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A 33 Holly Street, Bowral NSW 2576
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Wingecarribee Shire Council
PO Box 141
Moss Vale NSW 2577
Attention: Nancy Sample

Dear Nancy,

RE: Modification Application to Development Application 17/1052 – 16 Lot subdivision of Lot 24 DP751298 at Bumballa Road, Wingello

This Statement of Support has been prepared to support an application made pursuant to Section 4.55(1) of the *Environmental Planning and Assessment Act 1979*, in relation to the abovementioned Development Application.

It satisfies the requirements of Clause 115 of the *Environmental Planning and Assessment Regulation 2000* in providing the appropriate information to enable Council to appropriately assess and determine the application.

The application seeks the correction of an error in the stamped approved plans. A correction of this error results in a minor adjustment to the alignment of the common boundary between approved Lots 1 and 2 with a corresponding minor change to the approved site area of these two lots. The correction of the error will allow the requisite Subdivision Certificate to be issued.

Approved Development Application

Development Application 17/1052 was initially approved by Council on 14 August 2108 for the specific purpose of:

16 Lot Subdivision

The consent was granted with a suite of standard conditions of consent. The proponent is in the process of addressing all relevant conditions that will enable the issue of the requisite Subdivision Certificate to enable registration of the subdivision and the creation of the new residential lots.

This Statement of Support provides the appropriate consideration of the proposed modification against the relevant planning legislation to allow Council to be satisfied pursuant to s4.55(1), that the stamped approved plan of subdivision was in error.

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With direct reference to the provisions of Clause 115 of the Regulations, the following information is provided:

(1) An application for modification of a development consent under section 96 (1), (1A) or (2) or 96AA (1) of the Act must contain the following information:

(a) the name and address of the applicant,

Refer to application form

(b) a description of the development to be carried out under the consent (as previously modified),

The approval issued under Development Approval 17/1052 was for a sixteen (16) lot subdivision of an existing lot. The proposed modification to the consent does not contemplate any change to this.

(c) the address, and formal particulars of title, of the land on which the development is to be carried out,

Refer to application form. The land is legally described as Lot 24 DP751298 with an address of 15-19 Bumballa Road, Wingello.

(d) a description of the proposed modification to the development consent,

The proposed modification is described in this Statement of Support.

(e) a statement that indicates either: (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation,

The modification is intended to correct a minor error, being the miscalculation of the alignment of the common boundary between proposed Lots 1 and 2 and as a result a minor miscalculation of the site areas of these two lots. The error resulted in an existing fibro cottage that is to be retained, straddling the common boundary, whereas the desired outcome was to have this cottage wholly within Lot 1.

Or (ii) that the modification is intended to have some other effect, as specified in the statement,

The modification is not intended to have any other effects other than adjusting the common boundary between Lots 1 and 2.

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(f) a description of the expected impacts of the modification,

It is not expected that the proposed modification will result in any impacts different to or greater than the impacts already accepted by Council in approving the original development application. If the adjustment to Lots 1 and 2 is made, the subdivision will remain fully compliant and there will be no consequential impacts on any other facet of the development as approved.

(g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,

The development, as to be modified, will remain substantially the same as that originally approved. The approval issued was for a sixteen (16) lot subdivision of one existing lot and that has not changed.

(h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),

Refer to application form

(i) a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA), and, if the consent authority so requires, must be in the form approved by that authority.

Not relevant to this application.

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Description of the Modifications being sought

Council is requested to consider modifying the consent as issued, by approving a modified plan of proposed subdivision, prepared by Gary A. Antaw Surveyor dated 12/3/2020.

The plan adjusts the common boundary between Lots 1 and 2 by widening Lot 1 from 26.025 metres to 28.755 metres, with a corresponding reduction in the width of Lot 2 from 26.025 metres to 23.295 metres.

This results in a minor change in site area with Lot 1 increasing from 2234sqm to 2469sqm and Lot 2 decreasing from 2234sqm to 2000sqm.

This plan is to replace the stamped approved plan prepared by Gary A. Antaw Surveyor dated 9/12/2016.

Category of Modification

The proposed modification to the existing consent is considered to be within the ambit of Section 4.55 of the *Environmental Planning and Assessment Act 1979* (the Act).

The modification application has been lodged pursuant to Section 4.55(1) of the Act, which states:

(1) Modifications involving minor error, misdescription or miscalculation A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5) and (6) and Part 8 do not apply to such a modification.

Council is at liberty to accept that the stamped approved plan of subdivision was in error, with the initially proposed common boundary incorrectly placed relative to the existing fibro cottage that is to be retained.

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Assessment of Proposed Modification

The proposed modification to the issued consent is considered to be fair and reasonable, suitable to the circumstances of the case and can be supported.

The realignment of the common boundary between Lots 1 and 2 will achieve the original objective of retaining the existing fibro cottage wholly within the boundaries of Lot 1.

The adjustment does not alter the overall layout of the subdivision. Importantly, even though Lot 2 will have a reduced site area, it will remain compliant with the minimum lot size as required by the Lot Size Maps pursuant to Clause 4.1 of the *Wingecarribee Local Environmental Plan 2010*.

The reduced site area does not compromise in any way the ability of Lot 2 to accommodate a future dwelling house.

Conclusion

The requested modification to the approved Development Approval 17/1052 is not considered to be significant and is well within the ambit of S4.55(1) of the Act.

There are no adverse impacts arising from the proposed modification.

The consent should be amended in the manner requested to approve the amended plan of proposed subdivision.

There are no consequential changes to any other conditions of development consent.

Thank you and I would be pleased to discuss any aspect of this submission with you at your earliest convenience if necessary.

Yours Faithfully,

Scott Lee

18 February 2021