

4. DA No. 2009.0067: Boundary adjustment – Lakewood Drive, Merimbula

Group Manager, Planning and Environment

Applicant	Michael Britten c/- Caddey Searl and Jarman Surveyors
Owner	M G Britten & R E Savage and Ridge Consolidated Pty Ltd (by mortgagee in possession)
Site	Lot 1881 DP 1014185 and Lot 100 DP 1070254, Lakewood Drive, Merimbula
Zone	2(c) Residential Tourist
Site area	28.83ha
Proposed development	Boundary adjustment

PRECIS

Council is in receipt of a development application for a boundary adjustment between two lots.

The applicant and part owner of the development is a Bega Valley Shire Councillor and in accordance with Policy 4.1.1(p), the application is reported to Council for determination.

The application is recommended for approval.

DESCRIPTION OF THE PROPOSAL

The proposal involves a boundary adjustment between two allotments off Lakewood Drive, Merimbula.

Lot 1881 DP 1014185, owned by Michael Britten and R E Savage currently has an area of 1.379ha. It is proposed to excise a portion of land, being 2.709ha, from adjoining land known as Lot 100 DP 1070254, currently owned by Ridge Consolidated Pty Ltd (under mortgagee in possession) and consolidate with Lot 1881.

The resulting allotments would appear as Proposed Lot A, with a total area of 4.089ha and Proposed Lot B, with a total area of 24.74ha.

A copy of the proposed plan of subdivision is provided as Attachment A.

DESCRIPTION OF THE SITE

The subject site is located at the end of Lakewood Drive, Merimbula. Part of the land is within what is known as the Bellbird Ridge subdivision and the remainder of the land (current Lot 1881) adjoins that subdivision to the west.

The land is surrounded by residential subdivision to the north and east, Merimbula Lake to the south and Robyn's Nest Tourist Resort to the west.

The land is significantly vegetated on the portion currently known as Lot 100 and substantially cleared on the land currently known as Lot 1881. The land slopes moderately to Merimbula Lake.

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A locality plan is provided as Attachment B.

PLANNING ASSESSMENT

The proposal has been assessed in accordance with the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Staff highlight the key issues of the proposal in this report for Council's consideration.

Zoning

The subject land is zoned 2(c) Residential Tourist under the provisions of Bega Valley Local Environmental Plan 2002 (BVLEP). The boundary adjustment is permissible under Clause 67 of the BVLEP and is consistent with the objectives of the 2(c) zone.

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ISSUES

The proposal involves a minor realignment between boundaries of two allotments which is consistent with the orderly and economic use of the land. The subdivision does not result in any additional allotments that would require servicing and infrastructure and therefore minimal conditions are applicable in terms of compliance with Council's subdivision provisions.

As such there are no issues associated with the proposed boundary adjustment and the application is recommended for approval subject to standard conditions of consent.

Consultation

Consultation was undertaken with the NSW Rural Fire Service (RFS) in accordance with the provisions of the Rural Fires Act 1997, as the land is classified as Bushfire Prone Land. The RFS has assessed the application and issued a Section 100B Bushfire Safety Authority, which would form part of the consent conditions should the application be approved.

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Public consultation in relation to a two lot subdivision is exempt from notification requirements, under the provisions of Bega Valley Shire Council Development Control Plan No. 3 – Notification.

Policy

This application is reported to Council in accordance with Policy 4.1.1(p) as the applicant is an elected Councillor.

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CONCLUSION

The proposal is a minor boundary adjustment which is consistent with Council's adopted plans and policies. There would be no environmental impact as a result of the subdivision.

The application is recommended for approval.

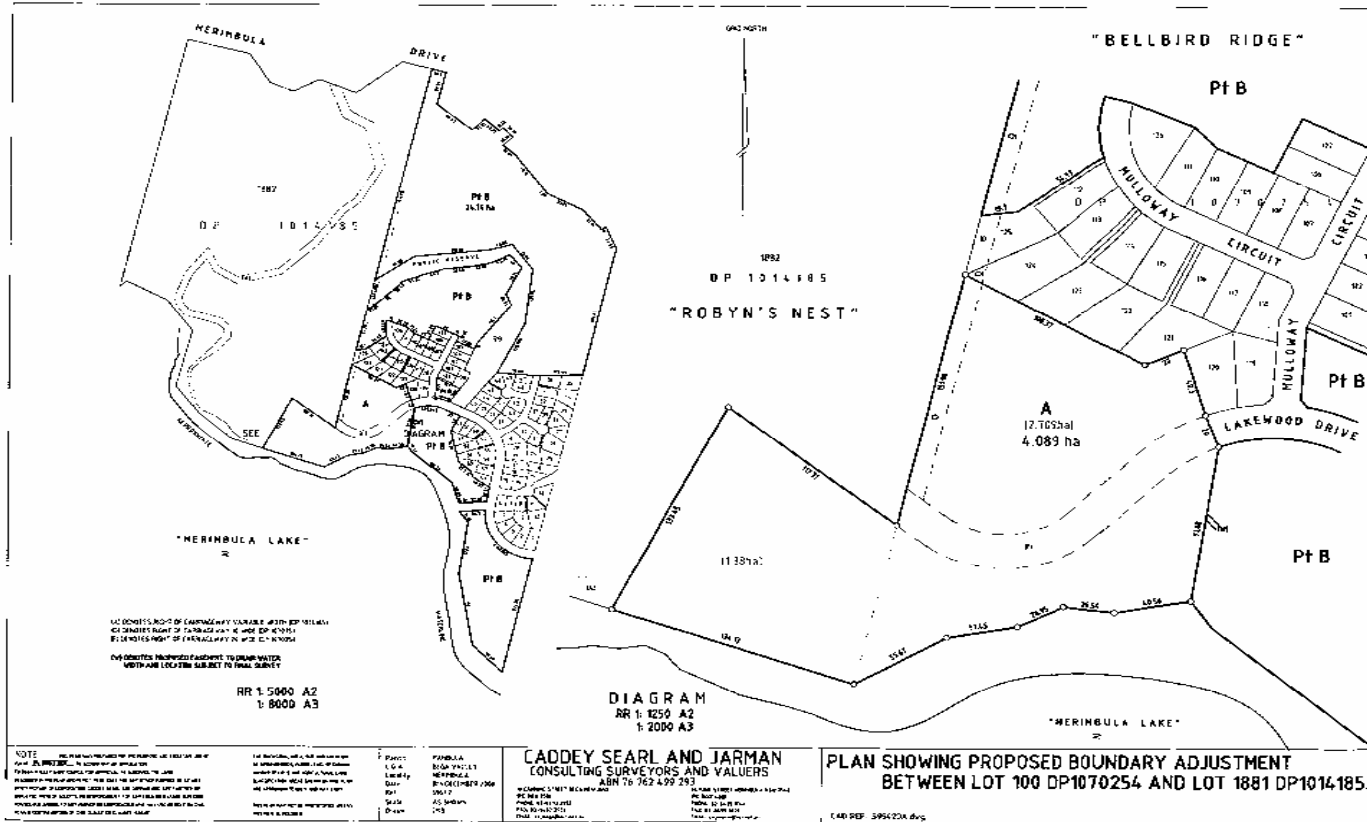
RECOMMENDATION

1. That Development Application 2009.0067 for a boundary adjustment between Lot 1881 DP 1014185 and Lot 100 DP 1070254, Lakewood Drive, Merimbula be approved subject to conditions outlined in the draft consent provided as Attachment C to this report.

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2. That the NSW Rural Fire Service be notified of Council's decision.

Attachment A – Proposed Plan of Subdivision (Boundary Adjustment)



Attachment B – Locality Plan



Attachment C – Draft Consent



Bega Valley Shire Council

DA No. 2009.0067

DRAFT

Michael Britten
 c/- Caddey Searl & Jarman
 PO Box 488
 MERIMBULA NSW 2548

NOTICE OF DETERMINATION

under Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979* (as amended).

The development application has been determined by granting consent under Clause 67 (3) of the *Bega Valley Local Environmental Plan 2002* subject to conditions.

APPLICANT	Caddey Searl & Jarman
LAND	Lot 1881 DP 1014185 and Lot 100 DP 1070254
LOCATION	Lakewood Drive, Merimbula
ZONE	2(c) Residential Tourist Zone
PROPOSED DEVELOPMENT	Boundary adjustment
CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA	n/a

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DETERMINATION MADE ON **2009**
 CONSENT TO OPERATE **2009**
 FROM
 CONSENT TO LAPSE ON **2014**

REVIEW OF MERIT CONSENT

Conditions of approval DRAFT

1. The plan of subdivision shall be in accordance with the Approved Development Plan, the application form and any supporting documentation received with the application, except as may be amended in red on the attached plans by the following conditions.
2. The subdivider shall appoint a Principal Certifying Authority for this development who will have the responsibility to issue a Subdivision Certificate in conformity with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* and related Regulations.

At the date of endorsement of this development consent, only the Council is able to carry out the functions of a Principal Certifying Authority for subdivisions.

3. The subdivider must obtain a Subdivision Certificate for this subdivision from the appointed Principal Certifying Authority before the plan of subdivision can be registered by the Department of Land and Property Information NSW. All conditions of consent must be satisfied, or suitable bonding arrangements made with Council, before a Subdivision Certificate can be issued. A copy of the prescribed form for an Application for a Subdivision Certificate is enclosed. (Council's current fee for a Subdivision Certificate as at the date of this consent is \$ 450).
4. Where any easement, right-of-carriageway or restrictive covenant is to be created pursuant to Section 88B of the *Conveyancing Act, 1919*, the subject S88B Instrument shall be submitted to the Principal Certifying Authority with the final plan of subdivision as a prerequisite to the endorsement of the Subdivision Certificate by the Principal Certifying Authority.
5. Where a positive covenant is intended to be created in favour of Council pursuant to Section 88E of the *Conveyancing Act*, the Section 88B instrument must be endorsed by the Council prior to the endorsement of the Subdivision Certificate by the Principal Certifying Authority.
6. **Bush Fire Safety Authority under the provisions of Section 100B of the Rural Fires Act 1997**
The subdivision shall comply with the requirements of the Bush Fire Safety Authority, issued by the NSW Rural Fire Service, dated 30 March 2009.

Note: The general terms of approval issued by the NSW RFS are provided as Attachment A to this development consent.

The above conditions are in the public interest to reduce any potential environmental impact and to ensure the proposed development complies with:

- the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations
- any environmental planning instruments applying to the subject land
- Council's codes and policies
- *Section 94 Development Contribution Plan and Tree Preservation Order.*

Notes:

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1. If you do not agree with this determination you can apply to Council for a review under Section 82A of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

An application for review must be made within one year from the date of this notice, and must be accompanied by the prescribed fee. This provision does not apply to designated development or integrated development. (Please contact Council for details).
2. If you are dissatisfied with Council's determination, you can appeal to the Land and Environment Court under Section 97 of the EP&A Act 1979 within 12 months from the date of this notice.
3. Before you start any building or subdivision works you must obtain a Construction Certificate from Council or an accredited certifier.
4. It is an offence under the *National Parks and Wildlife Act 1974* to destroy, deface or damage an Aboriginal relic. If during works on site any Aboriginal relic is discovered then you should immediately stop work and contact representatives of the National Parks and Wildlife Service and the Local Aboriginal Land Council.
5. The *Native Vegetation Act 2003* requires consent for the clearing of remnant native vegetation or protected regrowth from the Southern Rivers Catchment Management Authority. It is the proponent's responsibility to consult the Southern Rivers Catchment Management Authority to determine the need or otherwise for their approval and you should not construe the granting of this development consent as notification to you that the NSW Native Vegetation Act does not apply. The NSW Native vegetation Act 2003 may have direct application to your proposal and you should obtain advice about this matter directly from the Southern Rivers Catchment Management Authority.
6. It is the applicant's responsibility to advise Council of any changes to contact details in a timely manner. Council will not be held responsible for any lost documents, delays or missed inspections if any of the details are in any way not up-to-date. Should duplicate documents be required they will incur an additional fee in this circumstance.
7. No credit is implied or inferred in relation to water and sewer headworks contributions, in accordance with Councils adopted Developer Servicing Plans as a result of this boundary adjustment.

Cecily Hancock
Planning Coordinator

FOR BEGA VALLEY SHIRE COUNCIL