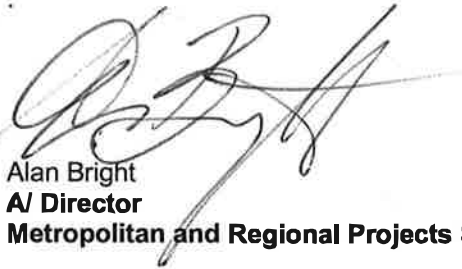


# Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation, dated 14 September 2011, I approve the modification of the project application referred to in schedule 1, subject to the conditions in schedule 2.



Alan Bright  
**A/ Director**  
**Metropolitan and Regional Projects South**

Sydney

11 JANUARY 2012

### SCHEDULE 1

Application No.:	DA 77-03-2002.
Proponent:	President Property Group .
Approval Authority:	Minister for Planning and Infrastructure
Land:	Lot 81 DP 1158006, George Bass Drive, Barlings Beach, Tomakin
Project:	159 lot subdivision, including clearing of vegetation, filling, construction of roads and associated infrastructure, conservation zones and open space, and construction of a bridge.
Modification (Mod 6):	Subdivide 2 approved integrated housing lots into 24 housing lots.

## SCHEDULE 2

### CONDITIONS

**Delete condition A1 in Schedule 2 and replace it with the following:**

**A1 – Development description**

Development consent is granted only to carrying out the development described in detail below:

- a) Torrens title subdivision comprising ~~177~~ **201** residential lots, ~~2 integrated housing allotments~~ and 1 allotment to accommodate an Aboriginal Cultural and retail facility;
- b) clearing vegetation;
- c) filling and earthworks;
- d) provisions and construction of roads and associated infrastructure, conservation zones and open space; and
- e) construction of a bridge over the on-site creek in order to link George Bass Drive with the proposed development site.

**Delete condition A2 in Schedule 2 and replace it with the following:**

**A2 – Development in accordance with plans**

The development shall be generally in accordance with Development Application 77-03-2002 submitted by the applicant on 22 March 2002, and in accordance with the supporting documentation submitted with that application, including but not limited to, the following:

<b>Architectural (or Design) Drawings prepared by Coomes Consulting Group Pty Ltd</b>			
<b>Drawing Reference No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
140374G15	3	Subdivision layout Plan	30 September 2005
150374	4	Preliminary Fill and Drainage Plan	14 October 2005
150374G08	2	Preliminary Fill Depths	14 October 2005
140374G14	1	Barlings Beach Site Cross Sections	9 September 2005
140374G16	1	Dune Lot Views	30 September 2005

and as amended by the following drawings:

<b>Architectural (or Design) Drawings prepared by Coomes Consulting Group Pty Ltd</b>			
<b>Drawing Reference No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
01	0	Revised Subdivision	March 2009
03	0	Revised Subdivision	February 2009

and as amended by the following drawings:

<b>Architectural Drawings prepared by George Carone Architect and Services Plan prepared by CPG</b>			
<b>Drawing Reference No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
MA – 01	E	Revised Subdivision Masterplan – Staging	14 July 2010
OV – 02	C	Revised Subdivision Overlay	14 July 2010
S1A – 11a	0	Revised Subdivision – Stage 1a	24 March 2010
S2 – 12	D	Revised Subdivision – Stage 2	18 June 2010
S3 – 13	D	Revised Subdivision – Stage 3	18 June 2010
S4 – 14	D	Revised Subdivision – Stage 4	18 June 2010
S5 – 15a	0	Revised Subdivision – Stage 5	2 August 2010
142462G – 01	Rev A	Existing Services Plan John Penn Drive	22 March 2010

and as amended by the following drawings:

Architectural Drawings prepared by George Carone Architect and Services Plan prepared by CPG			
Drawing Reference No.	Revision	Name of Plan	Date
<u>MA – 01</u>	<u>G</u>	<u>Revised Subdivision Masterplan – Staging</u>	<u>25 February 2011</u>
<u>S5-15b</u>	<u>C</u>	<u>Revised Subdivision Stage 5</u>	<u>02 August 2010</u>
<u>142468G01-1</u>	<u>C</u>	<u>Stage 5a Functional Plan – Lot Layout</u>	<u>23 February 2011</u>
<u>142468G1-2</u>	<u>C</u>	<u>Stage 5a Functional Plan – Lot Layout</u>	<u>23 February 2011</u>
<u>142468G1-3</u>	<u>D</u>	<u>Stage 5a Functional Plan – Servicing Plan</u>	<u>23 February 2011</u>
<u>142468G1-4</u>	<u>A</u>	<u>Stage 5a Functional Plan – Servicing Plan</u>	<u>23 February 2011</u>
<u>142468G03-1</u>	<u>D</u>	<u>Stage 5a Functional Plan – Turning Movements</u>	<u>23 February 2011</u>

**Insert new condition A2a directly after Condition A2 in Schedule 2;**

**A2a – Development in Accordance with Documentation**

The development shall be generally in accordance with development application 77-03-2002 submitted by the applicant on 22 March 2002, and in accordance with the supporting documentation submitted with that application, and the Section 75W letter and supporting documentation including but not limited to, the following:

Supporting Documentation		
Name of Document	Prepared by	Date
Bushfire Assessment & Recommendations, Revised Residential Subdivision Development (Amended Plan), Barlings Beach Estate Tomakin, 7 <sup>th</sup> March 2011	Geospatial Integrity Pty Ltd	7 March 2011
Road Traffic Noise Impact Assessment	Noise and Sound Services	January 2011

**Delete Condition B11a in Schedule 2 and replace it with:**

**B11a – Vegetation Management Plan**

Any Vegetation Management Plan (VMP) approved by Council, as required by Condition B11, shall be amended to reflect the changes made to allotments 45-55, 86-90, 130-135, **166-181, 184, 189 and 190-195**. The amended VMP shall be submitted to, and approved by Council prior to the issue of any construction Certificate for the creation of these allotments.

**Insert new condition B14a directly after Condition B14 in Schedule 2;**

**B14a** – Temporary fencing is to be installed prior to the issue of a construction certificate to protect Conservation Areas and the Littoral Rainforest.

Delete Condition B21 in Schedule 2

**Condition B21 – Integrated Housing Lots**

This condition refers to proposed allotments 160 and 161 (Integrated Housing)

Prior to issue of Construction Certificate and Subdivision Certificate (as required) that creates these allotments:

- (a) ~~Sufficient permanent infrastructure must be constructed in the subdivision that creates the initial integrated housing allotments so that they may be capable of being developed to their~~

- ~~ultimate capacity by subsequent applicants without any requirements for provision of augmentation of external infrastructure;~~
- ~~(b) All proposed infrastructure that crosses integrated housing lot boundaries or runs adjacent to integrated housing allotment boundaries must be constructed as part of the stage/phase that creates those allotments.~~
- ~~(c) Waterways, drains and stormwater quality devices downstream of integrated housing allotments are to be designed, title dedicated and constructed.~~
- ~~(d) The subdivision drainage system shall provide for acceptance and transport of Q100 overland flows from the integrated housing allotments. The underground street drainage system shall be extended to integrated housing allotment boundaries for acceptance and transport of underground piped Q5 flows from those allotments.~~
- ~~(e) Where infrastructure is required to serve an integrated housing allotment passes through another allotment, easements in favour of Council shall be granted over the infrastructure and necessary access roads to such infrastructure.~~

**Insert new condition B19a directly after B19 in Schedule 2**

#### **B19a – Road Design**

Cul-de-sac heads are to be constructed with the relevant requirements of Eurobodalla Shire Council and satisfy Rural Fire Service requirements for 12.5 metre turning radius.

**Insert new condition E5d. directly after E5c. in Schedule 2**

#### **E5 – Easements and Covenants**

Prior to the issue of a Subdivision Certificate the applicant shall create 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 Instrument 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;
- d. **a Covenant for the Lots 194 and 195 shall be prepared which requires that future development have consideration to the location of dwellings, internal layouts, building materials and construction to reduce the traffic noise impacts from George Bass Drive and in accordance with the Road Traffic Noise Impact Assessment dated January 2011, prepared by Noise and Sound Services.**

**Delete Condition E9 in Schedule 2 and replace it with:**

#### **E9 – Building Setbacks**

The applicant will ensure a Restriction as to user over all allotments is 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 build structure on allotments within the subdivision outside the identified building envelopes on the subdivision layout Plan. The building setbacks indicated on Subdivision Layout Plans 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 Setback
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 36, 37, 38, 39, 40, 41, 42, 43, 44	5.5 metre front setbacks (up to 50% of the front façade of the dwellings – excluding garages or car ports, may be set back 4.5m from the front boundary) 7.5 metre front upper story setbacks 1 metre side setbacks 3 metre to dwelling and 1 metre to ancillary

	<p>building near setbacks</p> <p>2 metre corner side setbacks (Lots 1, 3, 16, 18, 21, 22, 25, 32, 42, only) where the side boundary has a frontage to a road.</p> <p>Where allotment shares a side boundary with another allotment, the minimum setback on that boundary is 1m</p> <p>Foreshore setback N/A</p> <p>Reserve setback N/A</p>
<p>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, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 110 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, <u>178, 179, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201.</u></p>	<p>5.5 metre front setbacks (up to 50% of the front façade of the dwelling – excluding garages or car ports, may be set back 4.5m from the front boundary)</p> <p>7.5 metre front upper storey setbacks</p> <p>1 metre side setbacks</p> <p>3 metre to dwelling and 1 metre to ancillary building rear setbacks</p> <p>3 metre corner side setbacks (lots 56, 139, 142, 146, (60, 64, 78, 120, 155, 115 only) where the side boundary has frontage to a road. Where the allotment shares a side boundary with another allotment, the minimum setback on that boundary is 1m.</p> <p>Foreshore setback N/A</p> <p>Reserve Setback N/A</p>
<p>33, 34, 35, 81, 82, 83, 84, 85, 124, 125, 126, 127, 128, 129, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177.</p>	<p>5.5 metre front setbacks: Lots 33, 34, 35, 84-85, 124-129, 156-170. Up to 50% of the front façade for the dwelling, excluding garages or car ports, may be set back 4.5m from the front boundary</p> <p>Front and setbacks as indicated on Subdivision Layout Plan: Lots 171-173</p> <p>Front and setbacks as indicated on Subdivision Layout Plan: Lots 174-177</p> <p>7.5 metre front upper story setbacks</p> <p>1 metre side setbacks</p> <p>6 or 8 metre rear setbacks: Lots 33, 81, 82, 85-128, 156, 157, 159, 156-177</p> <p>8 metre rear setbacks: Lots 34, 35, 83, 84, 128, 129, 158, 160</p> <p>12 metre rear upper storey setbacks</p> <p>3 metre corner side setbacks: Lots 85, 124, 161 (from walkway or access road)</p> <p>Foreshore: Direct access to foreshore from lots 33-35, 81-85, 124-129, 156-160 is not permitted</p> <p>Reserve: Direct access to the aboriginal place from lots 160-177 is not permitted.</p>
<p><b>178 and 179</b></p>	<p><b>9 metre (minimum) front setbacks to the lots in this precinct (Side Setbacks: Minimum setback of 4.5m from external allotments boundaries of Lots 178 and 179. Other setbacks are to be determined by the relevant consent authority when the applicant is preparing a development application for lodging.</b></p> <p><b>Rear setbacks: minimum boundary 4.5m setback applies to the rear boundary of Lots 178 and 179</b></p> <p><b>Foreshore setback N/A</b></p> <p><b>Reserve setback N/A</b></p>

<b>180 202</b>	6 metre front setback 10 metre side setback (from George Bass Drive) 1 metre side setback 6 metre rear setback.
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**Delete Condition F1 in Schedule 2 and replace it with:**

**F1 – Lot 162 202 and Aboriginal/Retail Facility**

The applicant shall transfer Lot **162 202** within the subdivision to the Mogo Local Aboriginal Land Council no later than three (3) years after the first development consent has been issued for construction of a dwelling within the subdivision.

The unencumbered freehold title of Lot **162 202** is to be transferred to the Mogo Local Aboriginal Land Council at no cost to the Mogo Local Aboriginal Land Council (i.e. the cost of transfer is to be met by the applicant). Prior to the transfer of Lot **162 202** to the Mogo Local Aboriginal Land Council for the purchase price of \$1.00, an Aboriginal cultural/retail facility shall be approved by the relevant consent authority and constructed on that lot.

Any development application to facilitate the provision of the Aboriginal cultural/retail facility must propose and address the following;

- a) a built structure to be used for the purpose of a shop and Aboriginal cultural/retail facility which has a maximum 60m<sup>2</sup> floor area and a maximum building height of 8.5 metres (with a maximum two storeys) above natural ground level;
- b) paved car parking associated with the shop and Aboriginal Cultural facility as required necessary by Council; and
- c) the total cost of designing the Aboriginal cultural/retail facility, obtaining all necessary approvals, associated construction costs and costs with satisfying any conditions imposed on any development consent granted to develop Lot **162 202** for its intended purposes shall not exceed \$250,000 (as adjusted for CPI from the date this consent commences).

**Note:** Subsequent management, use and occupancy arrangements of the Aboriginal cultural/retail facility shall be separately negotiated with Council to its satisfaction. In this regard Council shall use its best endeavours to reach an acceptable arrangement expeditiously and not unnecessarily delay the provision of the Aboriginal cultural/retail facility.

**Insert new conditions AN4a) and AN4b) directly after Condition AN4 in Schedule 2**

**AN4a – Water Management Act, 2000**

Works are proposed within 40 metres of the watercourse and will require a Controlled Activity Approval pursuant to the *Water Management Act, 2000*. It is recommended that the relevant consents are obtained prior to the release of the Construction Certificate.

**AN4b – Native Vegetation Act, 2003**

Clearing of land shall be carried out in accordance with the *Native Vegetation Act, 2003*. A separate consent may be required for clearing of native vegetation under this Act.