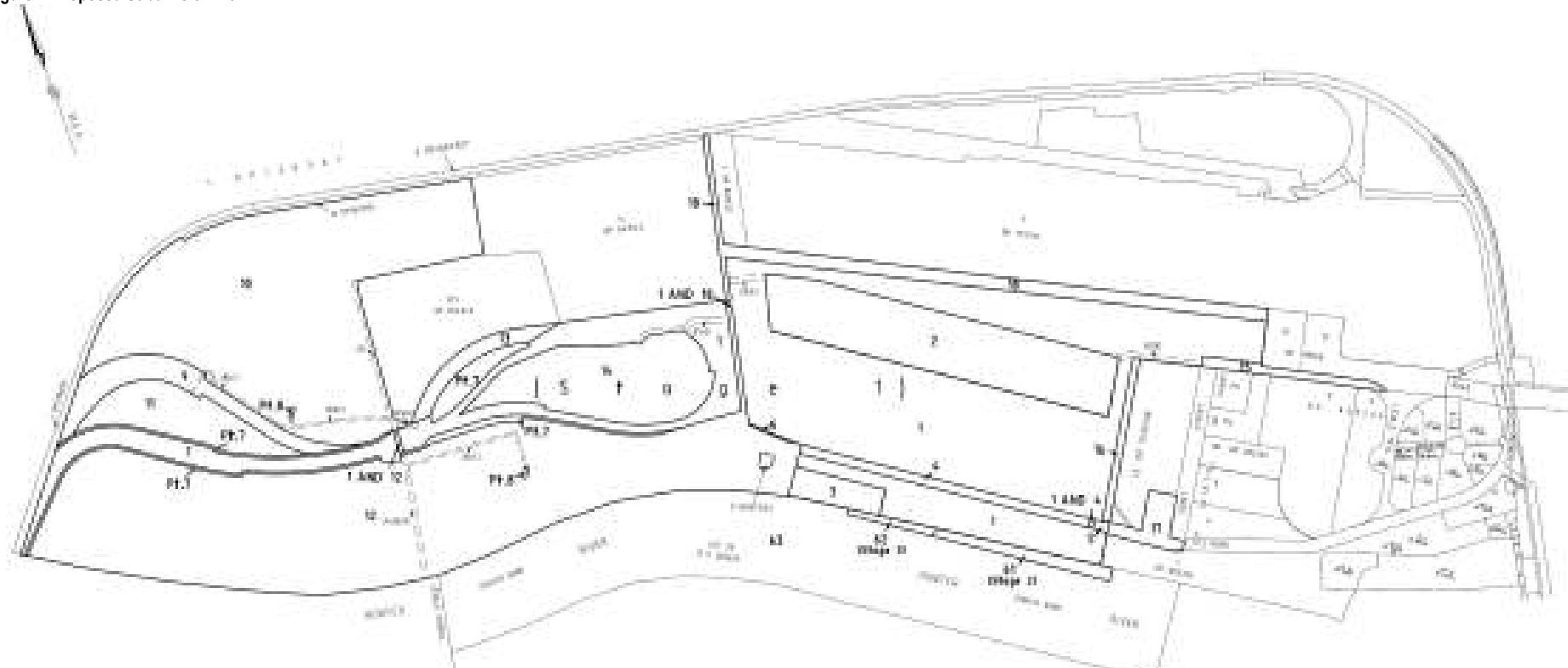


Figure 4. Proposed Subdivision Plan



STAGE 1
PROPOSED SUBDIVISION OF LOT 122 DP674948,
LOT 3 DP581473, LOT 6 DP1015754 AND
LOTS 71 AND 74 IN DP1116660

STAGE 2 & 3
PROPOSED SUBDIVISION OF LOT 28 DP262325

- (A) EXISTING RIGHT OF CARBONISEWAY 10 MIDE & VARIABLE WIDTH (OPENING)
- (B) RIGHT OF ACCESS 10 MIDE, 15 MIDE AND VARIABLE WIDTH (PARTLY LIMITED IN HEIGHT)
- (C) EASEMENT FOR SERVICES 10 MIDE, 15 MIDE AND VARIABLE WIDTH (PARTLY LIMITED IN HEIGHT)
- (D) RIGHT OF ACCESS 22 MIDE AND VARIABLE WIDTH
- (E) EASEMENT FOR SERVICES 22 MIDE AND VARIABLE WIDTH
- (F) RIGHT OF ACCESS 30 MIDE AND VARIABLE WIDTH
- (G) EASEMENT FOR SERVICES 30 MIDE AND VARIABLE WIDTH

LGA: **NEWMARBLE**
 Locality: **BOONAHAND ISLAND**
 Drawing No: **1/2007** Rev: **1**
 Lengths are in metres. Reduction Ratio: 1:12500
 (A4 size)