

Modification of Minister's Approval

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

As delegate of the Minister for Planning, I modify the Project Approval referred to in Schedule 1, subject to the terms of approval in Schedule 2.



Anthony Witherdin
Director
Modification Assessments

Date: 2 NOVEMBER 2016 Sydney

SCHEDULE 1

Project Approval:

06_0212 granted by the Deputy Director-General on 22 December 2010 under the Minister's delegation.

For the following:

Boundary adjustment, subdivision and implementation of associated infrastructure for 142 residential lot rural subdivision comprising:

- Torrens title boundary adjustment between Lot 51 in DP775871 and neighbouring parcels (Lots 22, 28, 52, 53, 56 and 86 in DP 791199 and Lot 92 DP 805549) and Lot 91 DP 805549;
- Staged (13 stages) subdivision into 142 rural residential lots under community title;
- Provision of access, landscaping and associated stormwater drainage infrastructure; and
- Provision of community open space lot (lot 1) for provision of community facilities.

Modification:

MP 06_0212 MOD 2:

- Modify Condition E4 to change the beneficiary of a positive covenant.

SCHEDULE 2

The above approval is modified as follows:

1. Part E – Prior to Issue of Subdivision Certificate – Condition E4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of ~~struck-out~~ words/numbers as follows:

E4 Registration of Easements / Restrictions to use / Right of carriageway

- (1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:

Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners. Maintenance of the subsurface drains is to be included in the 88B instrument.

- (2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.
- (3) Privately owned infrastructure on community land may be subject to the creation of statutory restrictions, easements etc in accordance with the *Community Land Development Act 1989*, *Conveyancing Act 1919*, or other applicable legislation.
- (4) The following is to be included in the Section 88B Instrument to accompany the final plan of subdivision. ~~Apart from point e. below, the~~ restrictions are to be worded to the satisfaction of Port Macquarie-Hastings Council and Council is to be listed as the sole party to vary or extinguish the restrictions.
 - a. Nomination of building envelopes.
 - b. A restriction as to user is to be created to require the Flood Planning Level (FPL) for all future dwelling habitable floor levels on the site shall be 4.9m – 5.4m AHD.
 - c. Establishment and maintenance of a 20m vegetated buffer for lots fronting the Hastings River, as required by this approval.
 - d. Requirement for the implementation of the approved vegetation management plan required under this approval on all affected lots.
 - e. A positive covenant is to be created over all the 7(h) Environmental Protection- Habitat zoned land under the *Hastings Local Environmental Plan 2001* along Haydons Creek and the Bloodwood Open Forest on Lots 140-141. The covenant is to be ~~in favour of the Minister for Environment and Climate Change and Water and be worded to the satisfaction of the Department of Environment, Climate Change and Water~~ so as to secure the long-term management of the vegetation contained on the land.
 - f. A restriction as to user is to be created requiring future residential development on the allotments to provide on-site effluent disposal systems in accordance with Appendix K of the PPR. In this regard, Table 8 in Appendix K is required to be updated to reflect revised lot numbering and Group 3 lots identified in the Effluent Disposal Assessment prepared by Coffey Geotechnics (Table 8) are to be upgraded to require subsurface irrigation of effluent.

- g. Effluent disposal areas and bushfire asset protection zones noting that all such areas are to be located outside 7(h) Environmental Protection – Habitat zones, with effluent disposal areas to additionally satisfy minimum setback requirements outlined in Appendix K of the PPR.
- (5) The restriction is to be clearly marked on the plan of subdivision and Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

End of Modification