

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 25 January 2010, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Alan Bright
Director
Regional Projects

Sydney

26 JULY

2010

SCHEDULE 1

Development consent:

DA 234-08-01 granted by the Minister for Planning on 25 July 2002

For the following:

44 lot rural residential subdivision

Modification:

Modification to rural and rail corridor setbacks, relocation of some building envelopes and changes to management of detention ponds

SCHEDULE 2

The consent is modified as follows:

1) deleting condition 1., the reason and the accompanying note and replacing with new condition 1 with reason as follows:

1. The development shall be carried out generally in accordance with:
 - (a) amended Development Application 234-08-01 (Option A);
 - (b) Statement of Environmental Effects (SEE) Volumes 1 and 2;
 - (c) site plans being drawing numbers LL-01, C-01 Rev D, and L-01 REV B, PSS-01 Rev C, M-01 Rev E, VP-01 Rev B and LF-01 Rev B prepared by Smyth Maher and Associates Pty Ltd and de Groot & Benson Pty Ltd dated 11 November 2001 and drawing number 92278-100 prepared by de Groot & Benson Pty Ltd and dated August 2001 as lodged with the Department on 13 December 2001;
 - (d) Modification request DA 234-08-01 MOD 1 lodged with the Department on 25 May 2010; and accompanied by *Modification of Development Consent DA 234-07-07 – 44 lot Rural Residential Subdivision Lot 2 DP 848520 Pacific Highway, Valla*, prepared by Geoff Smyth Consulting and dated May 2010, but excluding Annexure A.

<i>Reason: To ensure development proceeds in accordance with approved plans.</i>
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2) inserting after condition 1. new condition 1A. with an accompanying note as follows:

1A. In the event of an inconsistency between:

- (a) the conditions of this consent and the drawings/documents referred to in condition 1, the conditions of this consent prevail; and
- (b) any drawing/document listed in condition 1 and any other drawing/document listed in condition 1, the most recent document shall prevail to the extent of the inconsistency.

Note: *The Environmental Management Plan shall form part of this consent and must be complied with by the developer, its employers, agents and contractors.*

3) inserting after condition 22. new condition 22A. and the accompanying note as follows:

- 22A. The 40 metre rural setback as required under condition 60(i) is to incorporate a minimum 20 metre vegetated buffer. The vegetation buffer is to comprise a range of locally native species compatible with adjoining vegetation that is to be determined in consultation with Nambucca Shire Council and is to be planted prior to the release of the subdivision certificate for affected lots.

Note: *The lots likely affected by this condition include lots 3, 4, 5, and 6.*

4) deleting condition 29. and the accompanying note and replacing with new condition 29. as follows:

29. The on-site detention ponds are to be designed, constructed, operated and maintained to include low fencing, vegetation or similar to define the perimeter of the ponds and discourage access.

5) deleting condition 60.(f) and replacing with new condition 60.(f) as follows:

- 60.(f) Prohibiting construction of buildings outside building envelopes shown on drawing no. L-01 REV B prepared by Smyth Maher and Associates Pty Ltd and de Groot & Benson Pty Ltd dated 11 November 2001; and
- (i) the location of dwellings within these building envelopes must ensure that the noise level requirements outlined in the *Environmental Criteria for Road Traffic Noise* (Environment Protection Authority, 1999), as calculated for traffic in the year that the majority of lots on the site are expected to be developed, can be met;
 - (ii) the location of dwellings within lots 6 to 15, inclusive must be in accordance with *Development near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning, 2008) and must ensure that the following LAeq levels are not exceeded:
 - (a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am,

- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—
40 dB(A) at any time.

6) deleting condition 60.(i) and replacing with new condition 60.(i) as follows:

- 60.(i) Prohibiting habitable buildings within the setbacks defined by drawing L-01 Rev B prepared by Smyth Maher and Associates Pty Ltd and de Groot & Benson Pty Ltd dated 11 November 2001, except:
 - (i) along the southern boundary of the site, where a forty (40) metre setback from the boundary applies; and
 - (ii) along the eastern boundary of the site, where a forty (40) metre setback from the centreline of the North Coast Railway tracks applies.

7) inserting after condition 60.(t) new condition 60.(u) as follows:

- 60.(u) Prohibiting clearing of any existing native vegetation that comprises all or part of the vegetation buffer required under condition 22A.
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