

# Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Keiran Thomas  
**Director**  
**Regional Assessments**

Sydney

19 February 2021

## SCHEDULE 1

**Development consent:** **MP07\_0179** granted by the Minister for Planning on 2 December 2009

**For the following:**

Mixed use development including;

- Ground level commercial spaces including supermarket and retail shops;
- Upper-level residential units;
- Ground level public forecourt;
- Basement and surface car parking; and
- Landscape areas.

**Applicant:**

Joanne Kay

**Consent Authority:**

Minister for Planning and Public Spaces

**The Land:**

Cabarita Beach Mixed Use Development

Lot 1 DP 1185345

**Modification:**

**MP 07\_0179 MOD 6:** the modification includes:

- Amend Condition A1 to reflect correct number of units;
- Amend Condition A2 to reflect the updated plan set for Stage 2 of the development;
- Delete Condition B3;
- Amend Conditions B4 and B5 to remove specific unit length reduction requirement;

- Amend Conditions B29 and B30 to reflect correct monetary contributions;
- Minor design changes including changes to exhausts and entries, insertion of automatic doors, changes to windows/skylights and the refining of the roof form to provide a single pitched roof over each unit; and
- Altering the Level 1 landscaped podium from inaccessible public open space to private open space courtyards behind units 1-8.

## SCHEDULE 2

The above approval is modified as follows:

1. In Schedule 2, Part A Administrative Conditions, Condition A1A (2) is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

### **A1A Staging**

2) Stage 2 is to comprise the construction of the residential component of the development including:

- i. ~~40~~ **38** Upper-Level residential units
- ii. Allocation of basement residential parking for 56 vehicles (for residential uses) as constructed in Stage 1

The proponent is to review on a yearly basis and report to the Council via the Certifying Authority the anticipated timeframe for the delivery of this residential stage (Stage 2) of the development. Such review should demonstrate that the residential stage will be delivered at the appropriate time with regard to the land use and urban design objectives of Section B19 of Councils Development Control Plan – Bogangar/Cabarita Beach Locality Plan.

2. In Schedule 2, Part A Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

### **A2 Project in Accordance with Plans**

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

<b>Architectural (or Design) Drawings prepared by Stockwell</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
DA-11	C	Site Plan	27/07/09
DA-12	D	Basement Lower Plan	15/10/09
DA-13	H	Basement Mezzanine Plan	15/10/09
DA-14	G	Ground Level 1 Plan	15/10/09
DA-15	E	Level 2 Plan	27/07/09
DA-16	D	Level 3 Plan	27/07/09
DA-17	B	Roof Plan	27/07/09
DA-18	D	Unit Plans	27/07/09
DA-19	B	Tweed Coast Road Elevation	27/07/09
DA-20	B	Hastings Road Elevation	27/07/09
DA-21	D	Sections	27/07/09
DA-22	C	Sections	28/08/09
DA-25	D	Area Plan	27/07/09
<b>Landscape Drawings prepared by Jeremy Ferrier</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
29013 SK01	A	Landscaped Concept	02/20/09
29013 SK02	A	Landscaped Concept	02/20/09
29013 SK03	A	Elevations & Plant Palette	02/20/09
<b>Survey Drawings prepared by B &amp; P Surveys</b>			

Drawing No.	Revision	Name of Plan	Date
15128B	C	Sheet 1	10/04/08
15128B	C	Sheet 2	10/04/08
<b>As Constructed Drawings prepared by Cameron Chisolm &amp; Nicol</b>			
Drawing No.	Revision	Name of Plan	Date
0001	D	Site Plan	30/09/2014
1203	F	Lower Ground Floor Level Part B Floor Plan	30/09/2014

**Except where modified by the following:**

<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<b><u>Residential Component</u></b>			
<b><u>DA-05</u></b>	<b><u>B</u></b>	<b><u>Level 1 Floor Plan</u></b>	<b><u>29/02/20</u></b>
<b><u>DA-06</u></b>	<b><u>B</u></b>	<b><u>Level 2 Floor Plan</u></b>	<b><u>29/02/20</u></b>
<b><u>DA-07</u></b>	<b><u>B</u></b>	<b><u>Roof Plan</u></b>	<b><u>29/02/20</u></b>
<b><u>DA-08</u></b>	<b><u>B</u></b>	<b><u>Typical Unit Floor Plans</u></b>	<b><u>29/02/20</u></b>
<b><u>DA-09</u></b>	<b><u>B</u></b>	<b><u>Elevations</u></b>	<b><u>29/02/20</u></b>
<b><u>DA-10</u></b>	<b><u>B</u></b>	<b><u>Sections</u></b>	<b><u>29/02/20</u></b>
<b><u>Landscape Concept</u></b>			
<b><u>29013 SK02</u></b>	<b><u>A</u></b>	<b><u>Landscape Concept</u></b>	<b><u>2009/02/20</u></b>
<b><u>29013 SK03</u></b>	<b><u>A</u></b>	<b><u>Elevations and Plant Palette</u></b>	<b><u>2009/02/20</u></b>

3. In Schedule 2, Part B, Prior to Issue of Construction Certificate, Condition B2 is deleted as follows:

**B2 Design Modifications**

The design of the project shall be amended as follows:

- (1) ~~Amendments to the landscape podium as required by condition B4.~~

~~Reason: to ensure the future residents and occupants of the project have an acceptable level of amenity.~~

~~Amended plans incorporating this design modification shall be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.~~

4. In Schedule 2, Part B, Prior to Issue of Construction Certificate, Condition B3 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

**B3 Design Verification Statement – Residential Flat Buildings**

Prior to the issue of a construction certificate the proponent shall submit to the certifying authority a Design verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No.

65 – Design Quality of Residential Flat development. ~~In addition, a reduction in the overall length of the residential units 1-7, 13-27 and 33-40 by at least 1,000mm is required to assist in the improvement in the design quality.~~

5. In Schedule 2, Part B, prior to Issue of Construction Certificate, Condition B4 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **B4 Landscaped Podium**

In order to achieve an acceptable level of amenity for future residents and occupants of the project, the landscaped podium area ~~on Level 2 shall be enlarged by way of reducing the overall length of residential units 1-7, 13-27 and 33-40 by in excess of 1,000mm~~ **on level 1 shall be amended in accordance with approved plans.**

It should be noted that front setbacks from Hastings Road and Tweed Coast Road shall not be amended in order to comply with this condition.

6. In Schedule 2, Part B, Prior to Issue of Construction Certificate, Condition B29 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

#### **B29 Section 94 Monetary Contributions**

- 1) Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to section 94 of the *Environmental Planning and Assessment Act 1979*:

##### **(1) Amount of Contributions**

<b>Tweed Road Contribution Plan No 4</b>		
No. of Trips	\$ per trip	Sub-Total
447.333	\$ 868 + \$87	\$427,203
<b>S94 Plan No 5 Open Space (Casual)</b>		
No. of ET	\$ per ET	Sub-Total
17.196	\$597 + \$27	\$10,730
<b>S94 Plan No 5 Open Space (Structured)</b>		
No. of ET	\$ per ET	Sub-Total
17.184	\$653 + \$31	\$11,754
<b>S94 Plan No 11 Shirewide Library Facilities</b>		
No. of ET	\$ per ET	Sub-Total
17.184	\$374	\$6,427
<b>S94 Plan No 12 Bus Shelters</b>		
No. of ET	\$ per ET	Sub-Total
15.616	\$26	\$406
<b>S94 Plan No 13 Environ Cemetery</b>		
No. of ET	\$ per ET	Sub-Total
18.48	\$131 + \$0	\$2,421
<b>S94 Plan No 15 Community Facilities (Tweed Coast – South)</b>		
No. of ET	\$ per ET	Sub-Total
31	\$584	\$18,104
<b>S94 Plan No 16 Emergency Facilities (Surf Lifesaving)</b>		
No. of ET	\$ per ET	Sub-Total

17.2	\$200	\$3,440
<b>S94 Plan No 18 Extensions to Council Administration Offices &amp; Technical Support Facilities</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
18.7255	\$1996.8	\$37,394
<b>S94 Plan No 22 Cycleways</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
17.136	\$352	\$6,032
<b>S94 Plan No 26 Regional Open Space (Casual)</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
17.152	\$855	\$14,665
<b>S94 Plan No 26 Regional Open Space (Structured)</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
17.144	\$2,327	\$39,894

**For Stage 1**

<b><u>Tweed Coast Contribution Plan No 4</u></b>		
<b>No. of Trips</b>	<b>\$ per trip</b>	<b>Sub-Total</b>
321.773 Trips	\$ 868 + \$87	\$307,293.21

**For Stage 2**

<b><u>Tweed Road Contribution Plan No 4</u></b>		
<b>No. of Trips</b>	<b>\$ per trip</b>	<b>Sub-Total</b>
148.2 Trips	\$ 1,145 base rate + \$250 indexation	\$206,739
<b><u>S94 Plan No 5 Open Space (Casual)</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$502 base rate + \$171 indexation	\$9,589
<b><u>S94 Plan No 5 Open Space (Structured)</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$575 base rate + \$196 indexation	\$10,985
<b><u>S94 Plan No 11 Shirewide Library Facilities</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$792 base rate + \$215 indexation	\$14,348
<b><u>S94 Plan No 12 Bus Shelters</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$60 base rate + \$16 indexation	\$1,083
<b><u>S94 Plan No 13 Environ Cemetery</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$101 base rate + \$42 indexation	\$2,037
<b><u>S94 Plan No 15 Community Facilities (Tweed Coast – South)</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$1,305.60 base rate + \$355.40 indexation	\$23,666
<b><u>S94 Plan No 16 Emergency Facilities (Surf Lifesaving)</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$113 base rate + \$0 indexation	\$1,610
<b><u>S94 Plan No 18 Extensions to Council Administration Offices &amp; Technical Support Facilities</u></b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$1,759.90 base rate + \$492.21 indexation	\$32,088.06

<b>S94 Plan No 22 Cycleways</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$447 base rate + \$121 indexation	\$8,093
<b>S94 Plan No 26 Regional Open Space (Casual)</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$1,031 base rate + \$280 indexation	\$18,679
<b>S94 Plan No 26 Regional Open Space (Structured)</b>		
<b>No. of ET</b>	<b>\$ per ET</b>	<b>Sub-Total</b>
15.2482	\$3,619 base rate + \$982 indexation	\$65,555

## 2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Tweed Shire Council. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council.

Evidence of the payment to Council, shall be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate for each stage of the project.

## 3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah NSW 2484.

7. In Schedule 2, Part B, Prior to Issue of Construction Certificate, Condition B30 is amended by the insertion of the **bold and underlined** words and deletion of the ~~struck-out~~ words as follows:

### B30 Section 64 Monetary Contributions

- 1) Contributions plans relevant to the subdivision include:
  - a) *Development Servicing Plan for Water Supply Services* (July 2007)
  - b) *Development Servicing Plan for Sewerage Services* (July 2007)
- 2) Prior to the endorsement of a Subdivision Certificate for each stage of the subdivision, the proponent must pay, in proportion to the additional lots created by that stage, the following contributions to Council pursuant to Section 64 of the *Local Government Act 1993*.

<b>Water Supply Services</b>		<b>Sewerage Services</b>	
<b>Calculation</b>	<b>Total</b>	<b>Calculation</b>	<b>Total</b>
\$10,709 x 6.4952ET	\$69557.10	\$5,146 x 14.779ET	\$76052.73
<b>Totals</b>	<b>\$69557.10</b>		<b>\$76052.73</b>

	<b>ET</b>	<b>Fee</b>	<b>Total</b>
<b>Water Developer Charges</b>	<b>6.510</b>	<b>\$11,268</b>	<b>\$73,358.30</b>
<b>Sewer Developer Charges</b>	<b>14.859</b>	<b>\$7,288</b>	<b>\$108,292.40</b>

- 3) These changes to remain fixed for a period of twelve (12) months from the date of this approval and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

- 4) A copy of the Section 64 contribution plans may be inspected at Tweed Shire Council, Civic & Cultural Centre, Tumbulgum Road, Murwillumbah, NSW 2484.

**End of modification**

**MP07\_0179 MOD 6**