

# Section 75 W Modification

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Application to Department of Planning and  
Infrastructure

## **Residential Subdivision**

Bevian Road, Rosedale

Submitted on behalf of:

Barlings Beach Pty Ltd

(previously trading as Nature Coast Pty Ltd)

**March 2013**

(amended 22/3/2013)

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## EXECUTIVE SUMMARY

This report has been prepared to support an application made pursuant to Section 75W of the Environmental Planning and Assessment Act 1979 (the “Act”) to modify Concept Plan Approval MP 05\_0199 for residential subdivision at Bevian Road, Rosedale. It is noted that Section 75W was repealed with the repeal of Part 3A of the Act, but has continuing effect for any concept plan approved before the repeal date.

The application is made on behalf of Barlings Beach Pty Ltd (previously trading as Nature Coast Developments Pty Ltd) the proponent nominated in the Concept Approval.

This Section 75W application seeks a modification to the date Concept Approval for MP 05\_0199 is liable to lapse from 2 October 2013 to 1 October 2016. This is an extension that coincides with the *Part 3A repeal – transitional arrangements* that requires all approvals to lapse no later than 1 October 2016 unless the development is physically commenced. By letter dated 22 March 2013 Eurobodalla Council have provided unequivocal support for an extension date to 1 October 2016

The proposed development is unlikely to occur within the 5-year approval time frame (ie by 2 October 2013) as required by the concept approval notification. Notwithstanding there is a current DA lodged with Council for approval to commence the first stage of subdivision and Eurobodalla Council has been very supportive and keen to see this development proceed there is common agreement that there is not enough time remaining to undertake the necessary assessment process and begin physical commencement of the subdivision.

Reasons why the current DA has taken so long to be lodged with Council and why it is unlikely that there will be physical commencement by the 2 October 2013 are as follows:

1. Global Financial Crisis
2. Modifications to the approved Concept Plan
3. Progress of shared infrastructure agreement

Additional supporting information on how these reasons have impacted on the lodgement of the current DA is provided in the body of this application.

The proposed modification to the approved Concept Plan will:

- not impact on the use of the site;
- will not have any unacceptable environmental impacts on the amenity of the locality; and
- will ensure development of the subject site commences.

Ensuring development of the subject site commences will ensure that there is provision of an additional 792 residential lots over the next 15 – 20 years in the Eurobodalla shire. This will have social and economic implications because it makes a significant contribution to meeting the overall anticipated housing requirements for the shire and maintaining a sustainable and healthy economy, community and environment for the future.

It is considered that the application for modification to the Concept Approval for MP 05\_0199 should receive favorable consideration.

## 1.0 INTRODUCTION

This application is submitted to the Department of Planning and Infrastructure in support of a proposed modification to Concept Approval MP 05\_0199 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*.

Concept Approval MP 05\_0199 permits residential subdivision on land at Bevia Road, Rosedale comprising Lots 11, 29, part 32, 72, 102, 118, 119 and part 213 in DP 755902; Lot 2 DP 627034 and Lot 2 DP 623340 (hereafter referred to as “the subject site”).

It is noted that Section 75W was repealed with the repeal of Part 3A of the Act, but has continuing effect for any concept plan approved before the repeal date.

Crosby Textor Pty Ltd has prepared this application on behalf of Barlings Beach Pty Ltd, previously trading as Nature Coast Developments Pty Ltd, the original applicants of the proposed development.

The application provides:

- background information on the concept approval;
- preliminary details of the proposed modification;
- reasons for the proposed modifications; and
- a preliminary environmental assessment of the proposed modification.

## 2.0 BACKGROUND AND APPROVED CONCEPT PLAN

### 2.1 Background

On the 2 October 2008 the then Minister for Planning determined to grant Concept Plan approval for the subdivision of the subject site (refer **Figure 1**). This included approval of a master plan for the subject site with future development to occur in stages.

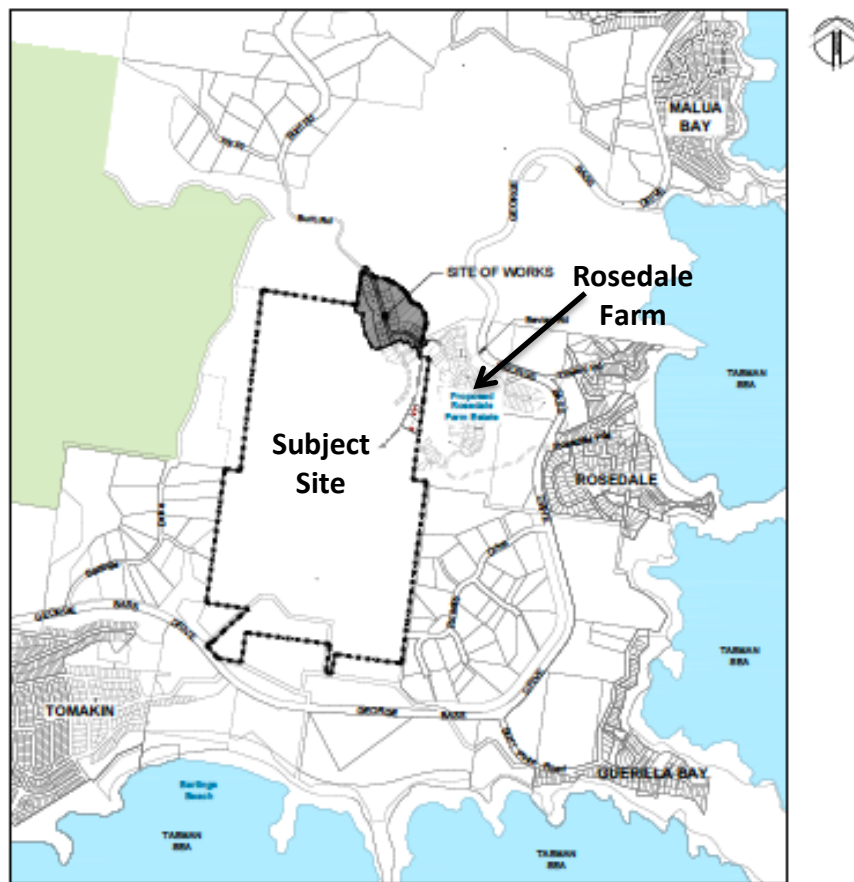
In February 2013 a Development Application (DA) was lodged with Eurobodalla Council for the first stage of development in the northeast corner of the approved master plan (refer 'Site of Works' in **Figure 1**). The application was subject to significant improvements following pre-DA discussions with council staff. The improvements relate to road layout and some fine-tuning of the approved Concept Plan.

### 2.2 Approved Concept Plan

The approved Concept Plan is described as follows:

*Community title subdivision for residential development and ancillary commercial and community facilities, comprising six (6) Ecological Protection lots, one (1) Community lot and thirteen (13) Neighbourhood Precincts (which will yield a total of 792 residential lots).*

Figure 1



### 3.0 PROPOSED MODIFICATIONS

#### 3.1 Summary of Modifications

It is proposed to modify the Concept Approval for MP 05\_0199 by extending the time the approval will lapse from 2 October 2013 to 1 October 2016. This is an extension of approximately three (3) years on the original 5-year approval for physical commencement of the proposed development.

An extension date to 1 October 2016 has been chosen to coincide with the *Part 3A repeal – transitional arrangements* that specify any project approved under Part 3A that does not specify a date on which the approval will lapse will now lapse on the 1 October 2016 unless the development is physically commenced.

Attached is a letter from Eurobodalla Council dated 22 March 2013 providing unequivocal support for the proposed modification.

The proposed modifications will require the following changes to the terms of approval attached to the Concept Plan:

1. The date approval is liable to lapse in Schedule 1 will need to be amended from 5 years to 1 October 2016
2. Term of Approval A5 *Lapsing of Approval* in Schedule 2 will need the reference to 5 years changed to 1 October 2016.

## 3.2 Reasons for Modifications

The principle reason for the proposed modification is because only recently it has become apparent that physical commencement of the proposed development is unlikely to occur within the 5-year approval time frame (ie by 2 October 2013) as required by the concept approval notification. Notwithstanding there is a current DA lodged with Council for approval to commence the first stage of the subdivision and Eurobodalla Council has been very supportive and keen to see this development proceed there is common agreement that there is not enough time remaining to undertake the necessary assessment process and begin physical commencement of the proposed subdivision.

Reasons why the current DA has taken so long to be lodged with Council and why it is unlikely that there will be physical commencement by the 2 October 2013 are as follows:

### 1. Global Financial Crisis

The Concept Approval was granted in October 2008 which coincides with the commencement of the Global Financial Crisis with the collapse of Lehman Brothers collapse on 14 Sept 2008 prompting worldwide panic on the stock markets around the world. Subsequently the markets became highly volatile and consumer confidence hit rock bottom. Australia was not immune, particularly the property sector as many projects were put on hold because of a lack of funding and the uncertainty with the economic future. Like many others this project was unable to proceed and was put on hold until more stable economic factors returned to the market.

Only recently this project has become economically viable and funding has been made available. Subsequently pre-DA meetings have been held with Eurobodalla Council in early November 2012 and a project application lodged for the first stage of development.

### 2. Modifications to the approved Concept Plan

As part of the pre-DA process it was agreed with Council that significant improvements to this first stage of development can and should be achieved with an amended road layout and some fine-tuning of the approved Concept Plan.

Although providing a vastly improved urban outcome it has also meant that significantly more time has been consumed in making sure the best possible outcome for the site can be achieved in accordance with Council's suggestions. For this reason lodgement of the DA was delayed until February 2013.

### 3. Progress of shared infrastructure agreement

More recently, a development application for subdivision of residential lots has been lodged with Eurobodalla Council on land adjoining the northeast boundary of the subject site and adjacent the 'Site of Works' for the proposed first stage of development on the subject site. This adjoining development proposal is more commonly known as 'Rosedale Farm' (refer **Figure 1**).

As part of the pre-DA meeting with Council, the following comments were made and recorded in the Council minutes:

*"The orderly development of the Rosedale 'land release area' will require collaboration of local landowners and the Council to ensure that*

*connectivity both between the adjoining 'Rosedale Farm' land, and within the proposed Marsim subdivision is achieved. The design and construction of distributor roads, provision of services including water, sewer, electricity and telecommunication infrastructure will also involve further discussions between relevant parties, including negotiation and the apportionment of costs involved".*

Preliminary discussions with the owners of the adjoining "Rosedale Farm" was instigated by Council and further discussions/negotiations have been taking place with a view to address Council's expressed desire for the orderly development of our 'land release area' to be coordinated with the development of the adjoining 'Rosedale Farm' subdivision.

As detailed by Council, these negotiations centre on the design and construction of distributor roads, provision of services including water, sewer, electricity and telecommunication infrastructure and the apportionment of costs involved. A previous infrastructure agreement comprised approximately 500m of road, however as a result of pre-DA discussions with Council, the scope has expanded to consider additional road works with associated underground services, the construction of a roundabout on George Bass Drive and the delivery of a major sewer pump station to service not only the two proposed subdivisions but also service approximately 240 existing dwellings located in an adjacent catchment, known as Rosedale Village. The costs of the sewer pump station are to be shared between the two developers and Council.

Although the negotiations are progressing, they will take some time. These are significant issues to be dealt with and have significant cost implications and therefore are very time consuming.

## 4.0 ENVIRONMENTAL ASSESSMENT

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It is considered that the proposed modification will have no impact on the natural or built environment and there is no need for any further assessment.

In relation to social and economic impacts, the proposed modification will assist in ensuring:

- the orderly development of the land release area incorporating not only the two proposed developments but also existing development nearby that is currently serviced by Council,
- an improved urban outcome through a coordinated traffic network, efficient use of resources and infrastructure delivery through the amalgamation of infrastructure services.

The proposed modification will not only ensure the development of 792 lots on the subject site commence but will also facilitate the development of a further 135 lost in the adjoining 'Rosedale Farm' which would be in doubt if the Bevia Road development does not proceed and Council do not secure its much needed sewer pump station for the existing adjacent residential estate in Rosedale Village.

Overall, this will make a significant contribution to meeting the anticipated housing requirements for the shire and maintaining a sustainable and healthy economy, community and environment for the future.



## 5.0 STATEMENT OF COMMITMENTS

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In response to the proposed modifications, it is considered that the approved Statement of Commitments does not require revision as a consequence of the proposed modifications. Nature Coast Developments Pty Ltd reaffirms their commitment in respect of environmental management, mitigation and monitoring measures etc that are to be implemented to manage and minimise any potential impacts of the project.

## 6.0 CONCLUSION

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This Section 75W application seeks a modification to extend the date Concept Approval for MP 05\_0199 is liable to lapse from 2 October 2013 to 1 October 2016. This is an extension that coincides with the *Part 3A repeal – transitional arrangements* that requires all approvals to lapse no later than 1 October 2016 unless the development is physically commenced.

It has been shown that the proposed modification to the approved Concept Plan will

- not impact on the use of the site;
- will not have any unacceptable environmental impacts on the amenity of the locality; and
- will ensure development of the subject site commences.

Ensuring development of the subject site commences will ensure that there is provision of an additional 792 residential lots over the next 15 – 20 years in the Eurobodalla shire. This will have social and economic implications because it makes a significant contribution to meeting the overall anticipated housing requirements for the shire and maintaining a sustainable and healthy economy, community and environment for the future.

It is considered that the application for modification to the Concept Approval for MP 05\_0199 should receive favorable consideration.