

Application to modify a development consent



NSW GOVERNMENT
Department of Planning

Date lodged: ____/____/____

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23-33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

RYGATE E WEST

ABN

56 056 675 355

☐ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

GRAHAM

Family name

BEASLEY

STREET ADDRESS

Unit/street no.

266

Street name

GREEN STREET

Suburb or town

ULLADULLA

State

NSW

Postcode

2539

POSTAL ADDRESS (or mark 'as above')

P.O. Box 107

Suburb or town

ULLADULLA

State

NSW

Postcode

2539

Daytime telephone

4454 2137

Fax

Mobile

Email

graham@rygateandwest.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)

Street or property name

Wunu Drive

Suburb, town or locality

Postcode

Local government area

Dolphin Point

2539

Shoalhaven

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

Lot 2, 3 + 4 D.P. 11

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

Concept Approval for staged residential subdivision + infrastructure provision as modified in MP05-0016 mod 1

What was the original development application no.?

What was the date consent was granted?

What was the original application fee?

MP05-0016

12/0/2008

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☐ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☒ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ Please submit a new development application.

Yes ☒ Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

We seek to modify the concept approval to make it consistent with the proposed modifications to the project approval. The modifications relate to amending the schedules + conditions to reflect the modified staging arrangements and amended plans detailing staging

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

N/A

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)

N/A

Operational jobs (full time equivalent)

N/A

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development

N/A

Original application fee

Total fees lodged

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☐

No ☒

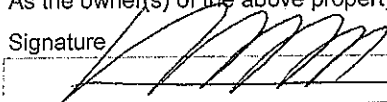
Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown-land, an authorised officer of the NSW Department of Lands must sign the application. **An original signature must be provided.**

As the owner(s) of the above property, I/we consent to this application:

Signature



Name

Geoffrey Michael McMahon

MANAGING DIRECTOR - AUSTRALIAN PROPERTY GROUP LIMITED

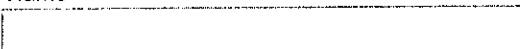
Date

18/02/14

Signature



Name



MANAGING DIRECTOR - AUSTRALIAN PROPERTY GROUP LIMITED

Date




Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature



Date

18/02/14

In what capacity are you signing if you are not the applicant

Manager

Name, if you are not the applicant

Graham Beasley

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.

SCHEDULE 1

PART A—TABLE

| | |
|-----------------------------------|--|
| Application made by: | Australian Property Growth Limited ABN 56 111 628 389 |
| Application made to: | Minister for Planning |
| Major Project Application: | MP 05_0016 |
| On land comprising: | Lots 2, 3 & 4 DP 1123774 Wuru Road and Dolphin Point Road, Dolphin Point/Burrill Lake |
| Local Government Area | Shoalhaven |
| For the carrying out of: | (1) Staged subdivision of Precincts A and B into 164 residential allotments in 17 stages; (2) Creation of roads to service the subdivision; (3) Creation and embellishment of one allotment as a central park in Precinct B; (4) Construction of pedestrian/cycle paths through all Precincts; (5) Landscaping; (6) Revegetation works to riparian zones in all Precincts; (7) Provision of services and infrastructure; and (8) Associated with the staged subdivision, dedication of lands in Precincts A, B and C to the Council. (9) Identification of Development parcels within Precinct C |
| Type of development: | Concept Plan |
| S.119 Public inquiry held: | No |
| Determination made on: | |
| Date approval is liable to lapse: | 1 October 2016 unless Precinct A Stage 1 is physically commenced.(Concept MP05_0016 MOD 1) |

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 05_0016 (CONCEPT MP05_0016 MOD 1)

Responsibility for other consents / agreements

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

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Legal notices

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

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

Council means Shoalhaven City Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by Turnbull Planning International Pty Ltd and dated September 2007.

Minister means the Minister for Planning.

MP No. 05_0016 means the Major Project described in the Proponent's Environmental Assessment.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Precinct A means the area referred to as 'Stages 1 & 2' generally comprising a residential subdivision of 23 residential lots and associated works and riparian corridor.

Precinct B means the area referred to as 'Stages 3 - 17' generally comprising a residential subdivision of 141 residential lots and 1 neighbourhood park and associated works.

Precinct C means the remainder of the land intended to be dedicated to the Council, generally comprising of works for a fire trail, revegetation works, pedestrian and cycle paths, 1 informal park and associated works, services and bio-retention basin and three future development area parcels.

Proponent means Australian Property Limited ABN 56 111 628 389 or any party acting upon this approval.

Public means the general public and is not limited to the residents of the community title subdivision

Regulation means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

TERMS OF APPROVAL AND CONCEPT PLAN MODIFICATIONS

RESIDENTIAL SUBDIVISION ~ MAJOR PROJECT NO. 05_0016

PART A—TERMS OF APPROVAL

A1 Development Description

Concept approval is granted only to carrying out the development solely within the concept plan area as described in the Environmental Assessment titles “**Concept Approval Application and Project Application for a Staged Development to Permit Residential and Recreational Development at Dolphin Point**” prepared by Turnbull Planning International Pty Limited (dated September 2007), including:

- (1) Staged subdivision of Precincts A and B into 164 residential allotments in 17 stages;
- (2) Creation of roads to service the subdivision;
- (3) Creation and embellishment of one allotment as a neighbourhood park in Precinct B;
- (4) Construction of pedestrian/cycle paths through all Precincts;
- (5) Landscaping;
- (6) Revegetation works to riparian zones in all Precincts;
- (7) Provision of services and infrastructure; and
- (8) Associated with the staged subdivision, dedication of lands in Precincts A, B and C to the Council.
- (9) Identification of Development Parcels in Precinct C.

A2 Development in Accordance with Plans

The development will be undertaken in accordance with the Environmental Assessment dated September 2007 prepared by Turnbull Planning International Pty Ltd as amended by the Preferred Project Report dated 18 February 2008 prepared by Turnbull Planning International Pty Ltd including all Appendices and the following drawings:

| Subdivision Layout Drawings prepared by <i>Rygate and West</i> | | | |
|--|----------|--|------------------|
| Drawing No. | Revision | Name of Plan | Date |
| U11840M Sheet 1 of 4 | C | Plan of Proposed Subdivision of Lots 2, 3 & 4 DP 1123774 (Note: drawing depicts Indicative Subdivision Layout for Precincts A and B) | 13 November 2013 |
| U11840M Sheet 2 of 4 | C | Indicative Lot Layout for Precinct A Subdivision | 13 November 2013 |
| U11840M Sheet 3 of 4 | C | Indicative Lot Layout for Precinct B Subdivision | 13 November 2013 |
| U11840M Sheet 4 of 4 | C | Plan showing Conceptual Staging for Precincts A & B | 13 November 2013 |
| Development Parcels Plan prepared by <i>Urbis JHD</i> | | | |
| Figure on Page 5 of <i>Urban Design Review</i> , Dated 17 October 2006, identifying the Development Parcels being Annexure 4 of the <i>Environmental Assessment Report</i> prepared by Peter Le Bas, Sandra Bailey and Gary Peacock of Turnbull Planning International Pty Limited dated September 2007. | | | |

| Pavement Width and Pathway Concept Plan prepared by <i>Rygate and West</i> | | | |
|--|-------|---|-----------------|
| Drawing No. | Issue | Name of Plan | Date |
| U11840M Sheet 1 of 1 | A | Pavement width and Pathway Concept Plan | 6 February 2008 |

| Road Cross Section Drawings prepared by <i>Rygate and West</i> | | | |
|--|----------|---|------------------|
| Drawing No. | Revision | Name of Plan | Date |
| U11840 Sheet 1 of 1 | A | Typical Road Cross Sections | 6 February 2008 |
| U11840 Sheet 1 of 1 | A | Sections over Proposed Lot 410 and 414 (batter slope) | 13 November 2013 |

| Landscape Drawings prepared by <i>HLS Pty Ltd</i> | | | |
|---|----------|-------------------------------|----------|
| Drawing No. | Revision | Name of Plan | Date |
| L01 | - | Landscape Plan – Street Trees | Feb 2008 |
| L02 | - | Landscape Plan – Park | Feb 2008 |

except for :

- 1) any modifications which are “Exempt and Complying Development” as identified in Shoalhaven Local Environmental Plan 1985 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the conditions of this approval.

A3 Development in Accordance with Documents

The development will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock of Turnbull Planning International Pty Ltd on behalf Elderslie Property Investments, dated September 2007;
- (2) *Transport Report for Proposed Subdivision Dolphin Point* prepared by Colston Budd Hunt & Kafes and dated September 2006 (Appendix to *Environmental Assessment*);
- (3) *Residential Subdivision Dolphin Point, Stages 2 & 3 Water Management Strategy* prepared by Patterson Britton & Partners Pty Ltd and dated September 2006 (Appendix to *Environmental Assessment*);
- (4) *Bushfire Protection Assessment Subdivision Stage 2 Dolphin Point/Burrill Lake City of Shoalhaven* prepared by Bushfire and Environmental Services and dated May 2006 (Appendix to *Environmental Assessment*);
- (5) *Flora and Fauna Assessment Proposed Mixed Use, Residential, Commercial & Recreational Development (Stages 2, 3 and 5) Lot 1 DP 1045990 Princes Highway, Dolphin Point* prepared by Bushfire and Environmental Services and dated October 2006 (Appendix to *Environmental Assessment*);
- (6) *Proposed Stage 2 & 3 Residential Subdivision Lot 1 DP 1045990 Princes Highway, Dolphin Point Shoalhaven* prepared by Network Geotechnics Pty Ltd and dated August 2006 (Appendix to *Environmental Assessment*);
- (7) *Sub-Surface Archaeological Investigation of Stages 2-4 of “The Dairy”, a Proposed Residential Development at Dolphin Point, Near Burrill Lake, on the South Coast of New South Wales* prepared by South East Archaeology Pty Ltd and dated June 2005 (Appendix to *Environmental Assessment*);

- (8) *The Dairy Stages 2-5, Dolphin Point Aboriginal Heritage Management Plan* prepared by South East Archaeology Pty Ltd and dated June 2005 (Appendix to *Environmental Assessment*); and
- (9) The Statement of Commitments contained within the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock of Turnbull Planning International Pty Ltd, dated September 2007; and
- (10) As amended by the Preferred Project Report (including attachments), prepared by Turnbull Planning International Pty Ltd and dated 18 February 2008.
- (11) Conditions of Approval contained in Schedule 2 of the Project Approval 05_0016 MOD 1.

A4 Lapsing of Approval

1 October 2016 unless Precinct A Stage 1 is physically commenced (Concept MP05_0016 MOD 1)

A5 Determination of Future Applications

The determination of future applications for development is to be generally consistent with the terms of approval of Concept Plan MP05_0016 as described in Part A of Schedule 1 and subject to the recommended modifications and conditions of approval set out in Parts A and B of Schedule 2.

A6 Inconsistency between Documents

In the event of any inconsistency between the modification and this concept plan approval and the drawings/documents referred to above or in the Statement of Commitments, the modifications to this concept plan approval prevail.

PART B—MODIFICATIONS TO THE CONCEPT PLAN

B1 Staging

The subdivision development shall be carried out generally in accordance with the approved staging plans.

B2 Restriction on Future Development in Precinct C (Stage 5)

- (1) Development on Precinct C shall be limited to the three potential development areas identified in the Figure on Page 5 of *Urban Design Review* prepared by Urbis JHD dated 17 October 2006 identifying the Stage 5 Development parcels, being Annexure 4 of the *Environmental Assessment Report* prepared by Peter Le Bas, Sandra Bailey and Gary Peacock on behalf of Turnbull Planning International Pty Limited dated September 2007.
- (2) Future development within the three potential development area in Precinct C shall be limited to community facilities and structures for educational and recreational purposes which assist in promoting and interpreting the area's ecological values and Aboriginal Heritage.
- (3) Future development in Precinct C, outside the three potential development areas (other than works approved in this concept plan) shall be limited to landscaping, roads, drainage works, provision of services, pathways, bushfire trails and bushfire hazard reduction works.
- (4) Any future development as identified above (other than approved in this concept plan) shall be subject to development consent, as required under Part 4 of the Act.