

Modification of Development Consent

**Proposed modification of
Development Consent No. 311-12-2004**

**Lot 4 DP 565825 & Lots 102, 105, 110, 111 DP 752153
Tathra-Bermagui Road, Murrah**

Prepared by Whelans InSites

June 2011.v2



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Authorisation

A handwritten signature in black ink, appearing to read "V. Humble-Crofts".

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1. Introduction

This Environmental Assessment Report has been prepared by Whelans InSites Pty Ltd on behalf of the landowners of property at Tathra-Bermagui Road, Murrah, to accompany an application to the Department of Planning for modification of a Development Consent.

This application seeks to modify Development Application No. 311-12-2004, as approved by the Department of Planning on 15 October 2005 for land at Lots 4 DP 565825 and Lots 102, 105, 110 and 111 DP 752153, Tathra-Bermagui Road, Murrah.

This application proposes to modify the above Development Consent by amending Condition B2(g) in relation to electricity reticulation. The application also seeks to amend a mis-description of the subject land in Schedule 1 (Table 1) of the Development Consent.

1.1. Development History

Development Application No. 311-12-2004 was approved by the Department of Planning on 15 October 2005 for a five (5) lot subdivision comprising four (4) lots for rural subdivision and a residual lot.

Development in accordance with the consent has been physically commenced.

2. Proposed Modifications

Condition B2(g) requires the construction of electricity reticulation works and associated facilities to service every lot prior to the issue of a Construction Certificate. Currently, an electricity line bisects the site and connection of electricity to Lots C and D may require substantial clearing of natural vegetation across the site.

This application proposes to modify Condition B2(g) to remove the requirement to provide electricity reticulation services, and instead provide an alternative energy source to all lots, including the residual lots. It is proposed to connect the subject lots to a sustainable energy source, being solar or solar/wind combinations.

This application also proposes to modify Schedule 1 (Table 1) of the Development Consent to correct a mis-description of the subject land. This table incorrectly describes the subject land as 'Lots 4, 102, 105, 110, 110 DP 565825'.

The correct and legal description of the property is Lot 4 DP 565825 and Lots 102, 105, 110 and 111 DP 752153. Drawing number 45213, stamped as approved under DA 311-12-2204, is attached for reference to the subject land description.

3. Statutory Framework

3.1. Statement of Permissibility

Bega Valley Local Environmental Plan 2002 (BVLEP) applies to all land within the Bega Valley Local Government Area. The subject site is included in the '1(a) Rural General' zone under the provisions of the BVLEP.

This application seeks to amend Development Consent No. 311-12-2004. The Development Consent was approved under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Section 8J(8)(c) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regs) refers to transitional provisions and states:

(8) For the purposes only of modification, the following development consents are taken to be approvals under Part 3A of the Act and section 75W of the Act applies to any modification of such a consent:

(c) a development consent granted by the Minister under Part 4 of the Act (relating to State significant development) before 1 August 2005 or under clause 89 of Schedule 6 to the Act

The development consent, if so modified, does not become an approval under Part 3A of the Act.

Clause 89 of Schedule 6 of the EP&A Act refers to State significant development matters, and states:

(1) If a development application for State significant development is pending on the commencement of Part 3A of this Act, the application is to be determined (unless withdrawn by the applicant) as if the amendments made to this Act by Schedule 1 to the 2005 Amending Act had not been made.

(2) A reference in any Act or instrument to State significant development within the meaning of this Act is taken to be a reference to a project to which Part 3A of this Act applies.

The development falls under Clause 89(2) of Schedule 6 of the EP&A Act as it was considered as State significant development within the meaning of the Act. Section 8J(8)(c) therefore applies to the development consent and is taken to be an approval under Part 3A of the EP&A Act. Therefore, Section 75W of the EP&A Act applies to any modification of such consent

4. Modifications of which Approval is now Sought

This application proposes to connect the lots the subject of this subdivision to a sustainable energy source being solar or solar/wind combinations as opposed to reticulated electricity. This application is considered to meet the provisions of Section 75W of the EP&A Act and is considered to be of minimal environmental impact and the development as modified is considered to be substantially the same development as that to which consent was originally granted.

The application also seeks to amend a mis-description of the subject land in Schedule 1 of the Development Consent. The correct, legal, description of the property is Lot 4 DP 565825 and Lots 102, 105, 110 and 111 DP 752153.

4.1. Consideration

The application and the likely impacts of the proposed development have been considered as follows:

Statutory Controls

The subject site is zoned '1(a) Rural General' under the *Bega Valley Local Environmental Plan 2002*.

It is considered that the proposed development complies with the statutory controls and the relevant aims and objectives of the zone.

Likely Impacts

The proposed modification is considered to be substantially the same development as that to which consent was originally granted. It is therefore considered that any likely impacts of the proposed works were considered in the assessment of the original Development Application. Currently, an electricity line intersects the site and connection of electricity to Lots C and D may require substantial clearing of natural vegetation across the site. Providing an alternative source of energy being solar or solar/wind combination as opposed to reticulated electricity to all lots on the subject site will decrease the amount of disturbance required to the natural vegetation on the site.

Suitability of the Site for the Development

The suitability of the site for the development was assessed under the original Development Application. The proposed modification is not considered to affect the suitability of the site for the development.

5. Conclusion

The proposed development as modified is considered to be substantially the same development as originally granted and is considered to be of minimal environmental impact.

Having regard to the analysis and assessment contained in this report, it is requested that the Department support the proposed development and grant approval to the modification application under Section 75W of the EP&A Act.

Appendix 1

Stamped Approved Plan Showing Property Description

