

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

**MODIFICATION (MOD 82-10-2007) OF DEVELOPMENT CONSENT
(DA 77-3-2002)**

**162 LOT SUBDIVISION; CLEARING OF VEGETATION; FILLING;
CONSTRUCTION OF ROADS AND ASSOCIATED INFRASTRUCTURE,
CONSERVATION ZONES AND OPEN SPACE; AND CONSTRUCTION OF A
BRIDGE.**

**PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND
ASSESSMENT ACT 1979**

(FILE NO. S07/01516-1)

I, Chris Wilson, Executive Director Major Project Assessment, as delegate of the Minister for Planning, under Instrument of Delegation dated 5 April 2006, pursuant to Section 96 (1A) of the *Environmental Planning & Assessment Act, 1979*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.

Chris Wilson
Executive Director
Major Project Assessment

Sydney,

2007

SCHEDULE 1

PART A—TABLE

Application Number:	MOD 82-10-2007 modifying DA 77-3-2002
Application made by:	Mr Lee Dunn Barlings Beach Community Pty Ltd, 53/308 Pitt Street, Sydney, NSW, 2000
On land comprising:	Lot 2 DP 1016146 George Bass Drive, Barlings Beach, Tomakin, 2537
Local Government Area	Eurobodalla
For the carrying out of:	162 lot subdivision including the clearing of vegetation; filling; construction of roads and associated infrastructure, conservation zones and open space; and construction of a bridge.
Section 96 (1A) Application	MOD 82-10-2007 to modify DA 77-3-2002 in the following manner: ▪ Modify wording of condition of consent E1 (b); ▪ Modify wording of condition of consent E1 (f); ▪ Modify wording of condition of consent E2; ▪ Modify wording of condition of consent E5; ▪ Modify wording of condition of consent E6; ▪ Modify wording of condition of consent E8; ▪ Modify wording of condition of consent E9; and, ▪ Insert a modified setbacks table in condition of consent E9.
Development consent granted by:	Executive Director, Major Project Assessments Delegate of the Minister for Planning
Type of development:	Integrated Development
S.119 public inquiry held:	No
As modified:	Consent not previously modified

PART B—NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. 77-03-2002

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid within 12 months after the date on which the applicant received this notice, or

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

SCHEDULE 2

MODIFICATION (MOD 82-10-2007) OF DEVELOPMENT CONSENT TO DEVELOPMENT APPLICATION NO. DA 77-3-2002 MODIFICATION OF DEVELOPMENT CONSENT

The development consent is modified as follows:

PART E – PRIOR TO SUBDIVISION

(a) **MODIFY Condition E1(b) and E1(f) – Subdivision Certificate Application** as follows:

E1 Subdivision Certificate Application

Prior to the issue of a Subdivision Certificate, the applicant is to provide to the Council or an accredited certifier:

- a. an original survey plan of subdivision prepared by a registered surveyor;
- b. any applicable instrument to be created under Section 88B of the *Conveyancing Act 1919* (as required by these conditions);
- c. relevant development consent;
- d. detailed subdivision engineering plans endorsed with relevant construction certificates;
- e. written confirmation from Eurobodalla Shire Council of its acceptance of all local internal roads, parks and open space areas (including conservation zones);
- f. a report demonstrating all conditions of this consent have been complied with as they relate to a stage of the development the subject of a Subdivision Certificate; and
- g. all necessary compliance certificates from the relevant authorities as indication in Condition E2.

In addition to the above, the applicant shall also submit to the Council or an accredited certifier documentary evidence that all matters contained in Section 109J of the Act have been complied with. Furthermore, the applicant shall furnish written evidence from Council that all proposed road/street names have been approved.

Note: The Environmental Planning and Assessment Act 1979 makes no provision for works required under other legislation such as the Water Supplies Authorities Act 1987 which require certification by an accredited certifier.

(b) **MODIFY Condition E2 – Dedication to Council** as follows:

E2 Dedication to Council

The applicant will ensure the dedication to Council, at no cost to the Council, all internal roads, open space and conservation zones upon registration of the plan of subdivision.

(c) **MODIFY Condition E5 – Easements and Covenants** as follows:

E5 Easements and Covenants

The applicant will ensure the creation of easements for services, rights of carriageway and restrictions as to user over all relevant allotments in the subdivision pursuant to Section 88B of the *Conveyancing Act, 1919*. The Section 88B Instruments shall address the following:

- a. easements for sewer, water supply and drainage over all services on private property;
- b. rights of carriageway over Lots 139, 140, 141, 142 (for access) as they affect those particular allotments;
- c. maintenance of the works (by Council) required by, and undertaken in accordance with, the VMP as it applies to any particular allotment in the subdivision.

A draft of the Section 88B Instruments will accompany the Subdivision Certificate when submitted to Council. Eurobodalla Shire Council shall be nominated as the sole party to vary, modify or extinguish any Section 88B Instrument as it relates to this condition.

(d) **MODIFY Condition E6 – Earthworks and Fill** as follows:

E6 Earthworks and Fill

Prior to issue of a Subdivision Certificate, the applicant shall submit to Council a geotechnical report detailing the classification of soil type generally found within the subject site. A general classification for each lot within the subdivision must be provided and such classifications must be made by a geotechnical engineer in accordance with the requirements of Australian Standard AS2870.

(e) **MODIFY Condition E8 – Building Heights** as follows:

E8 Building Heights

The applicant will ensure the creation of a Restriction as to User over all allotments to be created within the subdivision pursuant to Section 88B of the *Conveyancing Act, 1919*. The Section 88B Instrument shall prohibit the height of any future dwelling or built structure on allotments within the subdivision exceeding 8.5 metres from the finished ground level.

(f) **MODIFY Condition E9 – Building Setbacks** as follows:

E9 Building Setbacks

The applicant will ensure the creation of a Restriction as to User over all allotments to be created within the subdivision pursuant to Section 88B of the *Conveyancing Act, 1919*. The Section 88B Instrument shall prohibit construction of any future dwelling or built structure on allotments within the subdivision outside the identified building envelopes. The building setbacks indicated on Subdivision Layout Plan and to be applied to the development of lots created within the subdivision are to be measured from the property boundary of each proposed allotment and can be summarised as follows:

Proposed Lot No.	Building Setbacks
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37	5.5 metre front setbacks (Up to 50% of the front façade of the dwelling – excluding garages or carports, may be setback 4.5m from the front boundary) 7.5 metre front upper storey setbacks 1 metre side setbacks 3 metre to dwelling and 1 metre to ancillary building rear setbacks 3 metre corner side setbacks (lots 1, 3, 16, 19, 20, 23, 34, 37) Foreshore setback N/A Reserve setback N/A
38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159.	5.5 metre front setbacks (up to 50% of the front façade of the dwelling – excluding garages or carports, may be setback 4.5m from the front boundary) 7.5 metre front upper storey setbacks 1 metre side setbacks 3 metre to dwelling and 1 metre to ancillary building rear setbacks 3 metre corner side setbacks (lots 57, 68, 71, 72, 83, 84, 109, 145, 150, 152, 159) Foreshore setback N/A Reserve setback N/A 5.5 metre front setbacks (Up to 50% of the front façade of the dwelling, excluding garages or carports, may be setback 4.5m from the front boundary) 7.5 metre front upper storey setbacks 1 metre side setbacks 3 metre to dwelling and 1 metre to ancillary building rear setbacks Corner side setbacks N/A Foreshore setbacks N/A
110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143	5.5 metre front setbacks: Lots 110-136. Up to 50% of the front façade of the dwelling, excluding garages or carports, may be setback 4.5 metres from the front boundary Front setback as indicated on Subdivision Layout Plan: Lots 137-139 Front setback as indicated on Subdivision Layout Plan: Lots 140-143 7.5 metre front upper storey setbacks 1 metre side setbacks 6 or 8 metre rear setbacks: See building envelopes 6 metre rear setbacks: Lots 110, 113, 114, 117-121, 123, 124, 126, 128-143 8 metre rear setbacks: Lots 111, 112, 115, 116, 122, 125, 127 12 metre rear upper storey setbacks 3 metre corner side setbacks: Lots 117, 118, 128 (from walkway or access road) Foreshore: Direct access to foreshore from lots 110-127 is not permitted Reserve: Direct access to the aboriginal place from lots 127-143 is not permitted

Proposed Lot No.	Building Setbacks
160 and 161	9 metre (minimum) front setbacks to the lots in this precinct Side setbacks: Minimum setback of 4.5m from external allotment boundaries of Lots 160 and 161. Other setbacks are to be determined by the relevant consent authority when the applicant is preparing a development application for lodging Rear setbacks: Minimum 4.5m setback applies to the rear boundary of Lots 160 and 161 Reserve setback N/A Foreshore setback N/A
162	6 metre front setback 10 metre side setback (from George Bass Drive) 1 metre side setback 6 metre rear setback