



**Planning &
Infrastructure**

**MODIFICATION REQUEST:
Pacific Pines Estate, Lennox Head –
Modification to Concept Plan and Project
Approvals
(07_0026 Mod 3)**



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

September 2011

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Published September 2011
NSW Department of Planning and Infrastructure
www.planning.nsw.gov.au

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1. BACKGROUND

On 12 November 2008, the then Minister for Planning gave concept plan and part project approval to the Pacific Pines residential estate at Lennox Head in the Ballina local government area. The concept plan involved a residential subdivision to create approximately 505 lots, development of a retirement community, neighbourhood centre, including a small-scale shopping centre, green space and an integrated road network. Project approval was given to stage 1 of the development which included subdivision for 63 lots comprising 54 residential lots, six super lots, two open space lots and one residual lot. Approval was also given to the construction of several roads within the estate and earthworks across the site.

The proposal has been since been amended on two occasions. The first modification was approved on 22 December 2008, shortly after the original application was approved. This was a minor administrative modification to clarify the required timing of surrender of an existing development consent that related to the site.

The second modification was approved on 8 August 2011. This modification involved changes to both the concept plan and project approvals and included:

- changes to the staging of the project with consolidation from 11 to 9 stages (concept plan approval). This included the consolidation of Stage 1, for which project approval has been given, from three sub-stages to two (concept plan and project approvals)
- the creation of two additional super lots within Stage 1 to create 8 super lots (concept plan and project approvals)
- an increase in the size of the retail component of the neighbourhood centre from 3,000 m² to 4,000 m² (concept plan approval)
- removing the restriction on developing the full retail centre until such time as Hutley Drive is extended to the north and instead, putting a limit on the release of the final two residential stages until this road is extended (concept plan approval)
- changes to the way in which the loss of threatened species and endangered ecological communities (EECs) across the site is mitigated. This included an increase in the size of the on-site conservation area and amendments to the environmental management plan to include a specific plan for the on-site conservation area which incorporates an on-site compensatory strategy for the loss of certain threatened species and EECs from the site (concept plan and project approvals)
- realignment of Montwood Drive within the site.

Work is yet to commence on the site.

2. PROPOSED MODIFICATION

On 24 August 2011, GeoLINK on behalf of the proponent, Petrac Lennox Head Pty Ltd (Receivers and Managers Appointed), lodged a modification request seeking a number of administrative modifications to both the concept plan and project approvals arising from the recently determined modification (07_0026 MOD 2). In particular, these errors relate to:

- incorrect revision numbers and/ or dates for a number of plans within the concept plan and project approvals
- incorrect numbering of a newly inserted condition
- incorrect reference to stages within two conditions.

The following changes are sought to the concept plan and project approvals and detailed in Appendix A:

Concept Plan

- Drawing C5 referred to in term A3 should have a revision of 3F and not 3E and be dated 8 April 2011, not 8 May 2011;
- Drawing C7 should be dated 28 June 2010, not 14 August 2008.

Project

- the "Infrastructure development servicing contribution" condition should be re-numbered from I3 to H3. This is consistent with its numbering within the original approval
- references to Stage 1B within conditions H2 and new H3 should instead be a reference to Stage 1A. This is consistent with the timing of payment specified within the original approval and the conditions' location within the approval, being under section H – Prior to issue of subdivision certificate for Stage 1A.

No other changes are proposed as part of this modification request.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

Under section 75W(2) of the *Environmental Planning and Assessment Act 1979* (the Act), a proponent may request the Minister to modify the Minister's approval for a project. As the proposed modifications are not consistent with the existing approval, a request pursuant to section 75W of the Act is required.

Section 75W(3) of the Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs). Following an assessment of the modification request, it is considered that DGRs are not required.

The following report describes the department's assessment of the requested modification and supporting documentation as provided by the proponent. It is recommended the proposed modification request be approved subject to conditions.

3.2 Delegated Authority

Under the Instrument of Delegation dated 28 May 2011 from the Minister to the Planning Assessment Commission (PAC), the PAC is the determining authority for section 75W modification requests. However, the delegation also works in conjunction with the delegations given to senior department staff under the Ministerial delegation issued on 25 January 2010. This allows the Director, Metropolitan and Regional Projects North to determine a modification request under section 75W where there are fewer than 10 public submissions in the nature of objections to the modification request. The delegation is not exercised where the local council has made an objection.

Due to the minor nature of the request, it was not formally exhibited. The Director, Metropolitan and Regional Projects North may thus determine the modification request under delegated authority.

4. CONSULTATION AND SUBMISSIONS

Under Section 75X(2)(f) of the Act, the Director-General is required to make the modification request publicly available. In this regard, the department made the request available on the department's website.

5. ASSESSMENT

The proposed modification request relates purely to minor administrative errors that occurred in the drafting of the previous modifying instruments for 07_0026 MOD 2. These errors are described in section 2 of this report.

In order to give proper effect to 07_0026 MOD 2 and provide certainty to the proponent, the department supports the current modification request. Recommended conditions to modify the concept plan and project approvals have been drafted (see Appendix B).

6. CONCLUSION AND RECOMMENDATIONS

The department has reviewed the proponent's modification request and recognises it is necessary to give proper effect to the previously approved modification and as such, recommends it be approved, subject to modifications to the concept plan and project approvals.

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APPENDIX A MODIFICATION REQUEST

See the department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B RECOMMENDED MODIFYING INSTRUMENTS
