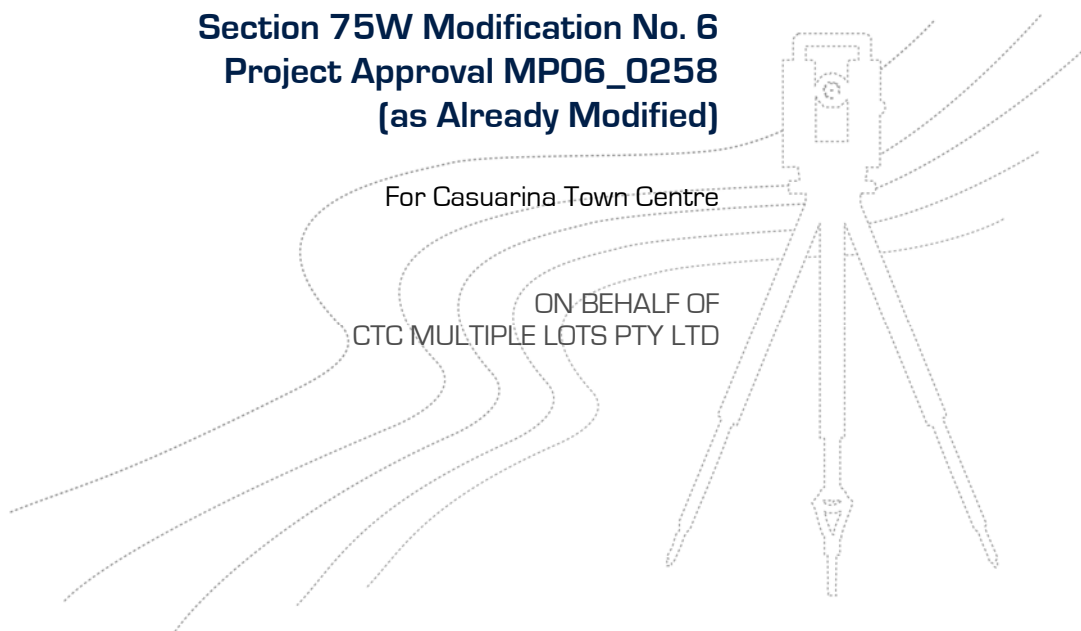


**Section 75W Modification No. 6
Project Approval MP06_0258
(as Already Modified)**

For Casuarina Town Centre

ON BEHALF OF
CTC MULTIPLE LOTS PTY LTD



Our Ref: 13/169

Date: October 2013



Document Control Sheet

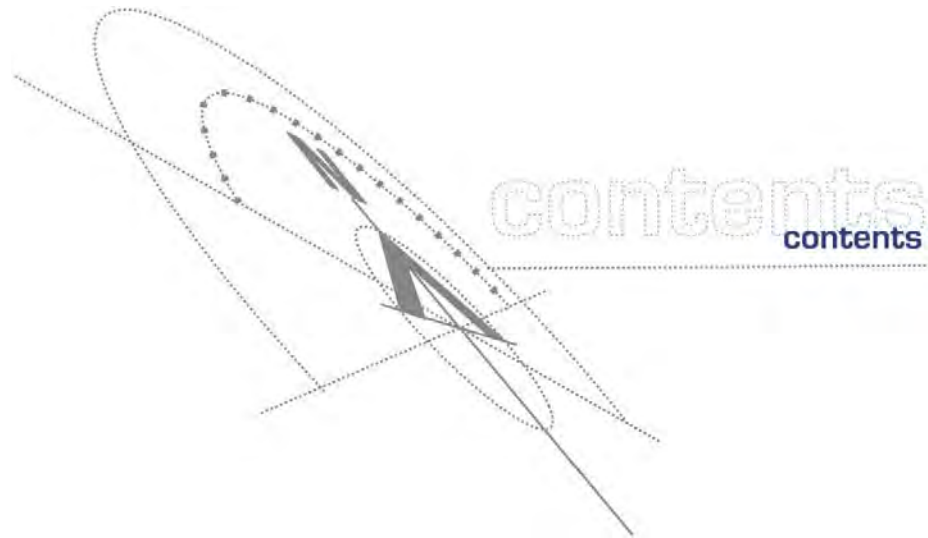
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USAGE NOTE:

The plans to this document were prepared for the exclusive use of CTC Multiple Lots Pty Ltd to accompany a Section 75W Application to Department of Planning and Infrastructure your approval for the development of land described herein and is not to be used for any other purpose or by any other person or corporation. Newton Denny Chapelle accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by Council.

The information contained in this report is based on independent research undertaken by Newton Denny Chapelle. To the best of our knowledge, it does not contain any false, misleading or incomplete information.



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Attachments

- Attachment 1 – A Completed Modification Application Form and Political Donations Disclosure Statement
- Attachment 2 – Concept & Project Approvals
- Attachment 3 – Modified Concept & Project Approvals
- Attachment 4 – Statement of Commitment – Concept Approval
- Attachment 5 – Proposed Stage Amended Subdivision & Staging Plans
Prepared by Newton Denny Chapelle
- Attachment 6 – Newton Denny Chapelle Engineering Services Report

1. Executive Summary

1.1 Overview

Newton Denny Chapelle ("NDC") has been instructed by CTC Multiple Lots Pty Ltd ("Proponent") to submit a request to the Minister for Planning to further modify the Concept Approval and Project Approval (MP 06_0258) for the Casuarina Town Centre, pursuant to the provisions of Section 75W of the Environmental Planning and Assessment Act 1979 ("the Act").

Essentially, the primary purpose of the modifications, which have been discussed with officers of the Department of Planning & Infrastructure, is to provide for the introduction of a further Stage (namely Stage 1B) and to amend the development for Lot 57 to create 40 Torrens title residential allotments.

The sought amendments will facilitate the prompt implementation of the project, resulting in more immediate social and economic benefits including new employment opportunities and improved access to housing. Importantly, the proposed amendments to the subdivision staging do not impact the delivery or demand of key public infrastructure servicing the Casuarina Town Centre.



Plate 1: Site Locality.



Plate 2: Aerial of subject site in local context.

1.2 Project Background

1.2.1 Original Approvals

The CTC Multiple Lots Pty Ltd Development Plan (which applies to the Casuarina Beach area) was approved by the NSW Land and Environment Court in December 1998. The consent (S96/135) approved the following:

- (1) The subdivision of the land into 14 lots.
- (2) The carrying out of “Stage 1” works.
- (3) The development of the management lots for the purposes of low-and-medium-density residential, retail, commercial and tourist development, together with associated and related uses and facilities generally in accordance with the Development Plan.

The consent required that the future development of the “Management Lots” (1-7) be subject to future development applications and provided population estimates for each of the lots.

Approval was subsequently granted on 20 September 2009 by the Minister for Planning to the Concept Plan and Project Application for the Casuarina Town Centre. A copy of the Concept Plan and Project Application approvals are provided within **Attachment 2** of this report.

Concept Plan approval was granted for:

- The subdivision of land in 61 lots including low and medium density residential, retail, commercial and mixed use lots;
- Construction of a retail centre comprising a supermarket, restaurants and shops;
- Construction of a hotel;
- Construction of the associated road network and car parking;
- Construction of all necessary services; and
- Landscaping and open space.

Stage 1 Project Approval was granted for:

- The subdivision of land in 61 lots;
- Construction of the supermarket anchored retail centre;
- Bulk earthworks and vegetation clearing;
- Construction of all roads;
- Closure of Dianella Drive; and
- Provision of infrastructure and services.

1.2.2 Modified Approvals

A series of amendments have been lodged with the Department of Planning & Infrastructure for the CTC development. A summary of the previously determined amendments is provided below. A copy of the amending Concept Plan approval and the Project Plan approvals contained within **Attachment 2**.

Modification 1 – (17 June 2010): Amend stormwater details through filling the existing drainage easement and completion of stormwater infiltration works. This modification was able to occur as a result of Tweed Shire Council granting the Proponent landowners consent to undertake the stormwater, sewerage and landscape works on Council-owned land, such having previously been withheld during the first assessment.

Modification 2 – (1 July 2011): Amend the staging of the project to create two stages, being Stage 1A and Stage 1. Stage 1A will consist of the following components of the approved development:

The initial Concept Approval in Condition A2 divides construction of the project into four stages. The approved composition of Stage 1 was previously amended within Modification No. 2 which enabled the staged implementation of Stage 1 through the introduction of Stage 1A. Stage 1A forms part of Stage 1 but will be implemented ahead of completion of all Stage 1 works. Modification No. 2 was approved by the Department on 11 July 2011.

Stage 1A excludes most road works, infrastructure and other civil works in the central, eastern and north-eastern part of the site, but includes all such works elsewhere (primarily the southern and western edges of the site). In order to facilitate this altered

staging regime and to ensure appropriate connectivity, drainage and parking in the interim, selected works including the relocation of a section of the swale, culverts beneath Casuarina Way, various cycleway and pedestrian links and a new car park will be carried out within the central and north-eastern part of the site in Stage 1A.

To clarify the works now approved in Stage 1A include:

- The majority of bulk earthworks on the site falling within Stage 1A;
- Stage 1A civil works will be limited to Lots 1, 2, 3, 7, 8, 9, 14 & 19-56 as well as Casuarina Way (Road No. 3), the western section of The Boulevard (Road No. 1) including the intersection of The Boulevard and Casuarina Way, and Road No's 5 & 6 (although Road No. 5 will only be constructed to a rural standard, pending completion of the Stage 1 works, as agreed with officers of Tweed Shire Council);
- In Stage 1A, a section of the swale is relocated, pending completion of the Stage 1 works;
- 4 x 1,050mm culverts beneath Casuarina Way and the southern end of the relocated swale;
- A 3.5m wide cycleway link to the existing cycleway within Lot 10 (ie. the playing fields);
- An interim cycleway link east of and parallel to the relocated swale which will connect to the beach cycleway via a section of existing cycleway south of the existing swale which is to be maintained;
- A new car park (non-kerbed) to be located at the northern end of Road No. 5 (rural-type construction), connected to the beach cycleway via an interim 1.5m wide pedestrian link;
- A pedestrian link to the beach cycleway from a park to be built at the eastern end of Road No. 6;
- A two-lane roundabout at the intersection of Casuarina Way and The Boulevard (in response to Condition B14 of the Project Approval); and
- A proposed U-turn bay within the central landscaped median of The Boulevard (Road No. 1) to facilitate circulation eastwards from the westbound lane without necessitating a circuitous trip via Tweed Coast Road.

Modification 3 – [7 March 2012]: The modification relates to the Casuarina Town Centre involving.

- Reduction in the approved supermarket floor space by 200m²;
- Reduction of the approved size, height and bulk of the supermarket;
- A total floor space reduction from 4,301m² to 3,705m²;
- Relocation of the first floor office;
- Replacement of the approved restaurant with a retail shop;
- Removal of the basement car park, with all parking provided at-grade resulting in a reduction in total parking by 14 spaces;
- Adjustment of the loading bay; and
- Increased signage and landscaping.

Modification 4 – (24 April 2013): The modification relates to the Casuarina Town Centre involving.

- Modify Condition B5 to require the beach access to be constructed once required approvals have been sought.
- Release of Lots 7-9, 14 & 15 as a single lot within Stage 1A.
- Defer the payment of Section 94 and Section 64 contributions for the retail development from the subdivision certificate within stage 1A to the construction certificate of the retail development.

Modification 5 – (24 September 2013): The modification relates to the Casuarina Town Centre involving.

- Modify the location of the retaining wall and associated works adjacent to the southern boundary of the site relative to the cul-de-sac head of Road 6.

1.2.3 Construction Certificate

A Construction Certificate [CC10/0208] has been issued by Tweed Shire Council for the completion of the Site Clearing & Sedimentation Controls on 29 July 2010. Accordingly, works have commenced for the project associated with the clearing of the site as part of the Stage 1A works.

A subsequent Construction Certificate CC12/0507 was issued by Tweed Shire Council on 7 February 2013 for a Casuarina Town Centre including 61 lot subdivision, road works, infrastructure works and landscaping [Department of Planning Application MP06 0258].

1.3 Environmental Planning and Assessment Act and Regulations

Schedule 6A, Clause 3C of the Act relates to Transitional Part 3A provisions for Modification of Concept Plans and states that Section 75W continues to apply for the purpose of the modification of a Concept Plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.

Section 75W (as in force immediately before the repeal of that Part) facilitates the lodgement and determination of an application to modify a Part 3A approval. Section 75W is in the following terms:

Modification of Minister's approval 75W

[1] In this section:

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

(a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and

- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.*
- (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.*
- (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.*
- (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.*
- (6) Subsection (5) does not apply to a request to modify:*
- (a) an approval granted by or as directed by the Court on appeal, or*
(b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
- (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."*

There are no regulations of relevance to a Modification Application.

1.4 Documentation

This Section 75W report:

- Describes and justifies the requested further modifications to the Concept and Project Approvals; and
- Considers the relevant provisions of Section 75W of the Act.

Attachments included in the Section 75W report contain:

- The completed modification application form (see **Attachment 1**);
- The original Concept and Project Approvals (see **Attachment 2**);
- The modified Concept and Project Approvals (see **Attachment 3**);

- The Statements of Commitment attached to the Concept Approval and the Project Approval, each marked up to identify the proposed modifications [see **Attachment 4**];
- Amended plans prepared by Newton Denny Chapelle which are to be referred to in the Concept Plan and Project approvals [see **Attachment 5**];
- Engineering Services Report prepared by Newton Denny Chapelle [see **Attachment 6**].

1.5 Consultation

The proposal to further modify the Concept and Project Approvals was discussed via telephone and email communication with officers of the Department of Planning and Infrastructure.

On 1 July 2013, an email was forwarded to Mr Brent Devine of the Department of Planning and Infrastructure with background information and requesting the Department to confirm the approval pathway for the proposed modification to the staging of the development and the modification to the residential product upon Lot 57 (Stage 1A):

On 11 July 2013, Brent Devine responded by email in the following terms:

The concept plan terms of approval require Stage 1A and the balance of Stage 1 to be developed first (refer Term A2 - Staging). The order of subsequent stages may then be varied, pending the DG's approval. Should the proponent wish to undertake development of Stage 2 prior to the balance of Stage 1 works (as listed under Term A2(1)), then a modification to the concept plan is required. The modification should be dealt with prior to any application lodged with Council to undertake Stage 2 works involving the proposed child care facility and development of Lots 7-9, 14 & 15.

In answer to your two listed questions:

- 1. The proponent would be required to provide the Department with an outline of the works proposed and reasoning/justification as to the re-ordering of staging, as well as any consequential impacts on the ordering of essential infrastructure/services etc. The Department will consider the request and notify you in writing whether the re-ordering of stages is supported or not. You can then provide this correspondence to Council as part of any application lodged with them.*
- 2. Lots 7-9, 14 & 15 are approved for medium density residential development. You have provided preliminary plans showing the development of this area to consist of conventional/low density residential lots. I advise you to refer to the project's original documentation (EA and PPR - available on the Department's website) and research what was originally envisioned for the area. Sufficient justification will need to be provided for the deviation of residential density, particularly considering the site is for a Town Centre development whereby the intention is to have a higher population living in close proximity to services such as supermarkets, restaurants, areas of employment etc. I think it is a significant change that would require a S75W modification to be lodged with the Department.*

2. Proposed Amendment to Concept Plan and Project Application

2.1 Description of Sought Amendments

This application seeks to undertake amendments to the Concept and Project Approvals as outlined below.

2.1.1 Amendment 1

Amend the subdivision configuration for Lots 7, 8, 9, 14 & 15 create 40 Torrens title residential lots with associated civil works (local roads, water/sewer, drainage).

Proposed Amendment

As detailed within Modification 4, Lot 57 was created for the purpose of a development lot, to be subdivided post Stage 1A. The development lot has been purchased by CTC Multiple Lots Pty Ltd who seek to undertake the development of the land for 40 Torrens title residential lots with associated civil works.

The creation of the 40 proposed lots requires an amendment to both the Concept Plan and Project Application approvals (MP06_0258).

The proposed amendment comprises the following key features.

Lot Configuration

The lot layout is a logical grid pattern which enables regular shaped allotments and sizes which are similar to and complement the existing residential lot density to the south of the site. The residential lots range in size from 499.5m² to 932.7m². The concentration of larger lots is located adjacent to the coastal foreshore. These lots include a building setback from the rear (eastern) boundary which incorporates land zoned 7(f) Environment Protection under the Tweed Local Environmental Plan 2000.

The proposed lot configuration provides for a diversity of lot sizes and housing types. It seeks to provide for varying levels of affordability, while still maintaining a level of consistency with the surrounding residential density.

Traffic, Access & Parking

Casuarina Way is the main collector road through the Casuarina Beach estate. It is a two lane road with indented parallel parking along each side. It provides direct access to residential development to the north and south of the site. It also functions as a bus route and north and southbound bus stops are located adjacent to the site.

Access to proposed Lots 1-40 will be via a local access street with a 15m road reserve, which is proposed to connect to Roads 5 & 6 already approved within the project application.

Pedestrian access to the foreshore will be via Casuarina Way, and the proposed local roads (Road No.s 5, 6, 10 & 11) which ensures that all lots are no more than 175m walking distance to the foreshore. Footpaths are proposed on all proposed roads.

As illustrated on the Proposed Car Parking Provision Plan, parking is proposed in Roads 5 & 6 totalling 32 spaces. The modified design provides an additional nine (9) spaces within the same area of the Casuarina Town Centre when reviewed against the approved public parking plan prepared by Cardno Eppell Olsen (ref: 8491-909 Issue C)

Justification

In summary, development of Lot 57 (Lots 7, 8, 9, 14 & 15 – Stage 1) in accordance with the current project approval for the purposes of units (ie. multi-dwelling housing) is not commercially viable and nor would such a development be compatible with the established density, detached dwelling house character and amenity of the locality.

Notwithstanding, it is noted that the dynamic nature of the market demands dictate that over the ten-year development life of the Casuarina Beach Estate, the population yields of each Management Lot are likely to vary, to a degree, from those identified within the originally drafted Master Plan.

In particular, the proposal that 208 units be established on the land equates to 1 unit/130m² which, even for a three storey building, is considered to be unachievable.

This position is even further supported by the fact the Concept Approval was amended (Modification 2) to require future medium density residential and mixed use residential lots in Stages 2-4 to be subject to the floor space ratio controls as outlined in the Tweed DCP, specifically Part C – Residential Flat Buildings and Shop-Top Housing, Design Control 11 – Floor Space Ratio. The modification removed the density control from the proponent's Preferred Project Report (PPR) which identified future medium density residential and mixed use residential units with a yield of 1 unit per 130m².

The notional yield for medium density development based on a two storey configuration and having regard to the design standards contained in Tweed Development Control Plan 2008, Section A1 – Residential and Tourist Code is approximately 1 unit/250m² of site area, which in respect of this site equates to approximately 108 units. It is noted that the Concept Approval predates the introduction of Section A1 (the plan came into effect on 30 April 2008 in accordance with Clause 21(4) of the Regulation), and in any case it appears that the notional yield was purely an arbitrary number adopted for Master Planning purposes.

The proposed 40 lot conventional subdivision represents a reduction in yield of approximately 63% (ie. say 108 units to 40 dwellings) and is clearly more compatible with the established character and amenity of the area.

Insofar as population yield is concerned, 108 two bedroom units at 1.8 persons/unit equates to 194 persons and 40 conventional residential lots at 3.1 persons/dwelling equates to 124 persons. Therefore the actual reduction in yield is in the order of 70 persons.

As indicated by market factors, in terms of rental returns and mortgagee in possession sales, there is a significant volume of medium density product (in the form of residential flat buildings, townhouses, etc.) on the Tweed Coast generally, which is likely to meet demand for many, many years to come. Based on the 2011 Census data, 42% of the Casuarina housing stock comprises residential flat buildings or semi-detached, row/townhouses. 31% of the housing was identified as being unoccupied at the 2011 census (Note: *Census Dwelling tables exclude visitor only and other non-classifiable households*).

The Project and Concept Approvals makes a number of references to “providing a range of residential densities....” and “offering a wider choice of housing”. However, there is no apparent analysis underpinning the projected yield of 208 units from Lots 7, 8, 9, 14 & 15. The lots have a total area of 27,102m² which, as indicated previously, will not yield 2,085 units, particularly given the three storey statutory height limit and the development controls contained in Tweed Development Control Plan 2008, Section A1 – Residential and Tourist Code relating to setbacks, floor space ratios, building heights, impervious areas, deep soil zones, etc.

As indicated above, we consider that the potential medium density yield would be approximately 108 units.

Environmental Assessment

An assessment against the controls of Tweed Shire Council has been completed for the sought residential lots.

Tweed Local Environmental Plan 2000

Zoning

The land to be subdivided is zoned part 2(e) Residential Tourism and part 7(f) Environment Protection (Coastal Lands) under the Tweed Local Environmental Plan 2000 (the LEP).

The zoning table included within Clause 11 of the LEP outlines permissible (with and without consent) and prohibited development within the zones. Subdivision is permissible with consent in both the 2(e) and 7(f) zones. Dwelling houses (on lots greater than 450m²) are permissible within the 2(e) zone.

The objectives of the 2(e) zone are:

Primary objective

“To encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities.”

Secondary objective

“To permit other development which has an association with a residential/tourist environment and is unlikely to adversely affect the residential amenity or place demands on services beyond the level reasonably required for residential use.”

The proposed development seeks to establish residential development subdivision layout which integrates well with the existing density residential development to the south and the low and higher density to the immediate north. There are sufficient residential flat units and tourist accommodation in the locality and the demand in the area is for residential dwellings.

Therefore the proposal meets the objectives of the 2(e) zone.

The objectives of the 7(f) zone are:

Primary objectives

- *"To identify land susceptible to coastal erosion and protect it from inappropriate development.*
- *To protect and enhance the scenic and environmental values of the land."*

Secondary objective

"To allow for other development that is compatible with the primary function of the zone."

The 7(f) zoned portion of the site is located along the eastern boundary of the Lot parallel to the foreshore. The proposal will not have a detrimental impact on the scenic or environmental values of the land with the proposed Torrens title lots being located within the approved residential envelope within Lots 7, 8, 9, 14 & 15, therefore it is not anticipated that it will be susceptible to coastal erosion.

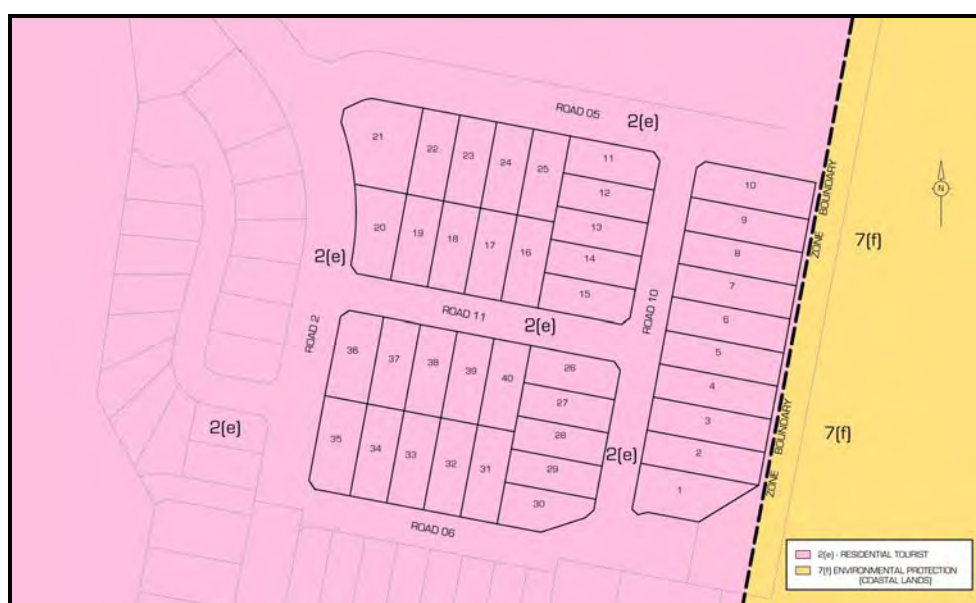


Plate 3: Zoning Boundaries.

Other Relevant Clauses

The relevant clauses of the LEP are addressed below.

Clause 15 – Availability of Essential Services

As outlined in the Engineering Services Report in **Attachment 6**, the site is able to be serviced with essential infrastructure with some augmentation.

Clause 34 – Flooding

The site is not identified within Council's Design Flood Level Maps (Sheet 29) or Climate Change Map (Sheet 29) as flood affected land therefore this clause does not apply to the proposal.

Clause 35 – Acid Sulfate Soils

Matters associated with acid sulfate soils have been addressed in the development of the Stage 1A works and therefore further assessment is not required.

Clause 39 – Remediation of Contaminated Land

This clause requires that potential contamination be identified and that land be adequately remediated prior to development occurring. The subject land is considered suitable for the residential subdivision with exhaustive contaminated soil assessment completed and certified prior to the commencement of works associated with Stage 1A.

Draft Tweed LEP

The draft Tweed LEP 2010 has been publically exhibited and is currently awaiting gazettal by the Minister.

Under the draft LEP 2010, the site is proposed to be zoned part R1 General Residential and part E2 Environmental Conservation. The proposed residential subdivision is consistent with the aims and objectives of these zones.

Other key controls proposed for the site include:

- Maximum floor space ratio: 2:1.
- Minimum lot size: 450m².
- Maximum building height: 13.6m.

The proposed development complies with the minimum lot size and future development would be able to comply with FSR and height controls.

Tweed Development Control Plan 2008**Section A5 – Subdivision Manual**

Section A5 – Subdivision Manual of the Tweed DCP is of particular relevance to the proposed development. The Subdivision Manual identifies a range of controls and associated design specifications relating to the subdivision of land. Development Applications for subdivisions will be assessed in accordance with the guidelines and requirements contained within this DCP.

The proposal has been designed to meet the requirements of the DCP in terms of lot size and layout, road design, land forming and environmental management. These are discussed in further detail below.

Table 1: Tweed Development Control Plan 2008 – Section A5

Relevant Section A5 DCP Controls	Comment
Section A5.4.5 Environmental Constraints	<p><i>Contaminated Land</i></p> <p>Due to previous sand mining activities in the area, radioactive materials having been identified in the Casuarina Beach area in the past. A Radiation Survey of the site has been undertaken by Cardno and certified by an independent site auditor and supported by Tweed Shire Council in issuing the construction certificate for Stage 1A.</p>
	<p><i>Land with risk of land slip or subsidence</i></p> <p>The land is not at risk of land slip or subsidence.</p>
	<p><i>Bushfire risk</i></p> <p>The site is mapped as bushfire prone. Accordingly, the Bushfire Threat Assessment (Appendix J) indicates that the development can readily satisfy the requirements of the Planning for Bushfire Protection 2006 guidelines and is therefore considered acceptable in terms of bushfire risk. This is discussed further in Section 5.1.9.</p>
	<p><i>Threatened species, population or ecological communities or their habitats</i></p> <p>No vegetation is required to be removed in the development of the proposed 40 residential lots.</p>
	<p><i>Coastal lands</i></p> <p>Although the subdivision is located in proximity to the coastal foreshore it is well set back from coastal processes and coastal hazards and is consistent with the type of development to the north and south of the site. The development has been designed to minimise risks to both the environment and future residents through locating the lots within the already created development envelopes for Lots 7, 8, 9, 14 & 15.</p>
	<p><i>Landscape Visual Character</i></p> <p>The proposal will result in more than 50 lots collectively within the Casuarina Town Centre site and therefore a Scenic Impact Assessment is required to:</p> <ul style="list-style-type: none"> • <i>demonstrate that the proposal does not detract from and will contribute to the significant landscape characteristics of the site (see Tweed Shire Scenic Landscape Evaluation - 1995, Catherine Brouwer);</i> • <i>illustrate the nature and visibility of the proposal from both within the site and from significant viewpoints outside the site;</i> • <i>detail the local urban or cultural context in regard to township and scenic-cultural identity.</i> <p>The local area is characterised by a mix of residential typologies located between Tweed Coast Road and the coastal foreshore. Developments within the area are of a contemporary design with lightweight building materials which reflect the coastal location and the climate. The local streets will comprise street trees and include traffic calming devices. Views of these developments from Tweed Coast Way are predominately screened from view by a row of trees on the eastern side of the road. The entire Casuarina Town Centre site is visible from Casuarina Way due to the relatively flat nature of the area. There are no major viewpoints to or from the site.</p>

	<p>The proposed subdivision does not involve any major land reforming and therefore future development on the site will be consistent with the established developments within the area, particularly the residential subdivision developments located to the north. Proposed landscaping will be in accordance with the Tweed Shire Council's requirements and is consistent with the surrounding area.</p> <p>In addition, future development of the site will be required to meet the Casuarina DCP requirements, which includes provision for high quality landscaping.</p>									
Section A5.4.6 Landforming	The land area proposed for the residential subdivision is being formed through the completion of bulk earthworks associated with Stage 1A.									
Section A5.4.7 Stormwater Runoff, Drainage, Waterways and Flooding	Details of proposed stormwater management are outlined in the Engineering Services Report and Drawings in Attachment 6 .									
A5.4.10 Movement Network	<p>The proposed subdivision layout provides a logical grid pattern which provides excellent connectivity throughout the streets. The proposal includes pedestrian footpaths within the new streets which link to the existing pedestrian network and the coastal foreshore bike and pedestrian path.</p> <p>The width and design of the proposed access streets have been developed based on the existing approvals for the land.</p> <p>The proposal increases the numbers of on-street parking within the vicinity of the site as detailed within this report.</p> <p>The street designs comply with all relevant design requirements of the DCP.</p>									
A5.4.12 Lot Layout	<p><i>Geometric Requirements</i></p> <p>The following table compares the relevant provisions of the DCP with the proposed subdivision:</p> <table><tr><th></th><th>DCP</th><th>Proposal</th></tr><tr><td>Minimum Lot Size - Dwelling House</td><td>450m² 10 x 15m building envelope</td><td>499m² 10 x 15m building envelope</td></tr><tr><td>Street Frontage</td><td>9m</td><td>13m</td></tr></table> <p><i>Residential solar access, orientation and associated minimum dimensions</i></p> <p>The lots are ideally oriented to promote access to sunlight. A majority of the lots are east west oriented and are no less than 13m in width. Only a small percentage of lots are south facing, north south oriented lots. These are generally 15m in width to maximise access to sunlight.</p>		DCP	Proposal	Minimum Lot Size - Dwelling House	450m ² 10 x 15m building envelope	499m ² 10 x 15m building envelope	Street Frontage	9m	13m
	DCP	Proposal								
Minimum Lot Size - Dwelling House	450m ² 10 x 15m building envelope	499m ² 10 x 15m building envelope								
Street Frontage	9m	13m								
	<p><i>Infrastructure required</i></p> <p>The proposed subdivision will be fully serviced with sealed road frontages equipped with kerb and gutter, water supply, sewerage, underground electricity and telecommunications.</p> <p>The drainage system has been designed in accordance with Council's engineering guidelines.</p>									

2.1.2 Amendment 2

Amend the staging of the development to incorporate a new Stage (namely Stage 1B) to be released after Stage 1A.

Proposed Amendment

This application seeks to introduce an additional stage into the Casuarina Town Centre Development. The Concept Plan terms of approval require Stage 1A and the balance of Stage 1 to be developed first (refer Term A2 – Staging). The order of subsequent stages may then be varied, pending the Director General's approval.

Given the proponent wishes to undertake development of Stage 2 prior to the balance of Stage 1 works (as listed under Term A2(1)), then a modification to the concept plan is required.

This proposal seeks to bring forward the following components of the Concept Plan from Stage 2 to the newly created Stage 1B:

- Development of Lots 7, 8, 9, 14 & 15 in their modified form (ie. 40 lot Torrens title subdivision).
- Development of Medium Density development upon Lot 3.
- Development for a childcare centre on Lot 2.

The need to modify the staging of the development is due to the extent of works associated with the completion of Stage 1, namely the development of the stormwater infrastructure (ie. swale corridor) and the securing of the beach access within Stage 1.

Importantly, both the stormwater swale and beach access do not impact the function/operation of the sought amendment. That is, through the development of Stage 1A, necessary infrastructure is either connected or may be extended at a suitable capacity to service the proposed residential lots, multi-dwelling housing and child care facility.

This point is further discussed within the Engineering Services Report prepared by Newton Denny Chapelle provided within **Attachment 6** of this document.

In specific regard to the timing of the beach access, the originally approved Stage 1 of the development provided for the primary access road linking to the Tweed Coast Road to be constructed to the foreshore. This of course would result in a direct access to the beach access and associated car park areas. It is recognised the original development would therefore have increased the potential demand for both residents and visitors to utilise the path, however as the primary central street is no longer being built as part of Stage 1A as a result of Modification No. 2, this demand is not perceived to be recognised.

In further justifying the modification for the staged release of the development and its relationship with the beach access, it is observed the travel path from the car park to be constructed in Stage 1A, result in pedestrians walk only 118m from the car park to the an existing beach access. This distance is of course the same for residents traversing on Road 5 to access the beach. It is therefore our view the distance to the beach access of 118 metres is reflective of the separation distance of current access paths servicing existing developed areas of Casuarina,

and as such, would not lead to residents seeking to develop alternative paths in the short term, particularly as demand for beach access at this location is problematic at best due to no direct vehicular access and the fact the Icon building is yet to be developed.

2.1.3 Administrative Amendments

Finally, this Section 75W Application also seeks to make minor additional and/or consequential amendments to the two approvals, comprising:

- introducing a reference to the attached Section 75W report in Condition A4 of the Concept Approval and A3 of the Project Approval, both of which relate to 'Project in Accordance with Documents'; and
- changes to the Statements of Commitment attached to each approval to reflect the altered staging regime (ie. the introduction of Stage 1B).

2.2 Requested Modifications to Concept Approval

The conditions relevant to the subject S75W Application are described below with the changes highlighted in [blue text](#).

2.2.1 Condition A3 – Project in Accordance with Plans

The Minister is requested to modify Condition A3 in the following manner to recognise the amended Stage 1A layout which provides for Lots 7, 8, 9, 14 & 15 to be included within Stage 1A as a single development lot.

A3 Project in Accordance with Plans

The project will be undertaken generally in accordance with the following drawings:

Stage 1A drawings prepared by Cardno (Qld) Pty Ltd & Newton Denny Chapelle			
DA103	B	Stage 1A Works Plan	18/11/10
DA105	B	Stage 1A Finished Surface Contours	18/11/10
DA120	B	Stage 1A Dedication and Easement Plan	18/11/10
12/111 (NDC)		Concept Staging Plan	17/04/13
12/111 (NDC)		Development Staging Plan	17/10/13

2.2.2 Condition A4 – Project in Accordance with Documents

The condition is required to be amended in order to reflect the sought changes contained within this Section 75W proposal.

1. Amend words under Clause 4A(d) as follows.

Stage 1A, [Stage 1B](#) and the balance of Stage 1 shall be undertaken first. The order of subsequent stages may be varied only with written approval of the Director General.

2. Insert new Clause (g) following Clause (f) under Term A4 as follows.

[Section 75W Modification Request Documentation](#)

- a) [Section 75W Modification: Concept and Project Approval, MP 06_0258, \(as already modified\) Casuarina Town Centre prepared by Newton Denny Chapelle on behalf of CTC Multiple Lots Pty Ltd, dated October 2013.](#)

2.2.3 Concept Approval – Statement of Commitments

The following modification is proposed to the “Statement of Commitments” attached to the Concept Approval:

Item No.	Required Modification to Statement of Commitments
1	<p>In the “Timing for Completion” column, modify the timing of payment so as to reflect the separate subdivision and commercial development elements of the project as follows.</p> <p>Payment will be effected prior to the issue of a Construction Certificate for any contributions relating to the shopping centre and prior to the issue of a Subdivision Certificate in respect of the other Stage 1A & Stage 1B works or Stage 1 works as the case may be including all roads, open space embellishment in Stage 1A as contained in the Landscape Concept Report (EDAW) – See Attachment 2 and infrastructure works relating to sewer, water and drainage in Stage 1A.</p>

A copy of the Statement of Commitments attached to the Concept Approval is provided in **Attachment 4** with the proposed changes tracked and new text shown in [blue](#).

2.3 Requested Modifications to Project Approval

A copy of the Project Approval conditions, as modified, are provided at **Attachment 2**. The conditions relevant to the subject S75W Application are described below with the changes highlighted in [blue text](#) and deleted text strikethrough.

2.3.1 Condition A1 – Project Description

Insert new Clause (10) following Clause (9) under Condition A1 as follows.

[10\) 40 residential lots within Stage 1B.](#)

2.3.2 Condition A2 – Project in Accordance with Plans

The Minister is requested to modify Condition A2 in the following manner to recognise the amended Stage 1A layout which provides for Lots 7, 8, 9, 14 & 15 to be included within Stage 1A as a single development lot.

Stage 1A drawings prepared by Cardno (Qld) Pty Ltd & Newton Denny Chapelle			
DA103	B	Stage 1A Works Plan	18/11/10
DA104	B	Stage 1A Road Layout Plan	18/11/10
DA105	B	Stage 1A Finished Surface Contours	18/11/10
DA106	B	Cut/Fill Depths Layout Plan	18/11/10
DA107	B	Stage 1A Site Cross Sections	18/11/10
DA108	B	Stage 1A Erosion & Sediment Control Layout Plan	18/11/10
DA109		Road No. 1 Longitudinal Section	08/09/10
DA110		Casuarina Way (Road No. 2) Longitudinal Section	08/09/10
DA111		Road No. 3 (Casuarina Way) Longitudinal Section	08/09/10
DA112		Road No. 5 Longitudinal Section	08/09/10
DA113		Road No. 6 & 7 Longitudinal Sections	08/09/10
DA114		Typical Cross Sections Sheet 1	08/09/10
DA115		Typical Cross Sections Sheet 2	08/09/10
DA116	B	Stage 1A Catchment Areas and Drainage Paths	18/11/10
DA117	B	Stage 1A Sewer Reticulation Layout Plan	18/11/10
DA118	B	Stage 1A Water Reticulation Layout Plan	18/11/10
DA119	B	Stage 1A Subdivision Layout Plan	18/11/10
DA120	B	Stage 1A Dedication and Easement Plan	18/11/10
DA121	B	Stage 1A Proposed Cycleway/Drainage Re-alignment Layout Plan	18/11/10
DA122		Proposed Additional Works in Lot 10	08/09/10
12/111		Stage 1A Subdivision Layout Plan	18/11/12
12/111		Stage 1A Subdivision Layout Plan	17/10/13
12/111		Stage 1B Subdivision Layout Plan	17/10/13
12/111		Stage 1 Subdivision Layout Plan	17/10/13
13/169		Road, Paths & Parking Layout	26/08/13
13/169		Services Plan	26/08/13
13/169		SM! – Stormwater Management Plan	15/10/13
13/169		Road 5 Details	10/09/13
13/169		Road 10 Details	26/08/13
13/169		Road 11	26/08/13

Note: Should any inconsistencies be identified between approved plans, the modified plans will take precedents for the inconsistency.

2.3.3 Condition A3 – Project in Accordance with Documents

The condition as previously modified is required to be amended in order to reflect the sought changes contained within this Section 75W proposal.

Insert new Clause [8] following Clause [7] under Condition A3 as follows:

8) Section 75W Modification No. 6 Project Approval, MP 06_0258, (as already modified) for Casuarina Town Centre prepared by Newton Denny Chapelle on behalf of CTC Multiple Lots Pty Ltd, dated October 2013.

2.3.4 Condition B22 – Stormwater and Drainage Works

Revise Condition B22 to read as follows:

Final design plans of the stormwater drainage systems within the proposed subdivision subject site, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council shall be submitted to and approved by the Certifying Authority prior to issue of [a separate](#) Construction Certificates for Stages [1A & 1B](#) works. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

2.3.5 Condition B23 – Stormwater and Drainage Works Design

The Minister is requested to include Stage 1B as follows.

Permanent stormwater quality treatment required as part of the Stage [1A & 1B](#) works shall be provided in accordance with the following:

2.3.6 Condition B32 – Landscaping Plan

It is requested that Stage 1B be included as follows.

Detailed landscape plan(s) shall be prepared for all landscaping proposed as part of Stage [1A & 1B](#) and the retail centre. The plan(s) shall clearly delineate between landscaping in future public areas as well as private areas. The landscape plan(s) shall be prepared by a landscape architect or landscape consultant. The landscape plan for Stages [1A & 1B](#) is to be approved by Council prior to the issue of a Construction Certificate for Stages [1A & 1B](#). The landscape plan for the retail centre is to be approved by Council prior to the issue of the Construction Certificate for the retail centre. Detailed landscape plans depicting landscape works in public areas shall be subject to the approval of Tweed Shire Council's Director of Engineering and Operations. The detailed landscape plan(s) shall include the following documentation.

2.3.7 Condition B36 – Emergency Access

The Minister is requested to require a Construction Certificate for Stage 1 of the development. The condition is to read:

Prior to the issue of a Construction Certificate [for Stage 1](#) design details shall be submitted to the satisfaction of the Certifying Authority demonstrating that emergency access for 4 wheel drive vehicles shall be provided to the beach, via the realigned east/west cycleway link and coastal cycleway, or an alternate clearly delineated route. Where the emergency access requires a bridge over the Coastal swale, the bridge shall be designed for adequate vehicle loading for emergency vehicles.

2.3.8 Condition E21 – Section 94 Monetary Contributions

The Minister is requested to amend Condition E21 in order to identify the creation of Stage 1B and the associated additional residential allotments which will attract associated Section 94 Contributions for 39 equivalent tenements. Contributions will be payable prior to the release of the subdivision certificate for the creation of the residential Torrens title lots.

2.3.9 Condition E22 – Section 64 Monetary Contributions

E22 Section 64 Monetary Contributions

The Minister is requested to amend Condition E22 in order to identify the creation of Stage 1B and the associated additional residential allotments which will attract associated Section 64 Contributions for 39 equivalent tenements. Contributions will be payable prior to the release of the subdivision certificate for the creation of the residential Torrens title lots.

2.3.10 Statement of Commitments

It will not be necessary to modify the Statement of Commitments for the Project Approval to permit the implementation of the sought amendments.

The sought amendments are outlined within **Attachment 4** of this document.

3.0 Conclusion

This Section 75W report, prepared on behalf of CTC Multiple Lots Pty Ltd, describes the proposed modifications to the development comprising the creation of 40 residential Torrens title lots over medium density Lots 7, 8, 9, 14 & 15 and the introduction of Stage 1B to provide for the creation of the aforementioned lots and a child care facility and medium density housing on Lot 3.

Modification of the conditions and terms of the approval as proposed is authorised by Section 75W (1) (a) & (b) of the Environmental Planning and Assessment Act.

The proposed modifications do not give rise to any significant physical changes to the nature of the approved project and therefore no impacts other than those addressed in the original Environmental Assessment are likely to arise.

The proposed modification of the approval is considered to be sustainable and in the public interest and therefore approval of the application is respectfully requested.

A handwritten signature in black ink, reading "Damian Chapelle", written over a horizontal dotted line.

DAMIAN CHAPELLE
Town Planner. BTP CPP

Date: 23 October 2013



ATTACHMENT 1

**A Completed Modification Application Form
& Political Donations Disclosure Statement**

Application to modify a development consent

Date lodged: ____/____/____



NSW GOVERNMENT
Department of Planning

DA modification no. _____
(Office use only)

1. Before you lodge

This form is to be used for applications to modify Part 4 development consents under section 96 or 96AA of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This form is also to be used for Part 4 development consents that are to be modified under section 75W of the Act.

Disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. For more details, including a disclosure form, go to www.planning.nsw.gov.au/donations.

Lodgement

Anyone wishing to lodge an application is recommended to call the Department of Planning to discuss their proposal and modification application requirements prior to lodging their application. You can lodge your completed form, together with attachments and fees at the relevant Department of Planning office listed below. Please lodge Part 4 modification applications with the Department of Planning head office or, for modification applications that are within the Kosciuszko ski resorts area, the Department's Alpine Resorts team.

NSW Department of Planning
Head Office
Ground Floor, 23–33 Bridge Street, Sydney NSW 2000
GPO Box 39 Sydney NSW 2001
Phone: 1300 305 695 Fax: (02) 9228 6555
Email: information@planning.nsw.gov.au

NSW Department of Planning
Alpine Resorts Team
Shop 5A, Snowy River Avenue
PO Box 36, Jindabyne NSW 2627
Phone: (02) 6456 1733 Fax: (02) 6456 1736
Email: alpineresorts@planning.nsw.gov.au

To minimise delay in receiving a decision about your application, please ensure you submit all relevant information to the Department. When your application has been assessed, you will receive a notice of determination.

2. Applicant and contact details

Company/organisation/agency

NEWTON DENNY CHAPELLE

ABN

86 220 045 469

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

DAMIAN

Family name

CHAPELLE

STREET ADDRESS

Unit/street no.

Street name

PO BOX 1138

Suburb or town

LISMORE

State

NSW

Postcode

2480

POSTAL ADDRESS (or mark 'as above')

AS ABOVE

Suburb or town

State

Postcode

Daytime telephone

(02) 6622 1011

Fax

Mobile

0438 862 856

Email

dchapelle@newtondennychapelle.com.au

3. Property description

Unit/street no. (or lot no. for Kosciuszko ski resorts)	Street or property name	
	TWEED COAST ROAD	
Suburb, town or locality	Postcode	Local government area
CASUARINA BEACH	2487	TWEED SHIRE

Lot/DP or Lot/Section/DP or Lot/Strata no.

Please ensure that you put a slash (/) between lot, section, DP and strata numbers. If you have more than one piece of land, you will need to separate them with a comma e.g. 123/579, 162/2.

LOT 144 DP 1030322, LOT 3 DP 1042119, LOT 223 DP 1048494

Note: You can find the lot, section, DP or strata number on a map of the land or on the title documents for the land, if title was provided after 30 October 1983. If you have documents older than this, you will need to contact the NSW Department of Lands for updated details. If the subject land is located within the Kosciuszko ski resorts area, DP and strata numbers do not apply.

4. Details of the original development consent

Briefly describe your approved development in the space below. If the development has been modified previously you must list all previous modifications and the relevant determination date(s).

CONCEPT & PROJECT PLAN APPROVAL - SUBDIVISION OF LAND INTO 61 LOTS, INCLUDING LOW & MEDIUM DENSITY RESIDENTIAL, RETAIL, COMMERCIAL AND MIXED USE LOTS, AND PROJECT APPLICATION APPROVAL FOR STAGE 1 WORKS - SUBDIVISION OF LAND INTO 61 LOTS, CONSTRUCTION OF SUPERMARKET - ANCHORED RETAIL CENTRE, CONSTRUCTION OF ALL ROADS, CLOSURE OF DIANELLA DRIVE, PROVISION OF INFRASTRUCTURE AND SERVICES, AND LANDSCAPE.

What was the original development application no.?	What was the date consent was granted?	What was the original application fee?
06-0258	20/9/09	\$319,850

5. Type of modification

An application under section 96 of the EP&A Act is an application to modify a development consent. Modifications to a development consent can also be made under section 75W of the EP&A Act, or section 96AA for court granted consents.

There are five types of modification applications. Please tick the type of modification application that is being sought:

- ☐ Section 96(1) involving minor error, misdescription or miscalculation.
- ☒ Section 96(1A) involving minimal environmental impact, where the development as originally approved remains substantially the same.
- ☐ Section 96(2) other modification, where the development as originally approved remains substantially the same.
- ☐ Section 96AA modification of consent granted by the Land and Environment Court, where the development as originally approved remains substantially the same.
- ☐ Section 75W modification, involving use of Part 3A processes to modify the Part 4 consent.

Note: If the proposed modification will lead to the consented development being not 'substantially the same' (except in the case of a proposed modification under section 75W) then you will need to submit a new development application.

6. Extent of modification

Will the modified development be substantially the same as the development that was originally approved?

No ☐ Please submit a new development application.

Yes ☒ Please provide evidence that the development will remain substantially the same. (If you need to attach additional pages, please list below the material attached).

SEE ATTACHED CORRESPONDENCE.

Note: Question 6 does not apply to proposed modifications under section 75W.

7. Description of modification

- In the case of a section 96(1) application, indicate the nature of the minor error, misdescription or miscalculation in the space below.
- In the case of a section 96(1A), section 96(2) or section 96AA application describe the impact of the modification in the space below. A statement of environmental effects will need to accompany the application, which includes an assessment of the development as proposed to be modified in accordance with section 79C(1) of the EP&A Act. Provisions of the *Heritage Act 1977* may also apply for works to a heritage item or works adjoining a heritage item.
- In the case of a section 75W application under clause 8J(8) of the Environmental Planning and Assessment Regulation 2000, a development consent in force immediately before the commencement of Part 3A of the Act may be modified under section 75W as if the consent were an approval under that Part. However, approval from the Minister is required to lodge a section 75W application. **Applicants should contact the Department first if they are considering applying for a modification under section 75W.**

Regardless of the type of modification, please state below the specific conditions of consent to be modified, deleted or additional conditions request, and details of any other changes being sought.

MODIFICATION TO THE CONCEPT APPROVAL AND PROJECT APPROVAL IS AS OUTLINED WITHIN THE ATTACHED SECTION 75W MODIFICATION NO. 6 REPORT PREPARED BY NEWTON DENNY CHAPELLE DATED OCTOBER 2013.

Note: If your proposal is within Kosciuszko ski resorts area, please attach a copy of the Interim Lease Variation Approval received from the Department of Environment and Climate Change to your application.

8. General terms of approval from State agencies

If the original development application was classified as integrated development and required approval from one or more State agencies, list them in the space below and their respective general terms of approval. Depending on the type of modification, it may be necessary to refer the modification application to the approval body.

--

9. Number of jobs to be created

Please indicate the number of jobs the proposed development will create. This should be expressed as a proportion of full time jobs over a full year, (e.g. a person employed full time for 6 months would equal 0.5 of a full time equivalent job; six contractors working on and off over 2 weeks equate to 2 people working full time for 2 weeks, which equals approximately 0.08 of an FTE job).

Construction jobs (full time equivalent)	N/A
Operational jobs (full time equivalent)	N/A

10. Application fee

Part 15 of the Environmental Planning and Assessment Regulation 2000 sets out how to calculate the fees for an application for modification of a development consent. If your development needs to be advertised to the public you may also need to include an advertising fee.

Note: Advertising fees attract GST, all other fees do not.

Please contact the Department in order to calculate the fee for your modification application.

Estimated cost of the development	Original application fee	Total fees lodged
	\$319,850	\$5,000

11. Political donation disclosure statement

Persons lodging modification applications are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years. Disclosure statements are to be submitted with your application.

Have you attached a disclosure statement to this application?

Yes ☒

No ☐

Note: For more details about political donation disclosure requirements, including a disclosure form, go to www.planning.nsw.gov.au/donations.

12. Owner's consent

The owner(s) of the land to be developed must sign the application. If you are not the owner of the land, you must have all the owners sign the application. If the land is Crown land, an authorised officer of the NSW Department of Lands must sign the application. **An original signature must be provided.**

As the owner(s) of the above property, I/we consent to this application:

Signature

Name

SEE ATTACHED

Date

Signature

Name

Date

Note: For applications within the Kosciuszko ski resorts area, the approval of the lessee rather than the owner is required.

13. Applicant's signature

The applicant, or the applicant's agent, must sign the application. Only an original signature will be accepted (photocopies or faxed copies will not be accepted).

Signature

D. Chelle

Date

21/10/13

In what capacity are you signing if you are not the applicant

Name, if you are not the applicant

14. Privacy policy

The information you provide in this application will enable the Department, and any relevant state agency, to assess your application under the *Environmental Planning and Assessment Act 1979* and other applicable state legislation. If the information is not provided, your application may not be accepted.

If your application is for designated development or advertised development, it will be made available for public inspection and copying during a submission period. Written notification of the application will also be provided to the neighbourhood. You have the right to access and have corrected any information provided in your application. Please ensure that the information is accurate and advise the Department of any changes.



LANDOWNER AUTHORITY

To Whom It May Concern:

This is to advise that Newton Denny Chapelle has been authorised by the landowner:

Landowner Name: CLARENCE PROPERTY CORPORATION LTD
att CTC UNIT TRUST

Postal Address: PO Box 1478
Ballina NSW 2478

Contact Phone Number:
(02) 6686 4122

Property Address: Lot 144 DP 1030322, Lot 3 DP 1042119 &
Lot 223 DP 1048494
Tweed Coast Road, Casuarina Beach

to:

1. Inspect Records.
2. Carry out searches and site inspections.
3. Lodge applications, Subdivision Certificates, objections or appeals.

PETER FAHEY
Name (Director)

A handwritten signature in black ink, appearing to read 'Peter Fahey', written over a dotted line.
Signature
24 OCTOBER 2013



DISCLOSURE OF POLITICAL DONATIONS AND GIFTS.

Legislation requires the disclosure of reportable political donations, made within the past two years (by you or any person or entity with a financial interest connected to this application) to political parties, elected members of NSW Parliament, Local Government elections and elected Council members. This includes disclosure of gifts made to Councillors or Council employees, and any donation or gift made when a person was a candidate for Council election.

Have you made a political donation or gift:

Yes

☐

No

☒

(if ticked yes, a separate disclosure form must be completed. Forms are available at Council or downloaded from the Department of Planning's website)

Significant penalties apply to non-disclosure. For more information and to obtain a political donations and gifts disclosure statement go to the Department of Planning website at www.planning.nsw.gov.au.

PO Box 1478, 2/75 Tamar St, Ballina NSW 2478

Phone 02 6686 4122 **Fax** 02 6686 5122 **Email** enquiry@clarencproperty.com.au

www.clarencproperty.com.au

ABN 67 094 710 942 AFS Licence No. 230212



ATTACHMENT 2

Concept & Project Approvals

Concept Approval

Section 75O of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, pursuant to Part 3A of the *Environmental Planning & Assessment Act 1979*, determine:

- a. Under Section 75O of the *Environmental Planning & Assessment Act 1979*, to approve the concept plan referred to in Schedule 1 subject to the modifications in Schedule 2;
- b. Under Section 75P(1)(c) of the *Environmental Planning & Assessment Act 1979*, that the Stage 1 project requires no further environmental assessment;
- c. Under Section 75P(1)(a) of the *Environmental Planning & Assessment Act 1979*, that future development for Stages 2, 3 and 4 be subject to Part 3A of the Act and be subject to the requirements set out in Part C of Schedule 2; and
- d. Under Section 75P(1)(a) of the *Environmental Planning & Assessment Act 1979*, that future development be subject to the requirements set out in Schedule 2 and the proponent's Statement of Commitments in Schedule 3.

These modifications are required to:

- Adequately mitigate the environmental impact of the concept plan;
- Maintain the amenity of the local area; and
- Encourage the orderly future development of the site.



The Hon Kristina Keneally MP
Minister for Planning

Sydney,

20/7/09

2009

SCHEDULE 1

PART A—TABLE

Application made by:	Kings Beach No. 2 Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	06_0258
On land comprising:	Tweed Coast Road, South Kingscliff Lot 223 DP 1048494, Lot 3 1042119, Lot 144 DP 1030322, Lots 10 and 13 DP 1014470
Local Government Area	Tweed Shire Council
For the carrying out of:	<ul style="list-style-type: none">• subdivision of land into 61 lots including low and medium density residential, retail, commercial and mixed use lots.• Construction of a retail centre comprising a supermarket, restaurants and shops;• Construction of a hotel;• Construction of the associated road network and car parking;• Construction of all necessary services; and• Landscaping and open space
Type of development:	Concept Plan
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0258

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means Building Code of Australia

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Tweed Shire Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by Victor G Feros Town Planning Consultants and dated August 2008, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project Report means the Preferred Project Report prepared by Victor G Feros Town Planning Consultants dated 25 March 2009.

Proponent means Kings Beach No. 2 Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

MODIFICATIONS AND REQUIREMENTS FOR FUTURE APPLICATIONS

PART A—ADMINISTRATIVE CONDITIONS

A1 *Project Description*

Concept plan approval is granted only to carrying out the project described in detail below:

- 1) Subdivision of land into 61 lots including low and medium density residential, retail, commercial and mixed use lots.
- 2) Construction of a retail centre comprising a supermarket, restaurants and shops;
- 3) Construction of a hotel;
- 4) Construction of the associated road network and car parking;
- 5) Construction of all necessary services; and
- 6) Landscaping and open space

A2 *Staging*

The project is to be constructed in four stages generally as follows:

- (1) Stage 1 comprises:
 - (a) Bulk earthworks;
 - (b) Subdivision of the land into 61 lots;
 - (c) Construction of a retail centre;
 - (d) Closure of Dianella Drive;
 - (e) Construction of roads and services; and
 - (f) Landscaping.
 - (2) Stage 2 comprises:
 - (a) Development of mixed use lots 5, 12 and 17;
 - (b) Development of commercial lot 2; and
 - (c) Development of medium density residential lot 3.
 - (3) Stage 3 comprises:
 - (a) Development of mixed use lots 6 and 13; and
 - (b) Development of medium density residential lots 4, 10, 11 and 16.
 - (4) Stage 4 comprises:
 - (a) Development of medium density residential lots 7, 8, 9, 14 and 15; and
 - (b) Development of hotel lot 18.
-

A3 Project in Accordance with Plans

The project will be undertaken in accordance with the following drawings:

Design Drawings prepared by ML Design			
Drawing No.	Revision	Name of Plan	Date
MP-31(N)		Concept Plan	17/08/09
MP-19(R)		Land Use Plan	17/08/09
MP-30(W)		Open Space Plan	17/08/09
MP-01-04(U)		Casuarina Beach Town Centre – Indicative Master Plan	17/08/09
MP-01-13(G)		Sun Study – Winter Solstice – June 21 – 3pm	17/08/09
Design and Survey Drawings prepared by Cardno (Qld) Pty Ltd			
DA22I	I	Existing Contours Plan	10/08/09
DA24K	K	Finished Surface Contours	10/08/09
DA39J	J	Subdivision Layout Plan	10/08/09
DA40L	L	Dedication and Easement Plan	10/08/09
DA41I	I	Staging Plan	10/08/09
8491-101	g	Tweed Coast Road/Town Centre Drive Intersection Concept	03/07/09
8491-102	D	Casuarina Way/Town Centre Drive Intersection Concept Option 1	23/01/09
8491-901	H	Parking Bay Dimensions	14/08/09
8491-902	F	Parking Bay Dimensions	06/02/09
8491-903	F	Parking Bay Dimensions	06/02/09
8491-904	D	Parking Bay Dimensions	23/01/09
8491-905	E	Parking Bay Dimensions	03/07/09
8491-909	C	Public Parking	14/08/09

except for:

- (1) any modifications which may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

A4 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

Environmental Assessment Documentation

- a) *Environmental Assessment Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated August 2008; and,

Preferred Project Report Documentation

- b) *Preferred Project Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated 25 March 2009.
-

A5 *Inconsistencies*

- (1) In the event of any inconsistency between:
 - a) The conditions of this approval and the Statement of Commitments (at Schedule 3), the conditions of this approval prevail;
 - b) The conditions of this approval and the drawings/documents referred to in conditions A3 and A4, the conditions of this approval prevail; and
 - c) Any drawing/document listed in conditions A3 and A4 and any other drawing/document listed in conditions A3 and A4, the most recent document shall prevail to the extent of the inconsistency.
- (2) If there is any inconsistency between this concept plan approval and any project approval or development consent, this concept plan approval shall prevail to the extent of the inconsistency.

PART B—MODIFICATIONS TO THE CONCEPT PLAN

B1 *Building Setbacks*

A minimum building setback of 2m shall be provided to all future lots adjoining the southern boundary of the 20m wide east-west open space corridor.

B2 *Cycleway*

The cycleway is modified such that:

- 1) the sharp right turn at the junction of lots 4, 10 and 11 is realigned to provide a provide a larger radius curve.

Modified plans are to be submitted to the Department for approval prior to the issue of a Construction Certificate for Stage 1.

B3 *Retail Centre*

The retail centre built form shall be modified to reduce the scale of the A frame element on the western side of the building.

Modified plans are to be submitted to the Department for approval prior to the issue of a Construction Certificate for Stage 1.

B4 *Bus Stops*

Casuarina Way is modified such that two indented bus bays including bus shelters (one in each direction) are provided within the site. Where necessary, the road reserve shall be widened to accommodate the bus bay and shelters.

Modified plans are to be submitted to the Department for approval prior to the issue of a Construction Certificate for Stage 1.

B5 *Beach Access through Crown Reserve*

The proponent is to obtain approval from the Department of Lands regarding the provision of the proposed beach access to the east of the icon building.

Note: This may require the closure of one of the existing beach accesses.

Evidence of the approval for the construction of the beach access shall be provided to the Department prior to the issue of a Construction Certificate for Stage 1.

PART C— REQUIREMENTS FOR FUTURE APPLICATIONS

Pursuant to section 75P(1)(a) of the Act, future development for Stages 2, 3 and 4 be subject to Part 3A of the Act and are subject to the following requirements:

C1 *Residential Flat Buildings*

All future applications involving the development of a residential flat building (within the definition of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings) is to include a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve 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*.

C2 *Overshadowing*

Future applications for all three storey buildings are to include an assessment of the potential for overshadowing of both adjoining buildings and public open space areas (in particular, areas of public open space).

C3 *Footpath Trading*

Future applications for the development of the mixed use lots (Lots 5, 6, 12, 13 and 17) require the submission of details in relation to any proposed footpath trading or alfresco dining activities.

C4 *Operational Management Plan*

Future applications for the development of the mixed use lots (Lots 5, 6, 12, 13 and 17) and the hotel (Lot 18) require the submission of an operational management plan which includes, but is not limited to:

- a. Hours of operation;
- b. Security arrangements;
- c. Waste management; and
- d. Servicing arrangements.

C5 *Surf Lifesaving Facilities*

The future application for development of Lot 17 is to include details of the surf lifesaving facilities to be provided in the icon building. The application shall include written agreement to the proposed facilities from Surf Lifesaving Australia.

C6 *Noise Assessments*

All future applications involving development for non-residential uses are to include a noise assessment that considers potential impacts on surrounding residences both within the subject site and adjoining it. The assessment is to incorporate measures that mitigate the noise impacts of the development on the surrounding dwellings to levels considered acceptable by the NSW *Industrial Noise Policy* (EPA, 2000).

SCHEDULE 3

06_0258

CASUARINA TOWN CENTRE

**TWEED COAST ROAD, CASUARINA BEACH, TWEED LOCAL GOVERNMENT
AREA**

STATEMENT OF COMMITMENTS

(SOURCE: PREFERRED PROJECT REPORT)



6.00 STATEMENT OF COMMITMENTS – CONCEPT PLAN

The following Statement of Commitments are referable to the Casuarina Beach Town Centre Concept Plan Application as originally lodged, reviewed and revised in this Preferred Project Report.

PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
1. Development Contributions	<ul style="list-style-type: none"> The proponent will pay the lawful contributions in accordance with any condition(s) of consent calculated in accordance with any relevant Section 94 Contribution Plan(s), taking into account any referable or other applicable credits for prior contributions to the public benefit. Such contributions will be paid at each Stage of the development relevant to such payment. 	<ul style="list-style-type: none"> The Proponent and the Local Government Authority agreeing to a range of lawful contributions to ensure the timely delivery of local infrastructure and community services. Provide certainty for the delivery and quality of the public domain elements of the project. Ensure the project's compatibility with local strategies. 	<ul style="list-style-type: none"> Payment will be effected prior to the issue of a subdivision certificate for the Project Application for Stage 1 Works, namely, the Stage 1 construction of the proposed shopping centre and all roads, open space embellishment as contained in the Landscape Concept Report (EDAW) - see Attachment 2 and infrastructure works relating to sewer, water and drainage.
2. Urban Design	<ul style="list-style-type: none"> Urban Design Guidelines will be developed to ensure design excellence is achieved in the architecture of private buildings and the public domain (streets, parks and squares). This will include building designs and standards. The Guidelines will also take into account the Tweed DCP requirements and the Urban Design Report of Malcolm Middleton and the Landscape Concept Report (EDAW) see Attachment 2. The detailed Urban Design Guidelines will be provided as part of project or 	<ul style="list-style-type: none"> Ensuring that over the various stages of the development there is consistency of standards for the built environment. That the built form meets the best modern Australian coastal design standards. Ensuring that the Sustainability Objectives of the development are implemented. 	<ul style="list-style-type: none"> Guidelines issued prior to the issue of a Construction Certificate for any building works whether private or public. Construction of the built form both public and private will follow the issue of construction certificate for same.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>development applications for subdivision and infrastructure works or building works for each of the neighbourhood stages of the Town Centre.</p> <ul style="list-style-type: none"> ○ To ensure that the built forms meet the floor space ratios, heights and other criteria as contained in the table found at Section 5 "Project Amendments" of the Preferred Project Report. ○ These guidelines will be submitted with future project or development applications for subdivision and infrastructure works. ○ To ensure that any further development applications comply generally with the Concept Application Plans of approval. 		
3. Environmentally Sustainable Development	<ul style="list-style-type: none"> ○ The Proponent is committed to an adherence to the principles of sustainability as defined in the Environmental Planning and Assessment Act 1979. The proposed development will incorporate a range of relevant ESD initiatives to minimize the impact of the projected development on the environment including reduction in energy, water and waste generation by adherence to an implementation of, a suite of on-site management plans detailed in and/or attached to the Environmental Assessment, and upon which management protocols the proponent relies 	<ul style="list-style-type: none"> ○ Ensure that all development on the site is managed and designed in an environmentally sustainable manner. 	<ul style="list-style-type: none"> ○ From Stage 1 but will be implemented in all Stages of the Project.
4. Foreshore Protection	<ul style="list-style-type: none"> ○ The proponent agrees to fund in perpetuity any restorative actions, including the erection of visual barriers, which may 	<ul style="list-style-type: none"> ○ A well-managed foreshore area which meets the best achievable environmental 	<ul style="list-style-type: none"> ○ ongoing



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>be required as a result of unauthorized tree or vegetation clearing fronting the development within Crown Reserve 1001008, to the satisfaction of the Department of Lands.</p> <ul style="list-style-type: none"> Targeted surveys for the endangered species "<i>Geodorum densiflorum</i>" will be undertaken and mitigation measures for impacts on the species identified, to the extent identified by the survey. No asset protection zones will be located within the Crown Reserve 1001008. No works will be undertaken on Crown Reserve 1001008. The proponent undertakes to effect mitigation measures and to implement such measures for any works adjoining Crown land to ensure that there is no impact on the Crown land. 	<p>standards and meets the reasonable expectations of the local community</p>	
5. Open Space and Public Walkway/ Cycle Connections	<ul style="list-style-type: none"> The proponent will dedicate 4164m² of privately held 7(f) zoned lands and 7351m² of privately held 2(e) zoned lands, aggregating 11515m², (4.4% of the subject lands) as public open space to encourage a larger, more legible public realm which promotes permeability along the foreshore. The dedication will be in accordance with ML Design Plan No. MP30-(Q) and Cardno Drawing No. DA40(J). The public open space will facilitate the realignment and upgrading of the existing foreshore 	<ul style="list-style-type: none"> The Town Centre Park will create a large open recreational area for the whole of the Casuarina Beach village. It will cater for a wide variety of public uses from passive recreation to organized public events. Allows full public access to the foreshore. Allows full north-south pedestrian and cycle permeability throughout the length 	<ul style="list-style-type: none"> Lands to be dedicated in accordance with the ML Design Plan No. MP30-(Q) and Cardno Drawing No. DA40(J).ML will be embellished in accordance with Attachment 2 (EDAW) and dedicated to Council prior to the issue of a subdivision certificate for the Stage 1 Project Application Works. All landscape works including walkway/ cycleway



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>cycleway.</p> <ul style="list-style-type: none"> This land has or will be dedicated to Tweed Council. The proponent will design and build all the landscape elements of the public space including the walkway/cycleway areas and in accordance with Attachment 2 (EDAW). Landscaping is to rely heavily on the use of native species. Provision will be made in the public domain for Surf Lifesaving Facilities as an adjunct to the Salt Surf Lifesaving Club. 	<p>of the site.</p> <ul style="list-style-type: none"> Full north-south pedestrian and cycle permeability throughout the length of the site. Cycleway/walkways provide for easy east-west pedestrian and cycle links through the site. There will be an upgrading of the foreshore walkway/cycleway. The choice of local native plants will improve the habitat of the local fauna. 	<p>and open space works and embellishments will be completed prior to the issue of a subdivision certificate for the Stage 1 Works.</p>
6. Foreshore Access and Public Beachside Car Parking	<ul style="list-style-type: none"> The proponent will establish approximately 175 metres of publicly accessible beach access consisting of parkland and esplanade roadway, directly east of the centre east west axis boulevard as shown on ML Design Plans MP-31(J) and MP-30(Q) and Cardno Eppell Olsen Plans Nos. 8491-901(F), 8491-902(F) and 8491-903(F). The proponent will provide a minimum of 170 car spaces at a rate of 300 public spaces per kilometre length of beach within 200m of the beach in accordance with the Cardno Eppell Olsen Plan 8491-909(C). The proponent will undertake these works and dedicate them to Council. 	<ul style="list-style-type: none"> Ensure full 24 hour a day access to the foreshore and walkway/cycleway for the public. Visitors to Casuarina Beach will have easy access to the parkland, the beach and the village facilities. 	<ul style="list-style-type: none"> All car parking works and land to be dedicated for roads and car parking as depicted in ML Design Plans MP-31(J) and MP-30(Q) and Cardno Eppell Olsen Plans Nos. 8491-901(F), 8491-902(F), 8491-903(F) and 8491-909(C) completed prior to the issue of a subdivision certificate and dedicated as part of the subdivision certificate approval process.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
7. Traffic Management	<ul style="list-style-type: none"> ○ The proponent will design and construct all roads within the Town Centre in accordance with Australian Standards and in accordance with Cardno Drawing No. DA23(H). ○ The roadworks include connecting Casuarina Way's missing north-south link and creating a new and safer access point to the Coast Road. ○ The proponent will design and construct all the pedestrian and cycle pathways in accordance with Cardno Plans Nos. DA49(J) and DA42 and plans contained in Attachment 2 – Landscape Concept Report, Casuarina Town Centre (EDAW) – Pedestrian Links, Cycle Circulation. ○ The road network will be capable of servicing the local bus needs. Provision for bus stops will be made. ○ The proponent will design and install all the traffic management measures, like traffic lights, in accordance with Australian Standards as may be required by the Cardno Eppell Olsen Report forming part of this application and the conditions of approval of this application. ○ The proponent will undertake the works required for Dianella Drive and as depicted in the Cardno Eppell Olsen report forming part of this application or as may be required by the conditions of approval. 	<ul style="list-style-type: none"> ○ There will be a high coordinated approach to the traffic management on the site. ○ The mix will ensure that a proper hierarchy of roads and walkway/cycleways will be set up and the traffic movements are compatible with the pedestrian cycle movements particularly given the tourist village style of development. ○ Separation of the retail traffic around the supermarket from the quieter recreational traffic uses near the foreshore. ○ Creates the opportunity for improved and faster bus services. ○ A safer exit/entry point to the Coast Road for the residents of Casuarina Beach. 	<ul style="list-style-type: none"> ○ All roadworks/ walkway/cycleway works will be constructed prior to the issue of a subdivision certificate for the lots created by the Stage 1 Works.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
8. Drainage Swale	<ul style="list-style-type: none"> The proponent will dedicate the roads to Tweed Council at the time of applying for a subdivision certificate. The proponent will fill in the drainage swale. The swale will be replaced by underground stormwater pipe drainage before discharging back to the existing drainage system at the northern end of the playing field area. An area of 3180m² of the land comprising the swale will be dedicated as open space once it has been recontoured, grassed and a cycleway/walkway constructed thereon. The dedication shall be in accordance with ML Design Plan MP-30(Q) and Cardno Drawing No. DA40J. 	<ul style="list-style-type: none"> An efficient drainage system which does not create any adverse environmental impacts. A more useable landscaped public area at grade with lands to the north and south of the current swale. A better edge treatment between lands to the north and south of the swale. 	To be constructed in Stage 1.
9. Infrastructure	<ul style="list-style-type: none"> The proponent has identified in the Cardno Report the infrastructure required to support all of the proposed development in the Concept Plan. The areas of infrastructure include: <ul style="list-style-type: none"> sewerage water supply telecommunications electricity supply waste disposal Specific commitments include: <ul style="list-style-type: none"> Upgrading of the pumps in Pump Station 2 and the installation of additional main capacity of the sewer mains. A connecting 150 mm diameter main to the main water supply. 	<ul style="list-style-type: none"> Casuarina Beach Town Centre will be well serviced with all its basic infrastructure needs from the beginning of the project. The Town Centre site is infill development and its infrastructure has been designed to accord with the overall infrastructure designed for Casuarina Beach. 	<ul style="list-style-type: none"> Infrastructure works will be undertaken and will be completed prior to the issue of a subdivision certificate for the lots created by the application.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<ul style="list-style-type: none"> All infrastructure works will be carried out in accordance with Cardno Drawings referenced in Exhibit Book 1 or as may be required by conditions of approval. The proponent undertakes to ensure that the quality of any runoff into Cudgen Creek and to the ocean, both during and after construction of the development, will be equal to or better than current levels. 		
10. Water Sensitive Urban Design	<ul style="list-style-type: none"> The proponent commits to implementing a Water Sensitive Urban Design Strategy (WSUD) in accordance with the WSUD outlined in the Cardno Report on Engineering and Environmental Matters dated June 2008 submitted as Attachment 2 to the Environmental Assessment Report. Specific actions are: <ul style="list-style-type: none"> The on-site stormwater management system will capture and retain virtually all the run-off from the site. The east west swale will be moved. Modifications to the frontal swale. Re-contouring of the site will improve the drainage patterns. 	<ul style="list-style-type: none"> The system will substantially reduce the contaminant loads in Cudgen Creek and the Pacific Ocean. It meets environmentally sustainable principles. 	<ul style="list-style-type: none"> The WSUD will be delivered at the same time as infrastructure works and prior to the issue of a subdivision certificate for the lots created by this application.
11. Soil Contamination	<ul style="list-style-type: none"> The proponent undertakes to comply with any and all guidelines endorsed by the relevant Authority to assess the extent of any surface or subsurface contamination prior to commencement of construction. 	<ul style="list-style-type: none"> A safer site fit for habitation. 	<ul style="list-style-type: none"> Works will be undertaken in Stage 1 and completed prior to the issue of a subdivision certificate for the lots created.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
12. Management of Construction Noise, Vibration, Dust, Soils and Erosion	<ul style="list-style-type: none"> Management of construction noise, vibration, dust, soil and erosion during the construction phase of the development will be undertaken strictly in accordance with the relevant management plans and in accordance with aforementioned and approved Environmental Management Plan for the development. 	<ul style="list-style-type: none"> Minimise the impacts of the construction activity on the environment and on the neighbouring communities. Cleaner site during construction. 	<ul style="list-style-type: none"> Implement prior to the issue of a construction certificate. During construction works.
13. Management of Construction Waste	<ul style="list-style-type: none"> The proponent undertakes to adopt approved targets as performance requirements for the management of construction waste as may be set by the conditions of approval. 	<ul style="list-style-type: none"> Minimise the impacts of the construction activity on the environment and on the neighbouring communities. 	<ul style="list-style-type: none"> Implemented prior to the issue of a construction certificate.
14. Management of Construction Traffic	<ul style="list-style-type: none"> A Construction Management Plan will be prepared prior to the issue of a Construction Certificate. The Plan will include the principles set out in this Report to minimize construction traffic impacts at all times of the construction process. 	<ul style="list-style-type: none"> Minimise the impacts of the construction activity on the environment and on the neighbouring communities. 	<ul style="list-style-type: none"> Implemented prior to the issue of a construction certificate.
15. Aboriginal and European Cultural Heritage Assessment	<ul style="list-style-type: none"> If human remains are located during the project, all works will halt in the immediate area to prevent any further impacts to the find or finds. The local police, the Aboriginal community and DECC will be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, the DECC should be contacted and notified of the situation and works will not resume in the designated area until approval in writing is provided by the DECC. In the event that a criminal investigation ensues, works 	<ul style="list-style-type: none"> A respectful recognition of past settlement of land. 	<ul style="list-style-type: none"> Consultation will be undertaken within the Tweed Byron Local Aboriginal Council and if considered appropriate by the Aboriginal Council the commemorative will be created prior to the issue of a subdivision certificate for the subdivision created by the Project Application Stage 1 Works.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>will not resume in the designated area until approval in writing from the Police and DECC is obtained</p> <ul style="list-style-type: none"> ○ If Aboriginal cultural objects are uncovered due to the development activities, all works will halt in the immediate area to prevent any further impacts to the find or finds. A suitably qualified archaeologist and Aboriginal community representatives will be contacted to determine the significance of the find(s). The site will be registered in the AHIMS (managed by DECC) and the management outcome for the site included in the information provided to the AHIMS. (It is also recommended that the Aboriginal community representatives are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose). ○ All reasonable efforts will be made to avoid impacts to Aboriginal Cultural Heritage values at all stages of the development works. If impacts are unavoidable, mitigation measures will be negotiated with the Aboriginal community and DECC. ○ If objects are uncovered the applicant will consult with and involve Aboriginal representatives for the project, in the ongoing management of the Aboriginal Cultural Heritage values. 		



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<ul style="list-style-type: none"> ○ An Aboriginal Cultural Education Program will be developed for the induction of personnel and contractors involved in the construction activities on site. The program will be developed in collaboration with the Aboriginal community. ○ The proponent will, in consultation with The Tweed Byron Local Aboriginal Council, give consideration to the erection of a suitable commemorative installation which could mark or identify the Aboriginal occupation of this part of the Tweed Coast and past disturbance to their heritage sites. ○ In conjunction with the Tweed Byron Local Aboriginal Land Council the proponent will give consideration to the interpretation, on site, of the sand mining history of the area and its shaping of the current coastal landscapes to establish an historical connection between the new suburb and its past setting. ○ A copy of the Report will be sent to: The Chief Executive Officer Tweed Byron Local Aboriginal Land Council PO Box 1401 Kingscliff NSW 2487 Mr Kyle Slabb Tweed Byron Local Aboriginal Land Council PO Box 1401 Kingscliff NSW 2487 		



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Ms Jackie McDonald 63 Triuga Street West Tweed Heads NSW 2321</p> <p>Mrs Joyce Summers 26 Brier Crescent Varsity Lakes QLD 4227</p> <p>The Manager Aboriginal Heritage Information Management System Department of Environment and Climate Change PO Box 1967 Hurstville NSW 2770</p> <p>o Two copies of the Report will be sent to:</p> <p>Northern Region Archaeologist Northern Aboriginal Heritage Unit Department of Environment and Climate Change PO Box 914 Coffs Harbour NSW 2450</p>		
16. Flooding	<p>o The proponent undertakes that the development footprint will be located to avoid flooding impacts from a result of sea level rise and a probable maximum flood.</p> <p>o The proposed development will be in accordance with the NSW Government Flood Prone Land Policy.</p>	<p>o Reduce the impact of flooding and flood liability on occupants of the flood plain and to reduce losses resulting from flooding.</p>	<p>o Implemented prior to the issue of a construction certificate.</p>
17. Asset Protection	<p>o The proponent undertakes that all landscaping to the site is to comply with the principles of Appendix 5 of <i>Planning for Bushfire Protection 2006</i>.</p>	<p>o To ensure protection of the public and community assets generally.</p>	<p>o All landscape works will be completed prior to the issue of a subdivision certificate for the Stage 1 Works.</p>
18. Community and Stakeholder Engagement	<p>o The proponent undertakes to implement a complaints registration procedure to record and to address any and all issues in relation to</p>	<p>o The community and the local authorities are fully informed and consulted throughout every stage of the</p>	<p>o Community consultations have already been established. They will be maintained.</p>



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>the construction phase of development.</p> <ul style="list-style-type: none"> ○ The proponent commits to establishing community consultation mechanisms during the assessment and sales stages of the development. 	development of the project.	<ul style="list-style-type: none"> ○ Ongoing throughout every stage of the project.

Project Approval

Section 75J of the Environmental Planning and Assessment Act 1979

I, the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- Maintain the amenity of the local area;
- Encourage good urban design; and
- Adequately mitigate the environmental impact of the project and maintain the principles of ecologically sustainable development.



The Hon Kristina Keneally MP
Minister for Planning

Sydney,

20/1/09

2009

SCHEDULE 1

PART A—TABLE

Application made by:	Kings Beach No. 2 Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	06_0258
On land comprising:	Tweed Coast Road, South Kingscliff Lot 223 DP 1048494, Lot 3 1042119, Lot 144 DP 1030322, Lots 10 and 13 DP 1014470
Local Government Area	Tweed Shire Council
For the carrying out of:	<ul style="list-style-type: none">• Subdivision of the land into 61 lots;• Construction of the supermarket anchored retail centre;• Bulk earthworks and vegetation clearing;• Construction of all roads;• Closure of Dianella Drive;• Provision of infrastructure and services; and• Landscaping.
Type of development:	Project Application
Determination made on:	
Date approval is liable to lapse:	5 years from the date of determination

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0258

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means Building Code of Australia

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Tweed Shire Council

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by Victor G Feros Town Planning Consultants and dated August 2008, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project Report means the Preferred Project Report prepared by Victor G Feros Town Planning Consultants dated 25 March 2009.

Proponent means Kings Beach No. 2 Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Subject Site has the same meaning as the land identified in Part A of this schedule.

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SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 06_0258

PART A—ADMINISTRATIVE CONDITIONS

A1 Project Description

Project approval is granted only to carrying out the project described in detail below:

- 1) Bulk earthworks and vegetation clearing;
- 2) Subdivision of the land into 61 lots comprising 38 low density residential lots, 18 super lots for future development, 3 open space lots and 2 lots for the purposes of drainage;
- 3) Construction of the retail centre with a total floor space of 4135m² comprising a maximum of 3660m² of retail floor space. The retail floor space is composed of:
 - a. supermarket of 2500m²;
 - b. shops of 850m²; and
 - c. restaurants of 310m².

The retail centre will provide car parking for a total of 248 vehicles (including 72 spaces in a basement car park);

- 4) Construction of roads and car parking;
- 5) Closure of Dianella Drive at its intersection with Tweed Coast Road;
- 6) Realignment of the foreshore walkway/cycleway;
- 7) Landscaping;
- 8) Signage for the retail centre; and
- 9) Provision of associated services i.e. water, sewerage, stormwater drainage, electricity supply and telecommunications.

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:

Architectural (or Design) Drawings prepared by ML Design			
Drawing No.	Revision	Name of Plan	Date
MP-19(R)		Land Use Plan	17/08/09
MP-30(W)		Open Space Plan	17/08/09
MP-01-04(U)		Casuarina Beach Town Centre – Indicative Master Plan	17/08/09
Engineering Drawings prepared by Cardno (QLD) Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
DA22I	I	Existing Contours Plan	10/08/09

DA23J	J	Road Layout Plan	10/08/09
DA24K	K	Finished Surface Contours	10/08/09
DA25I	I	Cut / Fill Depths Layout Plan	10/08/09
DA26G	G	Site Cross Sections	10/08/09
DA27I	I	Erosion & Sediment Control Layout Plan	10/08/09
DA28F	F	Road No.1 Longitudinal Section	10/08/09
DA29D	D	Casuarina Way (Road No.2) Longitudinal Section	10/08/09
DA30E	E	Road No 3 (Casuarina Way) and Road No 4 Longitudinal Sections	10/08/09
DA31G	G	Road No 5 Longitudinal Section	10/08/09
DA32F	F	Road No 6 Longitudinal Section	10/08/09
DA33F	F	Road No 7 Longitudinal Section	10/08/09
DA34E	E	Typical Cross Sections Sheet 1	10/08/09
DA35G	G	Typical Cross Sections Sheet 1	10/08/09
DA36I	I	Catchment Areas and Drainage Paths	10/08/09
DA37I	I	Sewer Reticulation Layout Plan	10/08/09
DA38H	H	Water Reticulation Layout Plan	10/08/09
DA39J	J	Subdivision Layout Plan	10/08/09
DA40L	L	Dedication and Easement Plan	10/08/09
DA41I	I	Staging Plan	10/08/09
DA44B	B	Proposed Frontal Cycleway/ Drainage Re-alignment Layout Plan	10/08/09

Traffic Engineering Drawings prepared by Cardno Eppell Olsen

Drawing No.	Revision	Name of Plan	Date
8491-101	G	Tweed Coast Road / Town Centre Drive Intersection Concept	03/07/09
8491-102	D	Casuarina Way / Town Centre Drive Intersection Concept Option 1	23/01/09
8491-603	B	Revised Shopping Centre Carpark	14/08/09
8491-702	F	10.0M Compactor Collection Vehicle Sweep Path	14/08/09
8491-703-1	D	8.8M Medium Rigid Vehicle Swept Path (Forward In)	14/08/09
8491-703-2	D	8.8M Medium Rigid Vehicle Swept Path (Reverse In)	14/08/09
8491-704	C	19M Articulated Vehicle Swept Path	14/08/09
8491-901	H	Parking Bay Dimensions	14/08/09
8491-902	F	Parking Bay Dimensions	06/02/09
8491-903	F	Parking Bay Dimensions	06/02/09

8491-904	D	Parking Bay Dimensions	23/01/09
8491-905	E	Parking Bay Dimensions	03/07/09
8491-906	E	Parking Bay Dimensions	03/07/09
8491-907	D	Parking Bay Dimensions	23/01/09
8491-908	E	Bus and Car Swept Path	14/08/09
8491-909	E	Public Parking	14/08/09
Supermarket Architecture Drawings prepared by Donovan Hill			
Drawing No.	Revision	Name of Plan	Date
DA05	J	Site Plan and Schedules	13/08/09
DA06	H	Elevations North and East	30/01/09
DA07	H	Elevations South and West	30/01/09
DA08	H	Ground Floor Plan	30/01/09
DA09	H	First Floor Plan	30/01/09
DA10	H	Roof Plan	30/01/09
DA11	H	Basement Plan	30/01/09
DA12	H	Sections	30/01/09
DA13	H	Shadow Diagrams	30/01/09
DA14	I	Building Signage Details	13/08/09
Landscape Drawings prepared by EDAW			
Drawing No.	Revision	Name of Plan	Date
08		Vehicular Street Hierarchy	August 2009
09		Pedestrian Links	August 2009
010		Cycle Circulation	August 2009
011		Street Tree Strategy	August 2009
012		Entrance Statement	August 2009
013		The Boulevard	August 2009
014		Main Street	August 2009
015		Casuarina Way	August 2009
016		Local Roads	August 2009
017		Pedestrian Links	February 2009
018		Foreshore Reserve Management Area	August 2009
019		Indicative Sections – Foreshore Reserve	August 2009
020		Civic Park	August 2009
021		Public Carpark Section	August 2009
022		Retail Centre	August 2009

A3 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated August 2008; and,

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- (2) *Preferred Project Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated 25 March 2009.

A4 *Inconsistency between documents*

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to in Conditions A3 and A4, the conditions of this approval prevail to the extent of the inconsistency.

A5 *Building Code of Australia*

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

A6 *Use of Certain Machinery*

The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.

A7 *Landscaping on Private Land*

The proponent shall ensure that landscaping provided in private ownership is maintained at all times to the standard approved in the Landscape Plan required herein.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Contamination

B1 Contamination

Following clearing works, and prior to the commencement of earthworks or any construction activities, surface and full depth radiation investigations (to a minimum of ground water level) shall be conducted across the whole development site including areas in public ownership. The site shall be remediated prior to commencement of construction on the site.

Prior to the issue of a Construction Certificate the Proponent shall submit to the Council a Remedial Action Plan and a Hazardous Materials Survey. Council will identify minimum remediation depths for both private and public open spaces. As a minimum, remediation should occur to a depth of 2 metres or below the lowest service infrastructure, whichever is the greater. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.

Design Details and Changes

B2 Design Modifications

The design of the layout and buildings shall be amended as follows:

- (1) The alignment of the cycleway within the open space area extending south through the 15m wide easement shall be modified to provide a larger radius curve at the intersection of future lots 4, 10 and 11 to ensure that adequate sight lines and surveillance can be maintained through the cycleway corridor. The proposed easement shall be modified accordingly.
- (2) The east-west open space corridor is increased to a 20m width and lengthened to reach Casuarina Way.
- (3) The retail centre built form shall be modified to reduce the scale of the A frame element on the western side of the building. Modified plans are to be submitted to the Department for approval prior to the issue of a Construction Certificate for Stage 1.
- (4) Two indented bus bays including bus shelters shall be provided on Casuarina Way (one in each direction). Where necessary, the road reserve shall be widened to accommodate the bus bay and shelters.

Details shall be submitted to and approved by the Department prior to the issue of a Construction Certificate.

B3 Flora and Fauna

A study of the site for the suitability of habitat for the Pink Nodding Orchid (*Geodorum densiflorum*) shall be undertaken by a suitably qualified orchid specialist. The results of the study shall be submitted to the Department of Planning and the Department of Environment and Climate Change (DECC) for approval.

Should the study find that the site provides suitable habitat for the species, a targeted survey shall be undertaken by a suitably qualified orchid specialist during the flowering season for the species. The results of the targeted survey and any proposed measures to mitigate impacts on this species shall be submitted to the Department of Planning and DECC for approval prior to the issue of a Construction Certificate.

B4 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Retail Centre**B5 *Operational Management Plan***

Prior to the issue of a Construction Certificate the proponent shall submit to the Certifying Authority an operational management plan which includes, but is not limited to:

- a. Hours of operation;
- b. Security arrangements;
- c. Waste management; and
- d. Servicing arrangements.

Remediation / Demolition / Earthworks**B6 *Acid Sulfate Soil Management Plan***

A detailed Acid Sulfate Soil Management Plan for the site shall be prepared by a suitably qualified person in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee, 1998). The Management Plan shall cover the entire site and be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B7 *Pre-Construction Dilapidation Reports*

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to Council.

B8 *Grading of Fill*

All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a s68 stormwater application for Council approval prior to the issue of a Construction Certificate.

B9 *Construction Compliance Bond and Long Service Levy*

- (1) Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this approval which are not being addressed to the satisfaction of the Council.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

- (2) In accordance with Section 109F(i) of the *Environmental Planning and Assessment Act 1979* (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

Construction Management

B10 Construction Management Plan

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- a) hours of work;
- b) contact details of site manager;
- c) traffic and pedestrian management;
- d) noise and vibration management;
- e) construction waste management;
- f) erosion and sediment control; and,
- g) flora and fauna management.

B11 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate, a Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- a) ingress and egress of vehicles to the site,
- b) loading and unloading, including construction zones,
- c) predicted traffic volumes, types and routes, and
- d) pedestrian and traffic management methods.

The Proponent shall submit a copy of the approved plan to Council.

Traffic & Parking

B12 Intersection of Tweed Coast Road and The Boulevard

Both right turn lanes (northbound) required at the proposed Tweed Coast Road and The Boulevard intersection shall be designed and constructed at the proponent's cost. All land required to facilitate the intersection lanes and signalised works at this intersection shall be dedicated to Council at no cost prior to the issue of the first subdivision certificate.

Note: Notwithstanding any condition of this approval regarding the installation of traffic signals, the applicant shall obtain the approval of the Roads and Traffic Authority of NSW for the installation of any traffic signals.

B13 Intersection of Tweed Coast Road and The Boulevard

A dedicated left turn auxiliary lane with a minimum length of 25m shall be constructed on The Boulevard (westbound) at the proposed Tweed Coast Road/The Boulevard intersection. Details of the intersection shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B14 Intersection of Casuarina Way and The Boulevard

The proponent shall provide a SIDRA assessment for a roundabout option at the intersection of Casuarina Way and The Boulevard road so that it can be assessed for signal warrants within RTA guidelines. A roundabout will provide for intersection control consistency along Casuarina Way (roundabouts have been provided at cross intersections). The proponent will need to consider whether pedestrians can be adequately catered for (refuges, linemarking) with regard to the roundabout option.

B15 Road Reserve Width of Casuarina Way

The road reserve width of Casuarina Way between Dianella Drive and The Boulevard shall be increased to include a minimum footway area behind the parking bays of 3.5m.

B16 Dianella Drive Closure

The proposed cul-de-sac to facilitate closure of Dianella Drive shall be constructed with a minimum kerb radius of 12.5m. In addition, the cul-de-sac carriageway shall be located a minimum of 10 metres from the edge of the Tweed Coast Road carriageway when constructed to four lanes. The cul-de-sac shall be totally screened so as to not be seen from Tweed Coast Road or permeate vehicle headlights and be provided with a permanent barrier to prevent any vehicular access to Tweed Coast Road.

B17 Car Park and Service Vehicle Layout

- (1) The layout of car parks shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
- (2) The layout of the service vehicle area of the retail centre shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

B18 Car Park and Service Vehicle Layout

Prior to the issue of a Construction Certificate, design details of the proposed exit from the shopping centre/retail area must be submitted to the satisfaction of the Certifying Authority demonstrating that the exit shall be used as an exit for service vehicles only with appropriate signage and delineation provided internally preventing use by non-service vehicles.

B19 Carparking

All car parking shall be provided in accordance with the approved plans, including disabled parking in accordance with Tweed Shire Council's Development Control Plan Part A2 – Site Access and Parking Code.

Health

B20 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B21 Design of Food Premises

The fitout of the food premises shall be carried out in accordance with the Food Premises and Equipment Standard 3.2.3 of the Australia New Zealand Food Standards Code. Details of compliance with the relevant provisions of the Code shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Stormwater

B22 Stormwater and Drainage Works Design

Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.

B23 Stormwater and Drainage Works Design

Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.

B24 Design of Piped Drainage System

Detailed engineering plans and calculations of the east-west drain shall be provided to Council as part of a s68 Local Government Act Stormwater Application, requiring separate Council approval prior to the issue of a Construction Certificate. The application shall include the following:

- (a) a design that conveys the 100 year ARI stormwater flow, with a safety factor of 1.5 applied to design rainfall intensity, and providing a 0.5m freeboard before water can surcharge into adjoining land.

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- (b) The inlet structure at the coastal swale shall be designed to accept the 100 year ARI inflow, with measures to minimise blockage.
 - (c) The east-west drain shall be aligned to minimise bends that may reduce hydraulic capacity or create blockage points.
 - (d) The works shall not result in batter slopes exceeding 1:4 (vertical:horizontal). The works must maintain minimum clearances and cover to all underground public infrastructure, as specified in Council's DCP Section A5 - Subdivision Manual, and associated Development Design and Construction Specifications.
 - (e) The design of the east-west drain shall incorporate all existing drainage outlets to the existing drainage swale, including any major system flow paths.
 - (f) Design detail that demonstrates the equivalency of the proposed stormwater infiltration system with the plan "Infiltration Basin Configuration - Draining to Controlled Outlet No.11", Cardno MBK, Plan Reference SK No.7079/1-24 Rev B, 7 March 2001. Infiltration basins shall be designed to absorb the 3 month ARI (deemed to be 40% of the 1 year ARI event) storm runoff from the public stormwater system, based on a maximum infiltration rate determined in accordance with Council's Development Design Specification D7 - Stormwater Quality Section D7.9.9. Design detail must clearly identify the size and extent of the contributing catchment to each infiltration basin. Infiltration basins shall be wholly contained within land dedicated to Council. Basins shall be readily maintainable, and shall only contain structures and other infrastructure where it does not conflict with performance objectives or maintainability.

B25 Stormwater Works for Retail Centre

The shopping centre development shall provide an internal stormwater infiltration system that meets the following design criteria:

- (a) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (b) The infiltration rate for sizing infiltration devices shall be 3m per day.
- (c) As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (g) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (h) All infiltration devices are to be designed to allow for construction and operation vehicular loading.

Design details are to be submitted to Council for approval prior to the issue of a Construction Certificate.

B26 *Roof Water Disposal*

Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

B27 *Drainage for Lots*

Inter allotment drainage shall be provided to **all** lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

B28 *Erosion and Sediment Control*

Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of Development Design Specification D7 - Stormwater Quality.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with Tweed Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

B29 *Local Government Act Approval (section 68 Approval)*

A s68 stormwater drainage application is required for works that involve any of the following:-

- (a) connection of a private stormwater drain to a public stormwater drain;
- (b) installation of stormwater quality control devices; and
- (c) erosion and sediment control works.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the construction certificate application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

B30 *Road Design*

Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All roads shall be designed in consultation with the relevant requirements of Council and the RTA (as applicable). Final road design plans shall be prepared by a qualified practising Civil Engineer and submitted to the Certifying Authority prior to the issue of a Construction Certificate.

B31 *Landscaping Plan*

The detailed landscape plan shall be prepared by a suitably qualified landscape architect and shall generally incorporate the following:

B32 *Landscaping Plan*

A detailed landscape plan shall be prepared for all landscaping proposed. The plan shall clearly delineate between landscaping in future public areas as well as private areas. The

landscape plans shall be prepared by a landscape architect or landscape consultant and approved by Council prior to issue of a Construction Certificate. Detailed landscape plans depicting landscape works in public areas shall be subject to the approval of Tweed Shire Council's Director of Engineering and Operations. The detailed landscape plan shall include the following documentation -.

- (a) A site plan (at 1:100 to 1:1000 scale) showing the existing features, including north point, access road and an outline of proposed buildings indicating doors and windows and extent of basement carparking if applicable. Any trees to remain in the vicinity are to be located to scale and identified by botanical and common names.
- (b) Proposed and existing site services with potential to impact on landscape space, including water, gas, electricity, sewer, stormwater, etc.
- (c) Easements on or adjacent to the site.
- (d) View lines to and from the development and details of pedestrian access and circulation areas within and around the development, including retaining walls, seating, fences, gates, decorative features etc.
- (e) Additional survey plan showing the location, canopy spread, trunk diameter, height and names of those existing tree/s and significant tree/s adjacent to the site likely to be affected by the development. The plan shall also include the existing ground levels at the base of the trunk of the tree/s as well as at the drip lines of the tree/s.
- (f) Existing and proposed ground levels (shown as spot heights and/or contours over the site and direction and degree of slope) indicating the site boundaries, and the base of the trees proposed to be planted or that are to be retained (if applicable).
- (g) Sectional elevations through the site showing the existing and proposed ground lines, building elevations and proposed plantings.
- (h) Construction details of planter boxes (including width and depth), paving, edging, fencing, screening, panels and other hard landscape components. As far as possible deep root zones must be provided for large trees and paving is to be porous. Paving works within 2m of the trunk of the large trees shall be constructed in such a way as to ensure the existing moisture infiltration and gaseous exchange to the tree root system is maintained.
- (i) Planting details for the preparation and planting of tube and potted plants, super-advanced plants, bare-rooted stock and any other planting.
- (j) A detailed plant schedule and plan at a scale of 1:100 to 1:1000 indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site. The plan is to include a detailed plant schedule which shall include;
 - species listed by botanical and common names, with the majority of plants constituting local native species;
 - expected mature size of the species at the site, taking in to consideration site specific parameters;
 - specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.
 - maintenance methods including the use of drip irrigation and mulching or groundcovers to reduce bare soils areas and including a maintenance schedule for a minimum period of one year after completion of landscaping on site.

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- (k) A photomontage illustrating proposed landscaping at maturity overlain over building elevations from street frontages and adjoining development.
 - (l) Planting design which demonstrates adequate screening of views to the development from Tweed Coast Road. Screening should be consistent with the current streetscape character of Tweed Coast Road.
 - (m) The location of all cycleways and pathways proposed on the site, including proposed construction materials.
 - (n) The location of all Asset Protection Zones as approved by the Rural Fire Service.
 - (o) Landscape design for the east/west cycleway connection along the easement between proposed lots 4, 5, 6, 10, 11, 12, and 13, and the pedestrian easement between lots 7, 8, 9, 10, 11, 14, 15 and 16 must encourage use of these pathways by the general public and be designed in accordance with principles of Crime Prevention Through Environmental Design, allowing for sufficient lighting and sight lines from adjoining residential development.
 - (p) The cycleway between lot 6 and 13 and 5 and 12 should be clearly delineated as a cycleway separate from the road.
 - (q) The landscape plans for public open space areas (to be dedicated to Council) shall demonstrate that all bridges, boardwalks or similar structures associated with cycleways, parks or pedestrian paths are of robust construction and designed to minimise long term maintenance. The subframe will be either hardwood, recycled plastic, fibre composite or similar material. The decking, kickboards and handrails shall utilise appropriate recycled plastic materials.
 - (r) Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17o or steeper, such slopes shall be densely planted in accordance with the landscaping plan. The plan shall include:
 - (i) Contours and terraces where the height exceeds 1m.
 - (ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
 - (iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
 - (iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the site and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

Note: Landscape plans depicting landscape works in public areas are to be consistent with:

- a) Tweed Shire's DCP Section A5 - Subdivision Manual
- b) Development Design Specification D14 – Landscaping Public Space

Current draft appendices to D14 include 'Landscape Procedures and Style Manual' and 'Master Specification for supply and installation of Landscape and Turf Irrigation Systems'.

B33 Retaining Walls

Details from a Structural Engineer are to be submitted to the Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

B34 Plans to be Submitted

Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - (i) earthworks
 - (ii) roadworks/furnishings
 - (iii) stormwater drainage
 - (iv) water supply works
 - (v) sewerage works
 - (vi) landscaping works
 - (vii) sedimentation and erosion management plans
 - (viii) location of all service conduits (water, sewer, Country Energy and Telstra)

The *Environmental Planning and Assessment Act 1979* (as amended) makes no provision for works under the *Water Management Act 2000* and *Section 138 of the Roads Act* to be certified by an Accredited Certifier.

B35 Lighting

The proponent shall submit a detailed plan depicting all lighting proposed on the site. The lighting shall be designed so as to not adversely impact or create nuisance on surrounding locality or residential development. All details are to be approved by Council. All lighting shall:

- (a) Comply with the AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting and other relevant Australian Standards;
- (b) Ensure car parking lighting does not spill beyond the boundaries of commercial and non-residential sites;
- (c) Provide adequate lighting for public open space and public access areas (including cycleways and pathways) for safety;
- (d) Outline maintenance requirements and energy efficiency ratings of lighting proposed in public open space areas and easement areas used for public access.

B36 Emergency Access

Prior to the issues of a Construction Certificate design details shall be submitted to the satisfaction of the Certifying Authority demonstrating that emergency access for 4 wheel drive vehicles shall be provided to the beach, via the realigned east/west cycleway link and coastal cycleway, or an alternate clearly delineated route. Where the emergency access requires a bridge over the Coastal swale, the bridge shall be designed for adequate vehicle loading for emergency vehicles.

B37 Subdivision Works Accredited Certifier

The proponent shall appoint an Accredited Certifier in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the certifier shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The certifier shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to issue of a Construction Certificate

PART C—PRIOR TO COMMENCEMENT OF WORKS

Notification Requirements

C1 *Notice to be Given Prior to Commencement / Excavation*

- (1) The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- (2) The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- (3) The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

Structural Works

C2 *Structural Details*

Prior to the commencement of construction at each stage of the project, the Proponent shall submit to the satisfaction of the Principal Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant project approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C3 *Retaining Walls*

Prior to commencement of works of the project a certificate of adequacy of design, signed by a practising Structural Engineer of all proposed retaining walls in excess of 1.2m in height, must be provided to the Principal Certifying Authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

Pollution Control

C4 *Erosion and Sediment Control*

Prior to commencement of work on the site, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the *Local Government Act 1993* is to be clearly displayed on the most

prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided. This sign is to remain in position for the duration of the project.

Services

C5 Existing Services

The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works for each stage of the subdivision and ensure there shall be no conflict between the project and existing infrastructure prior to start of any works.

Contact Details

C6 Contact Telephone Number

Prior to the commencement of the works for each stage of the project, the Proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

C7 Occupational Health and Safety

Prior to the commencement of works, the proponent shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (1) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (2) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (3) WorkCover Regulations 2000

PART D—DURING CONSTRUCTION

Construction Management

D1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- 1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- 2) The approved hours of work;

- 3) The name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- 4) To state that unauthorised entry to the site is not permitted.

D3 Use of Public Land

At no time shall any structure or entry statement signs be located on public land or road reserves at the entry area of the development. No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footpath, utility service land, parking areas, driveways or pedestrian walkways outside or immediately adjacent to non-commercial premises.

D4 Public Access

Safe public access along the public foreshore reserve shall be available at all times during construction and rehabilitation.

D5 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction of any stage of the project, shall be replaced, to the satisfaction of Council.

D6 Council Inspections

Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D, based on the rates contained in Council's current Fees and Charges:-

Roadworks

- 1) Pre-construction commencement erosion and sedimentation control measures
- 2) Completion of earthworks
- 3) Excavation of subgrade
- 4) Pavement - sub-base
- 5) Pavement - pre kerb
- 6) Pavement - pre seal
- 7) Pathways, footways, bikeways - formwork/reinforcement
- 8) Final inspections - on maintenance
- 9) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- 10) Excavation
- 11) Bedding
- 12) Laying/jointing
- 13) Manholes/pits
- 14) Backfilling
- 15) Permanent erosion and sedimentation control measures
- 16) Drainage channels

17) Final inspection - on maintenance

18) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

Note: During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

Structural Works

D7 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved project application.

Site Maintenance

D8 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

D9 Erosion and Sediment Control Inspections

Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

D10 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D11 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,

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- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
 - (3) All materials shall be stored or stockpiled at the best locations,
 - (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
 - (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
 - (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
 - (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
 - (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D12 Hours of Work

The hours of construction for all stages of the project, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays; and
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and
- (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D13 Construction Noise Objective

- (1) The construction noise objective for all stages of the project is to manage noise from construction activities (as measured by a LA10 (15minute) descriptor) so it does not exceed the background LA90 noise level by more than 5dB(A).
- (2) Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- (3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
- (4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D14 Construction Noise Management

For all stages of the project, the Proponent shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Management Plan.

D15 Vibration Criteria

Vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management Manual – Assessing Vibration: A Technical Guide* (DEC, 2006).

Earthworks**D16 Earthworks**

Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

The earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

D17 Disposal of Material

No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

D18 Surrounding Roads

The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the proponent's expense and any such costs are payable prior to the issue of a Subdivision Certificate.

D19 Road Construction

- (1) Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval. The design shall demonstrate:
 - (a) That the pavement has been designed in accordance with Tweed Shire Council's Development Design Specification, D2.

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- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- (2) During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.
- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

Heritage

D20 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment and Climate Change and the Tweed-Byron Local Aboriginal Land Council (LALC) must be informed. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Department of Environment and Climate Change and the Tweed-Byron LALC.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

E1 Part 4A Certificate

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

The following information must accompany an application for a Subdivision Certificate:

- (1) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (2) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The *Environmental Planning and Assessment Act 1979* (as amended) makes no provision for works under the *Water Supplies Authorities Act 1987* to be certified by an Accredited Certifier.

E2 Compliance Certificate

Prior to the application for a Subdivision Certificate for each stage of the subdivision a Compliance Certificate or Certificates shall be obtained from Council or an accredited certifier for the following:-

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- a) Compliance Certificate - Roads
 - b) Compliance Certificate - Water Reticulation
 - c) Compliance Certificate - Sewerage Reticulation
 - d) Compliance Certificate – Drainage

Note:

i) All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the project approval, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.

ii) The EP&A Act, 1979 (as amended) makes no provision for works under the *Water Management Act 2000* to be certified by an "accredited certifier".

E3 Defect Liability Bond

Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's fees and charges current at the time of payment) which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

Note: The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.

E4 Maintenance Bond

Prior to the issue of a Subdivision Certificate, a maintenance bond equal to 25% of the contract value of the footpath construction works shall be lodged for a period of 3 years or until 80% of the lots fronting paved footpaths are built on.

Alternatively, the developer may elect to pay a cash contribution to the value of the footpath construction works plus 25% in lieu of construction and Council will construct the footpath when the subdivision is substantially built out. The cost of these works shall be validated by a schedule of rates.

Earthworks

E5 Contamination

Upon completion of the remediation works on the site, the Proponent shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

E6 Retaining Walls

All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Subdivision Certificate application and shall state

that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

Geotechnical

E7 Dilapidation Report

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of the works to ascertain if any structural damage has occurred to the adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the Principal Certifying Authority, prior to issue of the Subdivision Certificate.

E8 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:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. 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.
 - c. Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas
- 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*, *Strata Schemes Management Act 1996*, *Conveyancing Act 1919*, or other applicable legislation.
- 4) In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.
 - (a) A restriction as to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
 - (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.
 - (c) A restriction as to user for all lots adjoining the 20m wide easement containing the east/west cycleway link to:
 - (i) Prohibit the construction of fences within the easement; and
 - (ii) Provide a minimum building setback of 2m to the boundary of the easement.
 - (d) A restriction as to user for all lots requiring the infiltration of all stormwater runoff from roof, hardstand / carparking, and impermeable landscaping areas in storm events up to the 3 month ARI event (deemed to be 40% of the 1 year ARI event), assuming a maximum infiltration rate of 3m per day.

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- (e) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.
- 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.

Services

E9 Electricity

Prior to the issue of a Subdivision Certificate the following is to be provided to the PCA:

- (1) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- (2) The reticulation is to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

E10 Water and Sewerage

Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's *Development Control Plan Part A5 - Subdivisions Manual*, Council's *Development Design and Construction Specifications* and the Construction Certificate.

Note: The *Environmental Planning and Assessment Act 1979* (as amended) makes no provision for works under the *Water Management Act 2000* to be certified by an Accredited Certifier.

E11 Utilities – Telephone and Electricity Services

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

Dedication of Land

E12 Dedication of Open Space

- (1) The Proponent must make necessary arrangements for the dedication of the open space areas to Council within the subdivision prior to release of a Subdivision Certificate.
- (2) The areas indicated in the approved plans as public open space shall be dedicated and embellished at no cost to Council in accordance with the approved landscaping plan.
- (3) A deed of agreement shall be prepared with Council to allow the proponent to carry out management and maintenance works on this land for 36 months following establishment.
- (4) An accurate plan of the public open space in the north of the site shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

E13 Dedication of Internal Roads

All internal roads shall be constructed by the proponent and dedicated to Council as public roads prior to issue of a Subdivision Certificate. Upon dedication Council will be responsible for the on-going maintenance of the roads.

E14 Road Names

- (1) The proponent shall obtain the written approval of Council to the proposed road/street names and be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
- (2) Application for road naming shall be made on Councils Property Service Form and be accompanied by the prescribed fees as tabled in Councils current Revenue Policy - "Fees and Charges".
- (3) The application shall also be supported by sufficient detail to demonstrate compliance with Councils Road Naming Policy.

E15 Damage to Public Infrastructure

Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

E16 Stormwater Gully Lintels

All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Council's adopted Design and Construction Specification.

E17 Asset Creation Form

Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

E18 Works As Executed Plans

Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council *Development Control Plan A5 - Subdivisions Manual* and Council's *Development Design and Construction Specification, D13 - Engineering Plans*.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer certifying that:

- (1) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (2) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the proponent it is the responsibility of the proponent to prepare and submit works-as-executed plans.

E19 Survey marks

Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

E20 CCTV Inspection

Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes and sewerage system including joints and junctions will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Council's adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the proponent.

Monetary Contributions

E21 Section 94 Monetary Contributions

(1) Amount of Contributions

Name of Contribution Plan			
	No. of ET	\$ per ET	Sub-Total
Tweed Road Contribution Plan (CP No. 4, Version 5.1, January 2009)	1653.6 trips	\$930	\$1,537,848
TRCP Sector 7_4 LCA4 - Casuarina			\$254,654
Street Trees	51	\$297	\$15,147
Shirewide Library Facilities	51	\$688	\$35,088
Bus Shelters	51	\$26	\$1,326
Eviron Cemetery	51	\$131	\$6,681
Community Facilities (Casuarina Beach / Kings Forest)	51	\$1,443	\$73,593
Emergency Facilities (Surf Lifesaving)	51	\$200	\$10,200
Extensions to Council Administration Offices and Technical Support Facilities	51	\$1996.80	\$101,836.80
Regional Open Space (Casual)	51	\$855	\$43,605
Regional Open Space (Structured)	51	\$2327	\$118,677
TOTAL CONTRIBUTIONS PAYABLE			\$2,198,655.80

Note: Contribution Plan credits can be obtained from both Zone 6 Contributions (four laning of Tweed Coast Road) and Local Area Charge 4 (various traffic signals) under Contribution Plan No. 4. All other proposed roads and intersections are to be constructed at the developer's expense.

(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.

These charges 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.

(3) Section 94 Plans

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

E22 Section 64 Monetary Contributions

A certificate of compliance under Sections 305, 306 and 307 of the *Water Management Act 2000* is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with Tweed Shire Council.

Pursuant to Clause 146 of the *Environmental Planning and Assessment Regulation 2000*, a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Principal Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

The current charges applicable are:

Charge	Calculation	Total
Development Servicing Plan for Water Supply Services (July 2007)	64.18ET x \$10,346.90	\$664,064.00
South Kingscliff Water Levy	64.18ET x \$240	\$15,403.20
Development Servicing Plan for Sewerage Services (July 2007)	68.48ET x \$4972.1	\$340,489.40
TOTAL		\$1,019,956.60

These charges 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.

A copy of the Section 64 contribution plans may be inspected at Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

F1 Stormwater Quality Control Devices

Prior to the issue of an Occupation Certificate, the proponent shall produce a copy of the satisfactory inspection report issued by Council for all s68h2 permanent stormwater quality control devices.

F2 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to Council by the PCA.

F3 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

F4 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the Proponent shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The project approval and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

F5 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

F6 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

Easements

F7 Registration of Easements

Prior to the issue of any Occupation Certificate, the Proponent shall provide to the PCA evidence that all easements required by this approval, approvals, and other consents have been or will be registered on the certificates of title.

PART G—POST OCCUPATION

G1 *Demand Management Strategy*

The proponent shall be required to implement the basic recommendations of the Tweed Shire Council Demand Management Strategy – Stage 1, as prepared by MWH Australia, 2008 (DMS) (for water) which requires that development types other than individual detached dwellings should use rainwater tanks connected to 80 to 90 per cent of the roof area and plumbed to supply toilet flushing, laundry cold water, external and any other appropriate uses that may be available.

Fire Safety

G2 *Annual Fire Safety Certification*

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

G3 *Loading and Unloading*

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

G4 *Unobstructed Driveways and Parking Areas*

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Noise

G5 *Retail Centre Hours of Operation*

The hours of operation for the supermarket and retail shops shall be restricted to between:

Day	Commencement time	Cessation time
Monday	8:00am	9:00pm
Tuesday	8:00am	9:00pm
Wednesday	8:00am	9:00pm
Thursday	8:00am	9:00pm
Friday	8:00am	9:00pm
Saturday	8:00am	9:00pm
Sunday	8:00am	9:00pm
Public Holidays	8:00am	9:00pm

G6 *Retail Centre Service Delivery Hours*

The hours of service deliveries to the retail centre shall be restricted to between:

Day	Commencement time	Cessation time
Monday	6:00am	5:00pm
	7:00pm	10:00pm
Tuesday	6:00am	5:00pm
	7:00pm	10:00pm
Wednesday	6:00am	5:00pm
	7:00pm	10:00pm
Thursday	6:00am	5:00pm
	7:00pm	10:00pm
Friday	6:00am	5:00pm
	7:00pm	10:00pm
Saturday	6:00am	9:00am
	12:00pm	10:00pm
Sunday	6:00am	9:00am
	12:00pm	10:00pm
Public Holidays	6:00am	9:00am
	12:00pm	10:00pm

G7 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

Hazardous Materials

G8 Storage of Hazardous or Toxic Material

Any hazardous or toxic materials must be stored in accordance with Workcover Authority requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area.

Public Access

G9 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or

adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

AN2 *Disability Discrimination Act*

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

AN3 *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

06_0258

CASUARINA TOWN CENTRE

**TWEED COAST ROAD, CASUARINA BEACH, TWEED LOCAL GOVERNMENT
AREA**

STATEMENT OF COMMITMENTS

(SOURCE: PREFERRED PROJECT REPORT)



7.00 STATEMENT OF COMMITMENTS – PROJECT APPLICATION FOR STAGE 1 WORKS

The following Statement of Commitments are referable to the Casuarina Beach Town Centre Project Application for Stage 1 Works as originally lodged, reviewed and revised in this **Preferred Project Report**.

PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
19. Development Contributions	<ul style="list-style-type: none"> ○ The proponent will pay the lawful contributions in accordance with any condition(s) of consent granted under Part 4 of the Act and calculated in accordance with any relevant Section 94 Contribution Plan(s), taking into account any referable or other applicable credits for prior contributions to the public benefit. ○ Such contributions will be paid at each Stage of the development relevant to such payment. 	<ul style="list-style-type: none"> ○ The Proponent and the Local Government Authority agreeing to a range of lawful contributions to ensure the timely delivery of local infrastructure and community services. ○ Provide certainty for the delivery and quality of the public domain elements of the project. ○ Ensure the project's compatibility with local strategies and the Development Control Plan for Casuarina Beach. 	<ul style="list-style-type: none"> ○ Payment will be effected prior to the issue of a construction certificate for any contributions relating to the shopping centre and prior to the issue of a subdivision certificate in respect of the other Stage 1 works.
20. Urban Design	<ul style="list-style-type: none"> ○ Urban Design Guidelines will be developed to ensure design excellence is achieved in the architecture of private buildings and the public domain (streets, parks and squares). This will include building designs and standards. ○ The Guidelines will also take into account the Tweed DCP requirements and the Urban Design Report of Malcolm Middleton and the Landscape Concept Report (EDAW) see Attachment 2. 	<ul style="list-style-type: none"> ○ Ensuring that over the various stages of the development there is consistency of standards for the built environment. ○ That the built form meets the best modern Australian coastal design standards. ○ Ensuring that the Sustainability Objectives of the development are implemented. 	Guidelines issued prior to the issue of a construction certificate for any building works in any of the subdivision lots.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<ul style="list-style-type: none"> ○ The detailed Urban Design Guidelines will be provided as part of project or development applications for subdivision and infrastructure works or building works for each of the neighbourhood stages of the Town Centre. ○ To ensure that the built forms meet the floor space ratios, heights and other criteria as contained in the table found at Section 5 "Project Amendments" of the Preferred Project Report. ○ These guidelines will be submitted with future project or development applications for subdivision and infrastructure works. ○ To ensure that any further development applications comply generally with the Concept Application Plans of approval. 		
21. Environmentally Sustainable Development	<ul style="list-style-type: none"> ○ The Proponent is committed to an adherence to the principles of sustainability as defined in the Environmental Planning and Assessment Act 1979. The proposed development will incorporate a range of relevant ESD initiatives to minimize the impact of the projected development on the environment including reduction in energy, water and waste generation by adherence to an implementation of, a suite of on-site management plans 	<ul style="list-style-type: none"> ○ Ensure that all development on the site is managed and designed in an environmentally sustainable manner 	From Stage 1 but will be implemented in all Stages of the Project.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	detailed in and/or attached to the Environmental Assessment, and upon which management protocols the proponent relies.		
22. Open Space and Public Walkway/ Cycleway Connections	<ul style="list-style-type: none"> ○ The proponent will dedicate 4164m² of privately held 7(f) zoned lands and 7351m² of privately held 2(e) zoned lands, aggregating 11515m², (4.4% of the subject lands) as public open space to encourage a larger, more legible public realm which promotes permeability along the foreshore. The dedication will be in accordance with ML Design Plan No. MP30-(Q) and Cardno Drawing No. DA40(J). ○ The public open space will facilitate the realignment and upgrading of the existing foreshore cycleway. ○ This land has or will be dedicated to Tweed Council. ○ The proponent will design and build all the landscape elements of the public space including the walkway/cycleway areas and in accordance with Attachment 2 (EDAW) ○ Landscaping is to rely heavily on the use of native species. ○ Provision will be made in the public domain for Surf Lifesaving Facilities as an adjunct to the Salt Surf Lifesaving Club. 	<ul style="list-style-type: none"> ○ The Town Centre Park will create a large open recreational area for the whole of the Casuarina Beach village. It will cater for a wide variety of public uses from passive recreation to organized public events. ○ Public access to the foreshore will be maintained and improved. ○ Full north-south pedestrian and cycle permeability throughout the length of the site. ○ Cycleway/walkways provide easy east-west pedestrian and cycle links through the site at various locations. ○ The coastal walkway/cycleway will be realigned, upgraded and appropriately landscaped to link into the cycleway/walkway to the south and north. ○ The choice of local native plants will improve the habitat of the local fauna. 	<ul style="list-style-type: none"> ○ Lands to be dedicated in accordance with the ML Design Plan No. MP30-(Q) and Cardno Drawing No. DA40(J). ML will be embellished in accordance with Attachment 2 (EDAW) and dedicated to Council prior to the issue of a subdivision certificate for the Stage 1 Project Application Works. ○ All landscape works including walkway/ cycleway and open space works and embellishments will be completed prior to the issue of a subdivision certificate for the Stage 1 Works. ○ To be dedicated in Stage 1



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
23. Foreshore Access and Public Beachside Car Parking	<ul style="list-style-type: none"> The proponent will establish approximately 175 metres of publicly accessible beach access consisting of parkland and esplanade roadway, directly east of the centre east west axis boulevard as shown on ML Design Plans MP-31(J) and MP-30(Q) and Cardno Eppell Olsen Plans Nos. 8491-901(F), 8491-902(F) and 8491-903(F) The proponent will provide a minimum of 170 car spaces at a rate of 300 public spaces per kilometre length of beach within 200m of the beach in accordance with the Cardno Eppell Olsen Plan 8491-909(C) The proponent will undertake these works and dedicate them to Council. 	<ul style="list-style-type: none"> Ensure full 24 hour a day access to the foreshore and walkway/cycleway for the public. Visitors to Casuarina Beach will have easy access to the parkland, the beach and the village facilities 	<ul style="list-style-type: none"> All works to be completed prior to the issue of a subdivision certificate for the lots created by this application. Any land dedication required for this commitment will be made as part of the subdivision certificate application. To be dedicated in Stage 1.
24. Traffic Management	<ul style="list-style-type: none"> The proponent will design and construct all roads within the Town Centre in accordance with Australian Standards and in accordance with Cardno Drawing No. DA23(H) The roadworks include connecting Casuarina Way's missing north-south link and creating a new and safer access point to the Coast Road. The proponent will design and construct all the pedestrian and cycle pathways in accordance with Cardno Plans Nos. DA40(J) and DA42 and plans contained in Attachment 2 – Landscape Concept Report, Casuarina Town Centre (EDAW) – 	<ul style="list-style-type: none"> There will be a high coordinated approach to the traffic management on the site. The mix will ensure that a proper hierarchy of roads and walkway/cycleways will be set up and the traffic movements are compatible with the pedestrian cycle movements particularly given the tourist village style of development. Separation of the retail traffic around the supermarket from the quieter recreational traffic uses near the foreshore. 	<ul style="list-style-type: none"> All roadworks/ walkway/cycleway works will be constructed prior to the issue of a subdivision certificate for the lots created pursuant to the Application.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Pedestrian Links, Cycle Circulation</p> <ul style="list-style-type: none"> ○ The road network will be capable of servicing the local bus needs. Provision for bus stops will be made. ○ The proponent will design and install all the traffic management measures, like traffic lights, in accordance with Australian Standards as may be required by the Cardno Eppell Olsen Report forming part of this Application and the conditions of approval of this Application. ○ The proponent will undertake the works required for Dianella Drive and as depicted in the Cardno Eppell Olsen report forming part of this Application or as may be required by the conditions of approval. ○ The proponent will dedicate the roads to Tweed Council at the time of applying for a subdivision certificate 	<ul style="list-style-type: none"> ○ Creates the opportunity for improved and faster bus services. ○ A safer exit/entry point to the Coast Road for the residents of Casuarina Beach. 	
25. Infrastructure	<ul style="list-style-type: none"> ○ The proponent has identified in the Cardno Report the infrastructure required to support all of the proposed development in the Concept Plan. The areas of infrastructure include: <ul style="list-style-type: none"> • sewerage • water supply • telecommunications • electricity supply • waste disposal ○ Specific commitments include: <ul style="list-style-type: none"> • Upgrading of the pumps in Pump 	<ul style="list-style-type: none"> ○ Casuarina Beach Town Centre will be well serviced with all its basic infrastructure needs from the beginning of the project. The Town Centre site is infill development and its infrastructure has been designed to accord with the overall infrastructure designed for Casuarina Beach. 	<ul style="list-style-type: none"> ○ Infrastructure works will be undertaken and will be completed prior to the issue of a subdivision certificate for the lots created by the application.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Station 2 and the installation of additional main capacity of the sewer mains.</p> <ul style="list-style-type: none"> • A connecting 150 mm diameter main to the main water supply. • All infrastructure works will be carried out in accordance with Cardno Drawings Nos DA23(H) to DA46, inclusive, or as may be required by conditions of approval • The proponent undertakes to ensure that the quality of any runoff into Cudgen Creek and to the ocean, both during and after construction of the development, will be equal to or better than current levels 		
26. Water Sensitive Urban Design	<ul style="list-style-type: none"> ○ The proponent commits to implementing a Water Sensitive Urban Design Strategy (WSUD) in accordance with the WSUD outlined in the Cardno Report on Engineering and Environmental Matters dated June 2008 submitted as Attachment 2 to the Environmental Assessment Report. ○ Specific actions are: <ul style="list-style-type: none"> • The on-site stormwater management system will capture and retain virtually all the run-off from the site. • The east west swale will be moved. • Modifications to the frontal swale. 	<ul style="list-style-type: none"> ○ The system will substantially reduce the contaminant loads in Cudgen Creek and the Pacific Ocean. ○ It meets environmentally sustainable principles. ○ The use of infiltration basins to allow stormwater to replenish the aquifer. 	<ul style="list-style-type: none"> ○ The WSUD will be delivered at the same time as infrastructure works and prior to the issue of a subdivision certificate for the lots created.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<ul style="list-style-type: none"> Re-contouring of the site will improve the drainage patterns. 		
27. Soil Contamination	<ul style="list-style-type: none"> Consequent upon the site being cleared, the proponent will undertake at-grade and subsoil tests in accordance with the Cardno Report on Engineering and Environmental Matters dated June 2008. The tests will be similar to those undertaken elsewhere in Casuarina Beach and in the neighbouring Salt and Seaside City developments. Should it be deemed necessary, the proponent will undertake such works as may be required to ensure any levels of contamination are remediated to acceptable levels as previously accepted by Tweed Shire Council. 	<ul style="list-style-type: none"> A safer site fit for habitation 	<ul style="list-style-type: none"> Works will be undertaken in Stage 1 and completed prior to the issue of a subdivision certificate for the lots created.
28. Management of Construction Noise, Vibration, Dust, Soils and Erosion	<ul style="list-style-type: none"> Management of construction noise, vibration, dust, soil and erosion during the construction phase of the development will be undertaken strictly in accordance with the relevant management plans and in accordance with aforementioned and approved Environmental Management Plan for the development. 	<ul style="list-style-type: none"> Minimise the impacts of the construction activity on the environment and on the neighbouring communities. Cleaner site during construction. 	<ul style="list-style-type: none"> Implement prior to the issue of a construction certificate. During construction works
29. Management of Construction Waste	<ul style="list-style-type: none"> The proponent undertakes to adopt approved targets as performance requirements for the management of construction waste as may be set by the conditions of approval. 	<ul style="list-style-type: none"> Minimise the impacts of the construction activity on the environment and on the neighbouring communities 	<ul style="list-style-type: none"> During construction works



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
30. Management of Construction Traffic	<ul style="list-style-type: none"> ○ A Construction Management Plan will be prepared prior to the issue of a construction certificate. The Plan will include the principles to minimize construction traffic impacts at all times of the construction process. 	<ul style="list-style-type: none"> ○ Minimise the impacts of the construction activity on the environment and on the neighbouring communities. 	<ul style="list-style-type: none"> ○ Implemented prior to the issue of a construction certificate and managed during construction.
31. Community and Stakeholder Engagement	<ul style="list-style-type: none"> ○ The proponent undertakes to implement a complaints registration procedure to record and to address any and all issues in relation to the construction phase of development. ○ The proponent commits to establishing community consultation mechanisms during the assessment and sales stages of the development in accordance with report of Pro Media forming part of this application. 	<ul style="list-style-type: none"> ○ The community and the local authorities are fully informed and consulted throughout every stage of the projects' development. 	<ul style="list-style-type: none"> ○ Community consultations have already been established. They will be maintained. ○ Ongoing throughout every stage of the project.
32. Project Application for Stage 1 Works - General	<ul style="list-style-type: none"> ○ The proponent will subdivide the land into 56 lots, construct roads and infrastructure, create open space and construct the supermarket in accordance with the plans and drawings contained in the Preferred Project Report - Exhibit Book 2 	<ul style="list-style-type: none"> ○ A quality subdivision designed and built in accordance with the approved Plans and an architecturally significant supermarket to service residents and the visitor community 	To be constructed in Stage 1
33. Essential urban services and infrastructure	<ul style="list-style-type: none"> ○ The proponent will clear vegetation on the Town Centre site, then the land will be reshaped to achieve the desired development outcome. ○ The proponent will undertake all the bulk earthworks for all subject lands zoned Residential 2e – Tourist Residential and the privately owned 7(f) Environment Protection – Coastal lands. 	<ul style="list-style-type: none"> ○ Ensure that all the infrastructure needs of the subdivision are fully met and no burden is left with the service providers or the wider community. ○ Ensure that ESD principles are employed in the provision of the infrastructure. ○ To try and achieve a harmonious 	To be constructed in Stage 1 and to be completed prior to the issue of a subdivision certificate for the lots created.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<ul style="list-style-type: none"> ○ The proponent will provide all reticulated services (water, sewerage, stormwater drainage) to the each created lot to the approved standards. External infrastructure, with the exception of sewerage, will meet Australian standards. ○ The proponent will construct a 250mm diameter main to connect to the existing 150mm diameter main to the north, the new main to be constructed along the proposed road alignment of Casuarina Way from the northern connection to the road entrance to Lot 1. From that point, a new 150mm diameter main will connect to the existing 150mm diameter main to the south. ○ The existing sewer main runs from the south-eastern corner of the Northern Precinct along the drainage swale to Pump Station No 2 on the Coast Road. ○ The proponent will relocate the existing sewer main along the new Casuarina Way road alignment. ○ The proponent will upgrade the pumps in Pump Station No 2, and the installation of additional rising main capacity in the Tweed Coast Road. ○ The proponent will undertake all landscaping on site to meet the expectations of the 	relationship between the natural environment and built environment.	



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>residential and visitor community and other statutory requirements.</p> <ul style="list-style-type: none"> ○ All of the above works shall be constructed and completed in accordance with drawings and plans contained in Exhibit Book 2 		
34. Drainage Swale	<ul style="list-style-type: none"> ○ The proponent will fill in the drainage swale. ○ The swale will be replaced by underground stormwater pipe drainage before discharging back to the existing drainage system at the northern end of the playing field area. ○ An area of 3180m² of the land comprising the swale will be dedicated as open space once it has been recontoured, grassed and a cycleway/walkway constructed thereon. The dedication shall be in accordance with ML Design Plan MP-30(Q) and Cardno Drawing No. DA40J 	<ul style="list-style-type: none"> ○ An efficient drainage system which does not create any adverse environmental impacts. ○ A more useable landscaped public area at grade with lands to the north and south of the current swale. ○ A better edge treatment between lands to the north and south of the swale. 	To be constructed in Stage 1.
35. Road System	<ul style="list-style-type: none"> ○ The proponent will construct all roads in accordance with Australian Standards. ○ The proponent will construct all roads proposed within the subject land, including kerbside, basement and other public car parking areas. ○ The proponent will construct the "missing link" north-south road link (Casuarina Way) extending from Steelwood Lane at the southern end to the 	<ul style="list-style-type: none"> ○ Provision of an efficient, safe road network that adheres to Australian Standards. ○ Provision of an esplanade and walkway/cycleway enabling public access to the beach. ○ An urban design which will create a sense of community. 	To be constructed in Stage 1 and will be completed prior to the issue of a subdivision certificate.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Dianella Drive roundabout in the north.</p> <ul style="list-style-type: none"> ○ The road reserve width (20m) and cross sections proposed will match all the existing sections of Casuarina Way. ○ The proponent will construct an esplanade which will be integrated into the road network along part of the eastern boundary of part of the land. ○ The proponent will create an additional pedestrian beach access point which will be integrated into the road network. ○ The proponent will realign the foreshore cycleway/walkway along the coastal frontage of the site as well as vegetation clearing and associated earthworks, minor road construction and drainage swale works within the 7(f) zone both publicly and privately owned. ○ The proponent will physically close Dianella Drive at its intersection with Coast Road, and construct a cul-de-sac for reasons of safety. ○ The works will be undertaken in accordance with the plans listed as referable to the Project Application for Stage 1 Works contained in Exhibit Book 2 		
36. Retail/ Commercial	<ul style="list-style-type: none"> ○ The proponent will construct a shopping centre in accordance with submitted Plans (Donovan Hill Architecture Plans for 	<ul style="list-style-type: none"> ○ A vibrant retail / commercial precinct catering to the needs of the local community and the tourists visiting the 	To be constructed in Stage 1.



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Project Application for Stage 1 Works contained in Exhibit Book 2)</p> <ul style="list-style-type: none"> ○ The shopping centre design will have <ul style="list-style-type: none"> • A high degree of pedestrian accessibility. • Interactive street frontages serviced by limited on-street parking. • Fully covered, highly visual public realm which accentuates the character and identity of the Town Centre. • Basement and at-grade parking. ○ The shopping centre will comprise: <ul style="list-style-type: none"> • supermarket (2500m²) • specialty shops (850m²) • restaurants (310m²) • amenities (75m²) • office (first floor) (400m²) • 264 car spaces • attached signage ○ The shopping centre will be constructed in accordance with Donovan Hill Architects drawings DA01H, DA02H, DA03H, DA04H, DA05I, DA06H, DA07H, DA08H, DA09H, DA10H, DA11H, DA12H, DA13H, and DA14H (see Exhibit Book 2) 	<p>area.</p> <ul style="list-style-type: none"> ○ The local shopping centre will reduce traffic on the Coast Road. This also provides environmental benefits. 	
37. Asset Protection	<ul style="list-style-type: none"> ○ The proponent undertakes that at the commencement of building works and in perpetuity, the proposed 	<ul style="list-style-type: none"> ○ To provide sufficient space and to maintain reduced fuel loads so as to ensure that radiant heat levels of 	<ul style="list-style-type: none"> ○ All Asset Protections works and services will be completed prior to the issue of



PROJECT COMPONENT	COMMITMENT	ENVIRONMENTAL OUTCOME	TIMING FOR COMPLETION
	<p>Stage 1 Works shall be managed entirely as an "Inner Protection Area" as outlined within <i>Planning for Bushfire Protection 2006</i> and the Rural Fire Service's document <i>Standards for Asset Protection Zone</i></p> <ul style="list-style-type: none"> ○ The provision of water, electricity and gas services will comply with Section 4.1.3 of <i>Planning for Bushfire Protection 2006</i> ○ Public road access will comply with Section 4.1.3(1) of <i>Planning for Bushfire Protection 2006</i> ○ New construction will comply with Appendix 3 – Site Bushfire Attack Assessment of <i>Planning for Bushfire Protection 2006</i> 	<p>buildings are below critical limits and to prevent direct flame contact with the building</p> <ul style="list-style-type: none"> ○ To provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of a fire to a building ○ To provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area 	<p>construction certificates for the implementation of Stage 1 Works.</p>
38. Community Stakeholder Management	<ul style="list-style-type: none"> ○ The proponent undertakes to consult with community and local authorities throughout the construction phase of Stage 1 when necessary. 	<ul style="list-style-type: none"> ○ The community and the local authorities are fully informed and consulted throughout the construction of Stage 1. 	<p>Ongoing Community consultation throughout the Project.</p>