

ASSESSMENT REPORT

Section 75W Modification Riveroaks Residential Subdivision, Ballina Local Government Area MP 06_0118 MOD 2

1. BACKGROUND

This is an assessment of a request to modify the Project Approval for the Riveroaks residential subdivision (MP 06_0118). The request has been lodged by Northern Rivers Surveying Pty Ltd on behalf of Rayshield Pty Ltd (the Proponent), pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (the Act). The request seeks approval to convert four duplex lots and two courtyard lots to six traditional lots, and undertake administrative changes to the conditions of approval and the Statement of Commitments to reflect the revised subdivision layout.

2. SUBJECT SITE

The subject site is located in the town of Ballina within the Ballina Local Government Area (LGA). Tamarind Drive bounds the site to the north, North Creek is to the east, the town of Ballina is to the south and the Pacific Highway is to the west (**Figure 1**). The site is approximately 44.2 hectares (ha) in area and is comprised of multiple land use zonings including: 'R3 Medium Density Residential', 'R2 Low Density Residential', 'RE1 Public Recreation' and 'RU2 Rural Landscape' under the *Ballina Local Environmental Plan 2012* (the LEP). The area of the proposed modification is zoned 'R3 Medium Density Residential'.

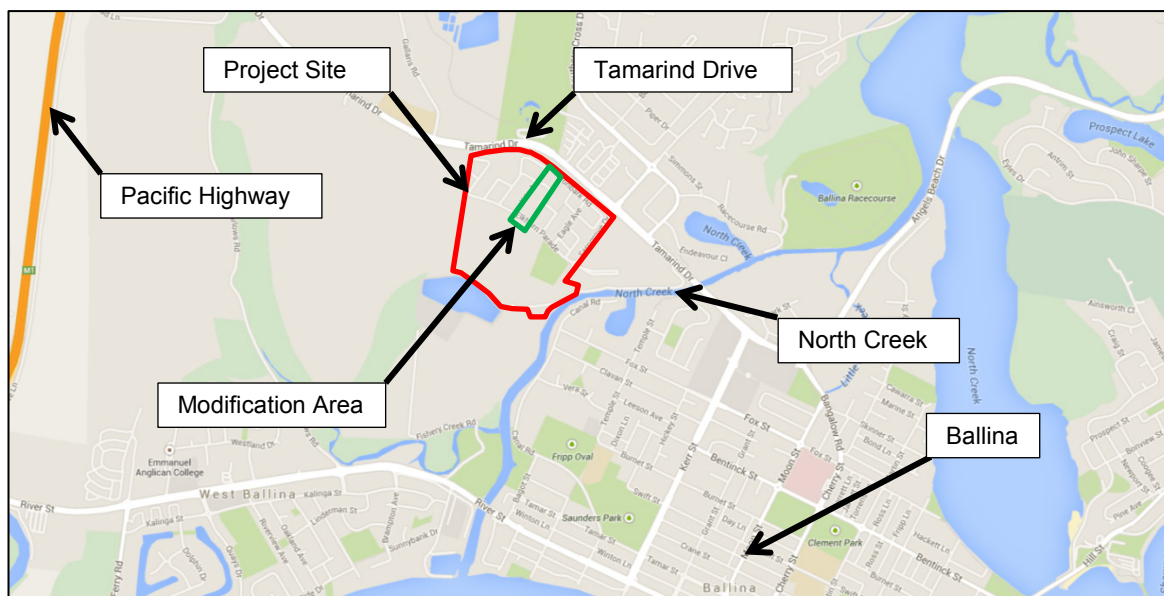


Figure 1: Site Location.

3. SITE HISTORY

On 14 December 2008, the then Minister for Planning granted Project Approval for a residential subdivision comprising 237 residential lots, one open space reserve, one lot for a future child care centre, supporting road, pedestrian and cycleway infrastructure, and minor re-contouring for drainage.

A previous modification request was lodged on 6 April 2010 (MP06_0118 MOD 1), however this request was withdrawn by the Proponent on 23 April 2010.

The Proponent has commenced the development and has registered subdivision certificates for Stages 1 and 2 with NSW Land and Property Information (LPI).

4. PROPOSED MODIFICATION AND JUSTIFICATION

On 24 March 2015, the Proponent lodged a section 75W modification request (MP06_0118 MOD 2) seeking approval to:

- convert four duplex and two courtyard lots to six traditional residential lots (lots 111, 112, 120, 121, 122, and 130);
- amend the staging description in Condition A2;
- revise the lot numbering in Stage 3A; and
- amend conditions B8 (2) and D3 (7) and Statement of Commitment 16 to reflect the revised lot numbers.

The Proponent has advised that the modifications are required to:

- respond to an increase in demand for larger (500 m² to 700 m²) residential allotments;
- comply with LPI lot numbering requirements to facilitate the registration of future plans of subdivision; and
- reflect the proposed changes to the lot configuration and numbers in the conditions of the Project Approval.

The proposed modifications are depicted in **Figures 2 and 3** below.

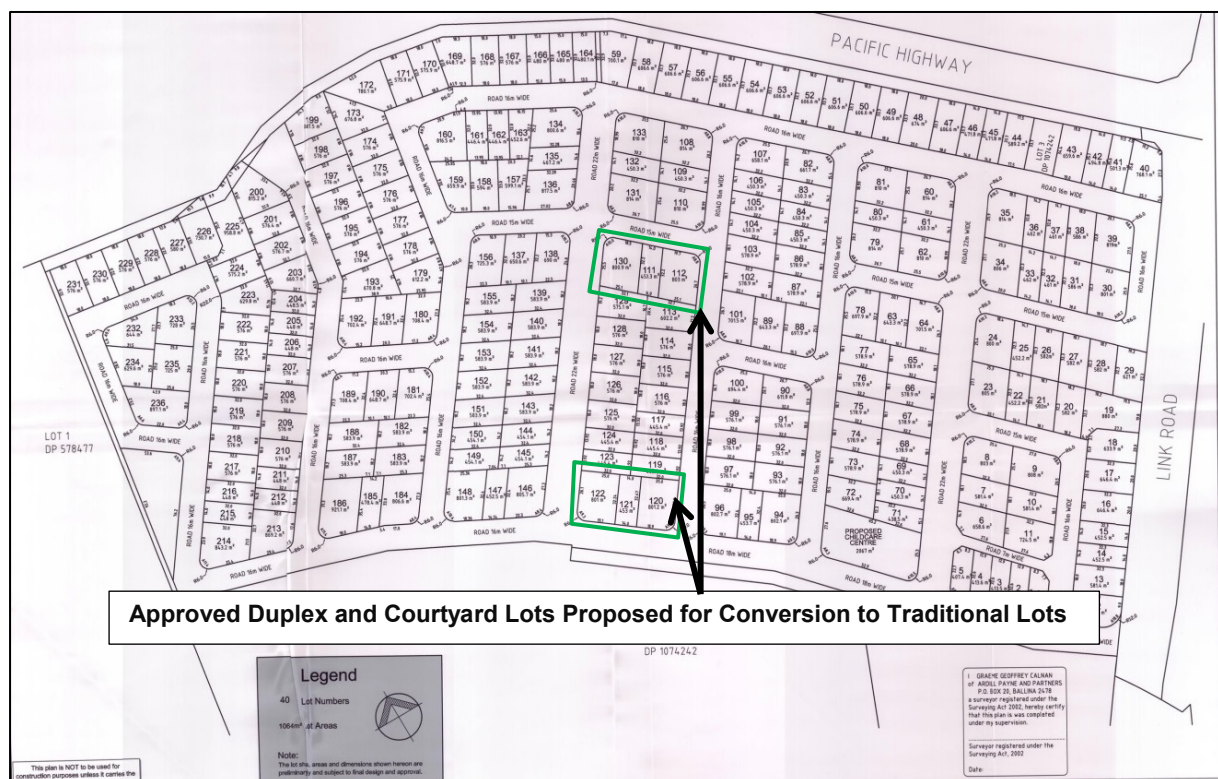


Figure 2: Approved Subdivision Layout

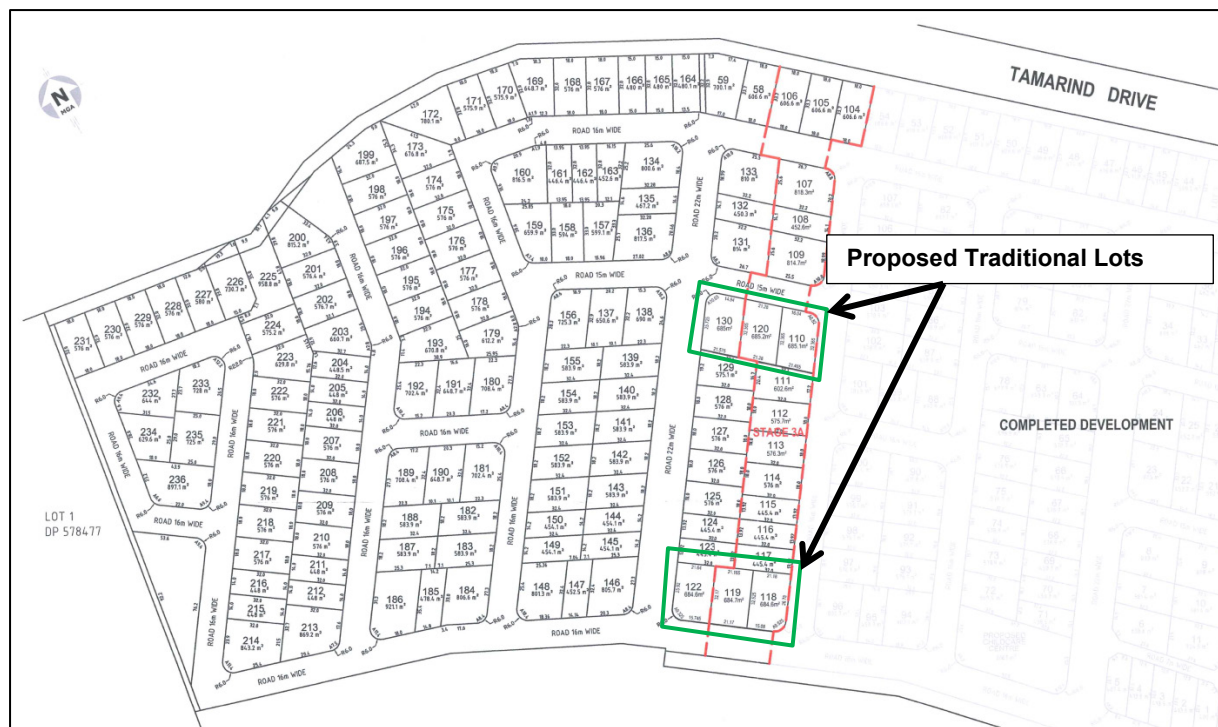


Figure 3: Proposed Subdivision Layout

5. STATUTORY CONSIDERATION

5.1 Approval Authority

On 16 February 2015, the Minister for Planning delegated responsibility for the determination of section 75W modification requests to directors and managers who report to the Executive Director, Infrastructure 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 Ballina Shire Council (the Council) did not object to the proposal, a political disclosure statement has not been made in relation to the application, and no public submissions were received in the nature of objections. Accordingly, the Manager, Industry Assessments may determine the application in accordance with the Minister's delegation.

5.2 Section 75W

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

The Department of Planning and Environment (the Department) is satisfied that the request can properly be characterised as a modification to the original Project Approval, and can therefore be assessed and determined under section 75W of the EP&A Act.

The Department notes that there is no change to the number of approved lots, and there will be no additional environmental impacts beyond those assessed under the original Project Application as a result of the proposed modifications.

5.3 Consultation

Under section 75X(2)(f) of the EP&A Act, the Secretary is to make modification requests of approvals given by the Minister publicly available. The modification request was made publicly available on the Department's website on 9 April 2015. The application was referred to Ballina Shire Council (Council) for comment. Given the minor nature of the modification request, it was not exhibited by any other means.

The Council advised that it supported the proposed modifications.

No public submissions were received.

6. ASSESSMENT

In its assessment of the modification application, the Department has considered the following:

- the EA provided to support the modification request (see **Appendix B**);
- all submissions received by the Department (see **Appendix C**); and
- the Director-General's assessment report for the original application.

Based on the above, the Department considers the key issues for assessment are:

- the amended subdivision layout; and
- administrative modifications to the conditions of approval and Statement of Commitments (SOCs).

6.1 Amended Subdivision Layout

The request seeks approval to reconfigure lots 130, 111, 112, 122, 121 and 120 to replace four duplex lots and two courtyard lots with six traditional allotments. The proposed modifications are depicted in **Figures 4** and **5** below.

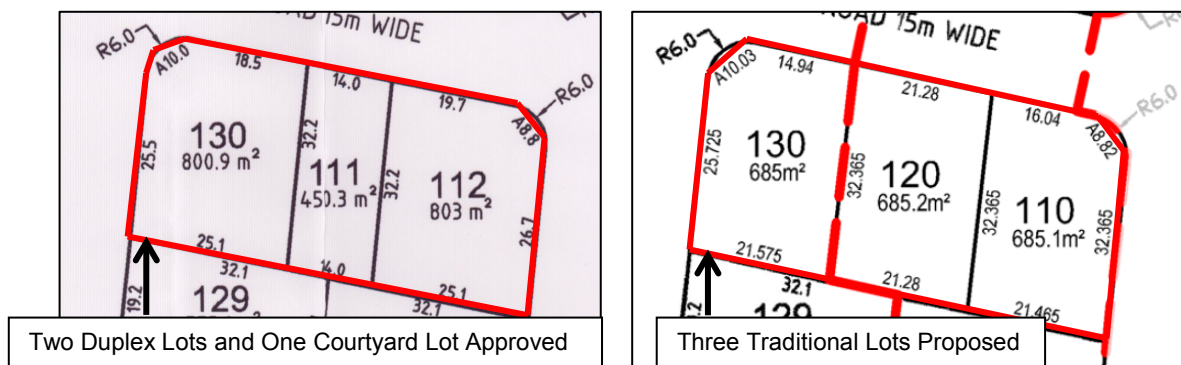


Figure 4: Approved (Left) and Proposed (Right) Layout of Lots

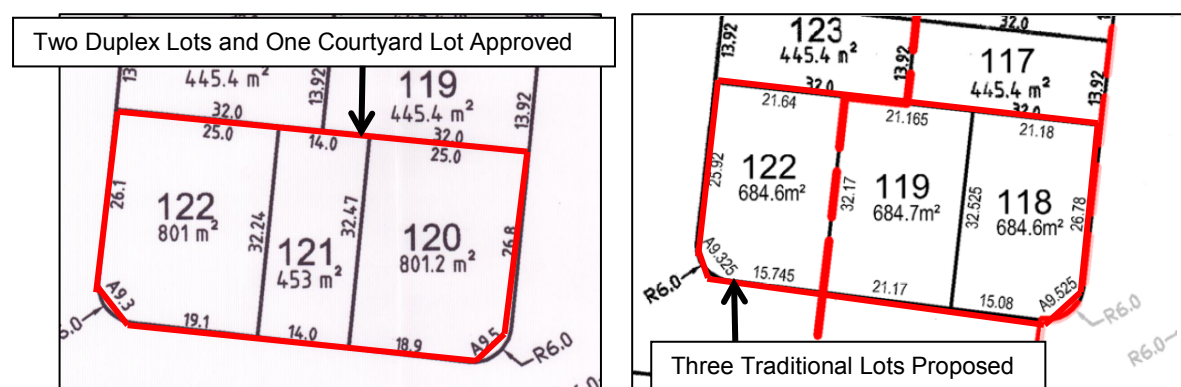


Figure 5: Approved (Left) and Proposed (Right) Layout of Lots

The Proponent has advised that the proposed modifications to the subdivision layout are required to respond to a drop in the demand for duplex and courtyard allotments. **Table 1** below provides a comparison of the approved and proposed lot sizes and types the subject of the modification request.

Table 1: Proposed Changes to Lot Size and Classification

Approved Lot No	Approved Size	Approved Lot Type	New Lot No	Proposed Size	Proposed Lot Type
111	450.3 m ²	Courtyard	120	685.7 m ²	Traditional
112	803 m ²	Duplex	110	685.1 m ²	Traditional
120	801.2 m ²	Duplex	118	684.6 m ²	Traditional
121	453 m ²	Courtyard	119	684.7 m ²	Traditional
122	801 m ²	Duplex	122	684.6 m ²	Traditional
130	800.9 m ²	Duplex	130	685 m ²	Traditional

The Department has reviewed the revised lot layout and has concluded that the proposed lot sizes will not result in any additional environmental impacts beyond those assessed under the original Project Application, and will continue to provide a high level of residential amenity. In addition, the Department is satisfied that the subdivision will continue to provide an appropriate range of lot size and types to provide a diversity in housing choices within the locality. Accordingly, the Department supports the revised subdivision layout.

6.2 Administrative Modifications to the Conditions of Approval and Statement of Commitments (SOCs)

As previously outlined, the application seeks approval to revise the lot numbers within Stage 3A to ensure compliance with the LPI's lot numbering requirements to enable the registration of future plans of subdivision. In this regard, the proposed revisions to the approved lot numbers will require amendments to conditions A2, B8 (2) and D3 (7), and SOC 16 to:

- identify the lots requiring the provision of on-street car parking and associated turning bays; and
- identify the lots that require the registration of restrictive covenants advising future land owners that their dwellings must be set back a minimum of 1 m from the property boundary.

Figures 6 and 7 overleaf identify the approved and proposed lot numbers associated with the lots requiring the registration of restrictive covenants for car parking and boundary setbacks for future dwellings.

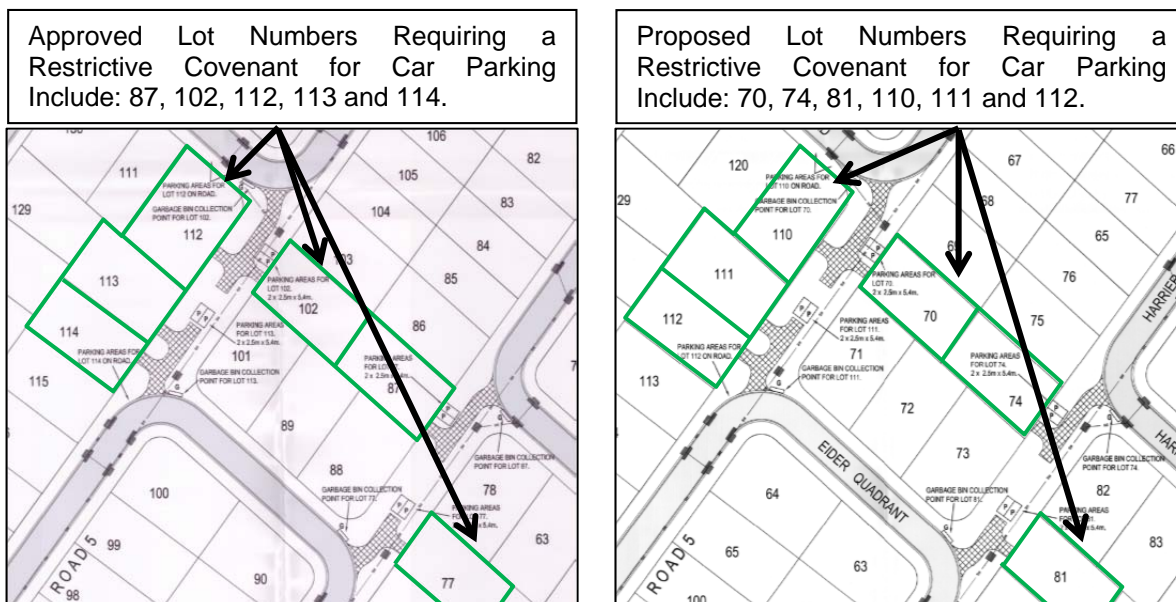


Figure 6: Comparison of Lots Requiring the Registration of a Restrictive Covenant to Regulate the Provision of On-Street Car Parking (Approved Left, Proposed Right)

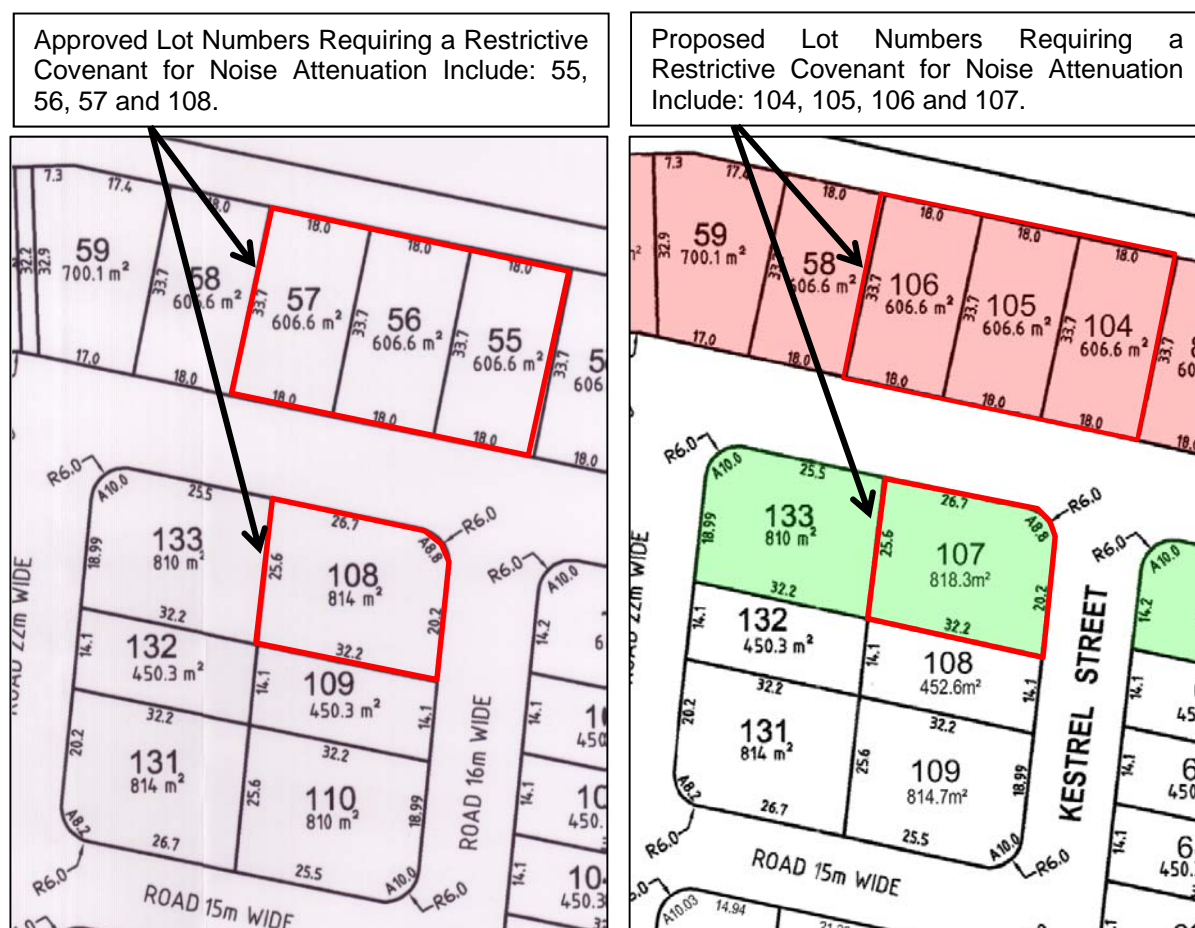


Figure 7: Comparison of Lots Requiring the Registration of a Restrictive Covenant to Regulate Dwelling Setbacks (Approved Left, Proposed Right)

The Department has reviewed the proposed modifications to the conditions of approval and considers that the revisions to conditions A (2) and B8 (2) and SOC 16 are administrative in nature on the basis that they are only required to reflect the proposed increase in the number of traditional allotments and the changes to the approved lot numbers proposed in the revised Plan of Subdivision. In addition, the Department has concluded that:

- Condition D3 requires additional amendments beyond those proposed by the Proponent to ensure that requirements (5) and (6) are updated to reflect the proposed modifications to the approved lot numbers; and
- Condition D3 (7) is no longer required on the basis that the *Ballina Development Control Plan 2012* (DCP) specifies appropriate boundary setbacks for residential dwellings on small lots (lots under 480 m²).

Accordingly, the Department has recommended modifications to the conditions of approval to ensure that:

- Condition A(2) is amended to reflect the proposed increase in the number of traditional allotments; and
- Condition D3 is amended to delete requirement (7), and update requirements (5) and (6) to reflect the proposed modifications to the approved lot numbers.

7. CONCLUSION

The Department has assessed the modification request and considers that the proposed amendments are acceptable as:

- the proposed subdivision layout is generally consistent with the aims and objectives of the Project Approval;
- the proposed modifications will not result in any additional environmental or amenity impacts beyond those assessed under the original Project Application; and
- the proposed modifications to the conditions of approval are required to ensure that the restrictive covenants required to regulate car parking and noise are placed on the correct lots.

Accordingly, the proposed modifications are recommended for approval.

8. RECOMMENDATION

It is recommended that the Manager, Industry Assessments as the delegate of the Minister for Planning:

- approve MP 06_0118 MOD 2 under section 75W of the EP&A Act; and
- sign the attached Instrument of Modification (**Appendix A**).

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6/05/15



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APPENDIX A: INSTRUMENT OF MODIFICATION

APPENDIX B: ENVIRONMENTAL ASSESSMENT

APPENDIX C: SUBMISSIONS