



## ASSESSMENT REPORT

### Section 75W Modification Request George Bass Drive, Barlings Beach, Tomakin Eurobodalla Local Government Area DA 77-03-2002 MOD 10

#### 1. BACKGROUND

This report assesses a modification request by President Property Group (the Proponent) to modify the development consent for a residential subdivision at George Bass Drive, Barlings Beach, Tomakin (DA 77-3-2002 MOD 10). The request has been lodged pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Proponent is seeking to modify the approved subdivision layout to reduce the number of lots from 200 to 199 and reconfigure the size of 25 residential lots.

The site has approval for a residential subdivision, to be constructed over five stages. To date, subdivision certificates have been issued for stages 1, 1a and 2. Subdivision works within stages 3 and 4 have commenced, however no subdivision certificates have been issued for these stages. Stage 5 has not yet commenced.

#### 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**).

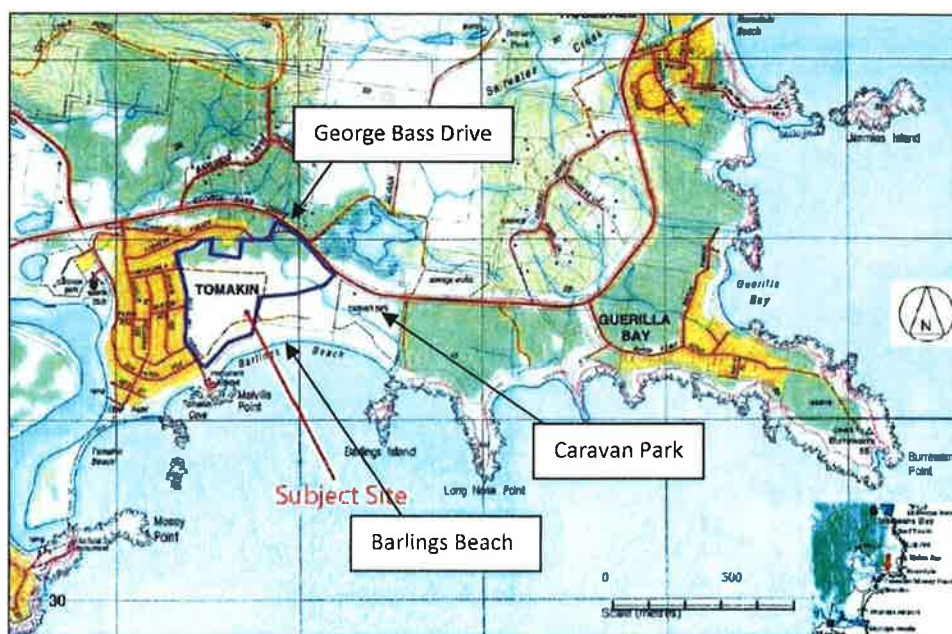


Figure 1: Site Location

### 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 nine occasions to:

- increase the number of lots from 159 to 200;
- 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 Asset Protection Zones (APZs) 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;
- make various minor administrative changes related to the payment of bonds to Council; and
- delete Lot 114 and increase the size of lots 106 to 113.

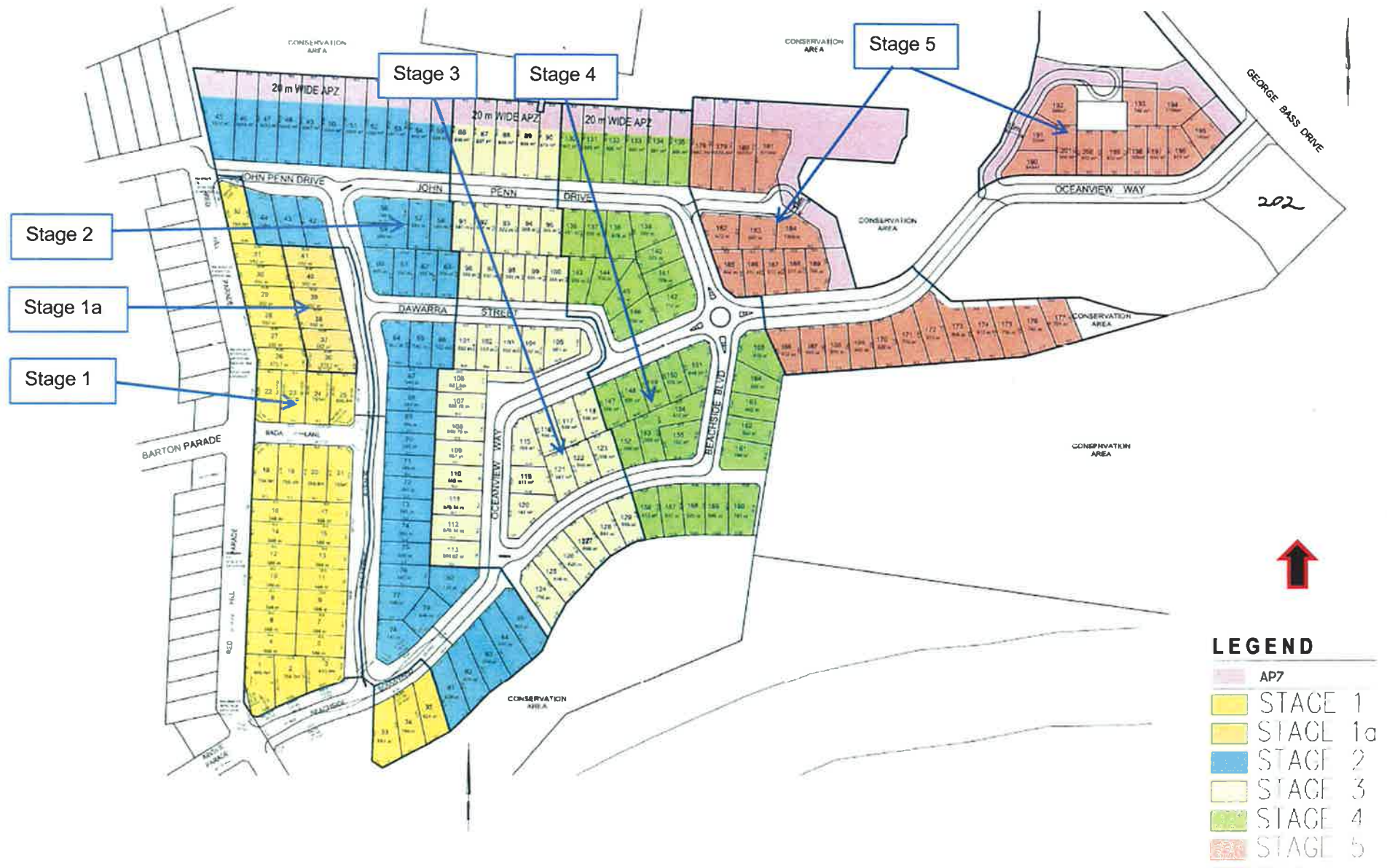
### 4. PROPOSED MODIFICATION

On 13 July 2016, the Proponent lodged a section 75W modification request (DA 77-03-2002 MOD 10) seeking approval to delete Lot 151 in Stage 4 and reconfigure lots 115 to 123 in Stage 3, lots 147 to 155 in Stage 4 and lots 182 to 189 in Stage 5. This will reduce the total number of lots across the site from 200 to 199.

The proposed modification has been sought to respond to increased market demand for larger lots across the site.

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

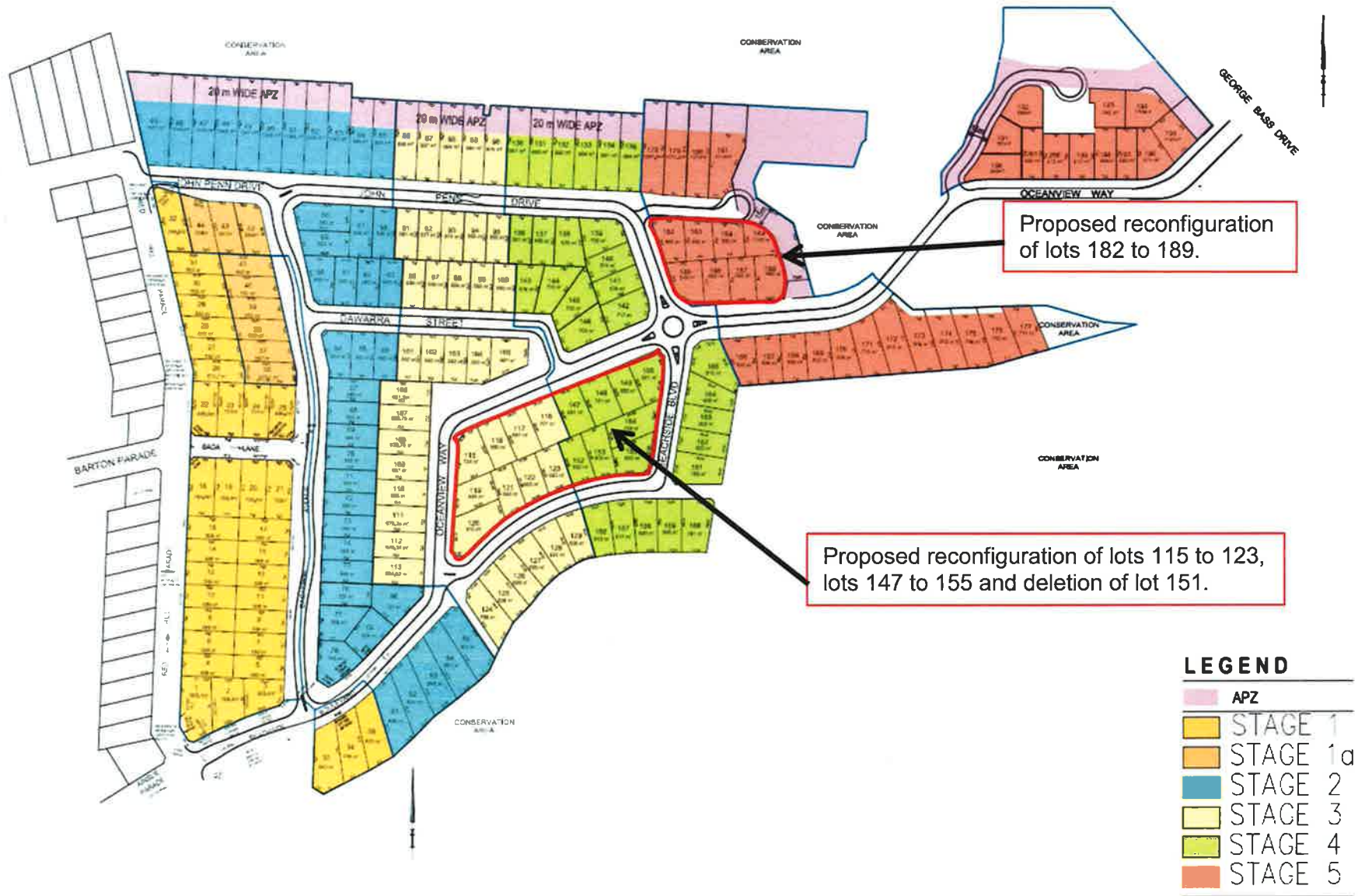
Conditions A1, A2 and E9 of the consent are proposed to be modified to reflect the proposed modification to the approved Plan of Subdivision.



**BARLINGS BEACH** – REVISED SUBDIVISION MASTERPLAN

Figure 2: Approved Plan of Subdivision

Scale: 1:1250 @ A3 Date: 14.08.15 Rev: 88-03.rvl



**BARLINGS BEACH** – REVISED SUBDIVISION MASTERPLAN

Figure 3: Proposed Plan of Subdivision

## 5. STATUTORY CONSIDERATION

### 5.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Instrument of Delegation dated 16 February 2015, the Director, Industry Assessments may determine the request under delegation as:

- Eurobodalla 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.

### 5.2 Section 75W

In accordance with clause 12 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.

Under section 75W of the EP&A Act, the Minister is obliged to be satisfied that what is proposed is indeed a modification of the original proposal, rather than being a new project in its own right.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 75W of the EP&A Act; and
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval.

Therefore, the proposed modification is within the scope of section 75W of the EP&A Act. Consequently, the Department considers the application should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

## 6. CONSULTATION

The modification request was made publicly available on the Department's website and referred to Council for comment on 28 July 2016. Due to the minor nature of the proposed modifications, it was not exhibited by any other means.

The Department received a submission from 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 modification request seeks approval to delete Lot 151 and to reconfigure lots 115 to 123 in Stage 3 and lots 147 to 155 in Stage 4. Lots 182 to 189 in Stage 5 are also proposed to be reconfigured. The reconfiguration of lots will result in these lots ranging in size from 550 m<sup>2</sup> to 1145 m<sup>2</sup>. This will also reduce the total number of lots across the site from 200 to 199.

The proposed lots sizes remain consistent with the overall lot sizes of the approved subdivision, which generally range between approximately 550 m<sup>2</sup> and 900 m<sup>2</sup>. As the minimum lot size for land zoned 'Low Density Residential R2' in the *Eurobodalla Local*

Plan 2012 (ELEP 2012) is 550 m<sup>2</sup>, the proposed lot sizes will comply with this requirement.

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

- the lots sizes are generally consistent with the original approval;
- the original approval did not approve building envelopes for lots 115 to 123, lots 147 to 155 or lots 182 to 189;
- the proposed modification will not generate the need for additional servicing infrastructure; and
- the proposed modifications 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 request should be approved subject to the conditions recommended in the Notice of Modification at **Appendix B**.

## 9. RECOMMENDATION

It is recommended that the Director, Industry Assessments, as delegate of the Minister for Planning, approve DA 77-03-2002 MOD 10, subject to the conditions recommended in the Notice of Modification at **Appendix B**.



08/09/16

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8/9/16

Chris Ritchie  
Director  
Industry Assessments

## **APPENDIX A: MODIFICATION REQUEST DA 77-03-2002 MOD 10**

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Refer to the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7862](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7862)

## **APPENDIX B: NOTICE OF MODIFICATION**

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