

Application to Modify Pursuant to S75W of the EP&A Act, 1979

Prepared on behalf of Woolworths Limited

1.0 INTRODUCTION

Planit Consulting has been engaged by Woolworths Limited to prepare an application for the modification of Major Project Approval No. 07_0179 which relates to a mixed use development in the village of Bogangar / Cabarita Beach.

A copy of the original project approval is provided at **Appendix A** to this report.

This Modification Application seeks to vary the approved consent to clarify elements of the public road dedication associated with the proposal and to enable Tweed Shire Council to issue the subdivision certificate for the project. As background this modification has been discussed with Department Officer Mr. Robert Byrne.

Section 75W of the Act, states, inter alia:-

"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."

This application has been made in accord with the above provisions.

2.0 THE EXISTING CONSENT

On the 2nd December 2009 the Director General, as Delegate for the Minister for Planning, granted Project Approval No. 07_0179 for the carrying out of a part three and part four storey mixed use development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscape areas. The project had a capital investment value of \$14 million.

Two (2) subsequent applications to modify have since been granted (dated 21/12/11 and 8/8/12).

3.0 THE PROPOSED MODIFICATIONS

The proposal seeks to modify the terms of **Condition A2**, Condition **B22(4)** and **Schedule 1 Part A – Table** of the project approval. In this regard, the modifications sought are required by Tweed Shire Council to finalize dedication of the public laneway as currently required by Major Project Approval No. 07_0179. The following specific amendments are sought:

Schedule 1 Part A – Table currently reads:

Schedule 1

Part A – Table

<i>Application made by:</i>	<i>WA Stockwell Pty Ltd</i>
<i>Application made to:</i>	<i>Minister for Planning</i>
<i>Project Application Number:</i>	<i>07_0179</i>
<i>On land comprising:</i>	<i>Tweed Coast Road and Hasting Road, Tweed Heads Lots 184-187 191-194 DP259164 and Lots 20-23 DP31208</i>
<i>Local Government Area:</i>	<i>Tweed Shire Council</i>
<i>For the carrying out of:</i>	<i>Part 3 part 4 storey mixed used development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscape areas.</i>
<i>Type of development:</i>	<i>Project Approval</i>
<i>Capital Investment Value</i>	<i>\$14 million</i>
<i>Determination made on:</i>	
<i>Date approval is liable to lapse:</i>	<i>5 years from the date of determination</i>

It is proposed to amend Schedule 1 Part A – Table to read as follows:

Schedule 1

Part A – Table

<i>Application made by:</i>	<i>WA Stockwell Pty Ltd</i>
<i>Application made to:</i>	<i>Minister for Planning</i>
<i>Project Application Number:</i>	<i>07_0179</i>
<i>On land comprising:</i>	<i>Tweed Coast Road and Hasting Road, Bogangar Lots 184-187, 188-190, 191-194 DP259164, Lots 20-23 DP31208 and Lot 1-2 DP772172</i>
<i>Local Government Area:</i>	<i>Tweed Shire Council</i>
<i>For the carrying out of:</i>	<i>Part 3 part 4 storey mixed used development entailing ground level commercial including supermarket and retail shops, upper level residential units, basement and surface car parking and landscape areas.</i>
<i>Type of development:</i>	<i>Project Approval</i>
<i>Capital Investment Value</i>	<i>\$14 million</i>
<i>Determination made on:</i>	
<i>Date approval is liable to lapse:</i>	<i>5 years from the date of determination</i>

Condition A2 currently references amongst other approved plans:

- DA-01 Rev A Site Plan August 2011

These plans do not identify the laneway construction on lots 1 and 2 DP772172.

It is proposed to amend Condition A2 to reference the following amended plans:

- 0001 Rev D Site Plan 30 September 2014
- 1203 Rev F Lower Ground Level Part B Floor Plan 30 September 2014

Refer amended plans provided at **Appendix B** of this report

Condition B22(4) currently reads:

The 3m wide section of laneway adjacent to Lots 188, 189 and 190 on DP259164 shall be constructed to Council specifications and dedicated to Council as public road.

It is proposed to amend Condition B22(4) to read as follows:

The 3m wide section of laneway adjacent to and within Lots 188, 189 and 190 on DP259164 and Lot 1 & 2 on DP772172 shall be constructed to Council specifications or as otherwise accepted by Council and dedicated to Council as public road.

Tweed Shire Council has been consulted on this matter as part of seeking a subdivision certificate for the road dedication and has advised; in fact they have requested the suggested amendment. In this regard we note previous correspondence and discussion had with Department Officer Mr. Robert Byrne.

4.0 ENVIRONMENTAL ASSESSMENT

The proposed modification will have no impact in respect of the functionality or efficiency of the proposed development and nor will it lead to any associated environmental or public risk. Rather, the proposal seeks to amend the wording of existing parts of the approval which are preventing Tweed Shire Council from issuing a subdivision certificate for the development. No changes are proposed relative to the detailed design of the proposal.

In terms of referencing additional allotments within the approval copy of duly signed owners consent from the owners of Lots 188, 189 & 190 DP259164 and Lot 1 & 2 DP772172 are provided at **Appendix C** of this report.

No adverse Social or Environmental impacts are considered likely in the context of the proposed modification.

5.0 CONCLUSION

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

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

Appendix A – Original Project Approval

Appendix B – Amended Plans

Appendix C – Owners Consent Forms Lots 188,189 & 190 DP259164 and Lots 1 & 2 DP772172