



TOWN PLANNING & DEVELOPMENT ADVICE

ABN 96 521 727 617
12A Bellingen Road, PO Box 1925,
Coffs Harbour NSW 2450
E-mail: geoff.smyth@bigpond.com
Phone: 02 6652 4490
Facsimile: 02 66 52 7242

6 May 2013
Ref: IM05010.46

Mr Ray Lawlor
Planning Officer
Metropolitan and Regional Projects North
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir

***MP 08-0003 Staged Development
31 Dwellings & Community Title Subdivision
1206D Pacific Highway, Moonee
Lot 211 DP 1044292 & Lot 1 DP 262300***

As you are aware we are required to submit a modification request under Section 75W of the Environmental Planning and Assessment Act to correct the wording of conditions for the above project. A duly completed application form is attached.

The layout of the subdivision has been modified as a result of obtaining more detailed site information, the preparation of Construction Certificate plans and the early construction of the collector road over the adjoining property to the north by the Roads & Maritime Services. A copy of the amended layout is enclosed.

The suggested modified wording of the relevant conditions and reasons for change is as follows:-

1. Condition A1

A1 Project Description

The approved project is described in detail below:

(1) Stage One:

Stage One of the approved project consists of:

- a) 12 community title residential lots (lots 1 to 6 and lots 15 to 20).
- b) 1 community lot (lot 23) (including internal access road, fire trail and bio retention).
- c) One torrens title lot (lot 24) to be dedicated as public reserve.
- d) Construction of 12 dwellings.

-
- e) Construction of proposed roads relevant to Stage 1 within the project as shown in de Groot & Benson General Arrangement – drawing No 02 dated 02.05.2013 (CC1), including the access road to be constructed over lot 1 DP 262300 and the associated cul de sac
 - f) Earthworks, re-contouring and preparation of the site, including vegetation restoration, vegetation clearing and weed removal, establishment of reticulated water and sewer, and stormwater infrastructure.

Reason: Lot sizes will obviously vary when final survey plans are prepared and are removed to allow flexibility. The modified General Arrangement plan resulting from detail Construction Certificate works is acknowledged as well as a Council requirement to relocate the fire trail and bio retention pond.

(2) Future Stages

Note: Future stages are only to proceed following the resolution of the issues listed in condition A2.

Future Stages of the approved project consist of:

- a) 19 community title residential lots and construction of 3 x 2 bedroom and 16 x 3 bedroom dwellings on each of these lots
- b) One community title lot (Lot 25) encompassing bio retention basin/s and a fire trail and one residue Torrens Title lot (Lot 22)
- c) Construction of 19 dwellings
- d) Construction of the proposed collector road in accordance with de Groot & Benson General Arrangement – drawing No 02 dated 02/05/2013 (DA7)
- e) Construction of proposed local roads within the project as shown in de Groot & Benson Plan – drawing No 02 dated 02/05/2013 (DA7)
- f) Earthworks, re-contouring and preparation of the site, including vegetation restoration, vegetation clearing and weed removal, establishment of reticulated water and sewer, and stormwater infrastructure.

Reason: The number of future stages is removed to allow flexibility in the number of lots to be created in response to market demands. Again, the modified General Arrangement plan is acknowledged to reflect detail resulting from preparation of Construction Certificate plans and Council requirement to relocate the proposed bio retention pond and fire trail.

2. Condition A2

A2 Deferral of Future Stages

- (1) Stages beyond Stage 1 of this project approval shall not operate until evidence has been submitted to the Director-General indicating that the relevant agreements and approvals for the construction of the collector road through Lot 210 DP 1044292, and the subject site, to service these stages of this development have been obtained in writing.
- (2) Subdivision certificates for the residential lots within future stages shall not be released until the full extent of the collector road has been constructed through the subject site and through Lot 210 DP 1044292, and the collector road has been dedicated to Council.

Reason: The number of future stages is removed to provide flexibility and as unnecessary detail.

3. Condition A3

A3 Development in Accordance with Plans and Documentation

The development will be undertaken in accordance the following documents and plans:

Environmental Assessment Report (and all associated Annexures) prepared by Geoff Smyth Consulting on behalf of Telpat Pty Ltd dated July 2008 (revised July 2009).			
Preferred Project Report (and all associated Annexures) prepared by Geoff Smyth Consulting on behalf of Telpat Pty Ltd dated November 2010 (revised with further information submitted on 22 June 2011, February 2012 and 9 January 2013).			
Engineering Drawings prepared by de Groot & Benson Consulting Engineers and Planners			
Drawing No.	Amendment No.	Name of Plan	Date
01	DA4	Lot Layout	02.05.2013
02	DA7	General Arrangement	02.05.2013
03	DA2	Collector Road Plan and Sections	12.05.2011
04	DA1	Garbage Truck Swept Path	13.05.2011
05	DA3	Stormwater Management and Services Plan	13.05.2011
06	DA2	Stage 1 Plan	25.05.2011
Bushfire and Vegetation Mapping prepared by Bushfiresafe (Aust) Pty Ltd dated May 2011			
Drawing No	Amendment No.	Name of Plan	Date
Attachment 1 to Bushfire Risk Assessment prepared by Bushfiresafe (Aust)	-	Vegetation Communities/Asset Protection Zones	May 2011
Architectural Drawings prepared by Ross D Colquhoun, for dwellings on Lots 1 to 4, 7 to 20, and 26 to 32			
Drawing No.	Amendment No.	Name of Plan	Date
R06-028-SK Sheet 12		Lots 1-4: Three Bedroom Residences Note: This drawing now applies to lots 1 to 3, only, in stage 1 of the subdivision	June 2007
R06-028-SK Sheet 13		Lot 5: Three Bedroom Residence Note: This drawing now applies to Lot 4 in stage 1 of the subdivision	June 2007

Reason: The modified General Arrangement plan resulting from refinement in the preparation of the Construction Certificate and Council requirements is acknowledged.

4. Condition A8

A8 Section 94 Development Contributions:

Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

a) Contributions:

	\$ Per Lot
Coordination and Administration	\$ 363.63
Coffs Harbour Road Network	\$ 876.43
Surf Rescue Equipment	\$ 101.95
Moonee Transport and Traffic	\$ 10,575.93
Community Facilities	\$ 781.63
Urban Planning	\$ 140.61
District Open Space	\$ 5,237.36
Neighbourhood Open Space	\$ 1,298.98
Stormwater Management	\$ 32.76

Contributions have been imposed under the following plans:

- Regional, District & Neighbourhood Facilities & Services 2008
- Coffs Harbour Road Network 2008
- Surf Rescue Equipment 2008
- Moonee Release Area 2008

The Contribution Plans may be inspected at the Council administration offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au

Note 1 – The contributions are to be paid prior to release of any Subdivision Certificate unless other arrangements acceptable to Council are made.

Note 2 – The rates will be adjusted in accordance with the procedures set out in Council's Section 94 Contributions Plans. The proponent is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

Note 3 – If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

Reason: The reference to contributions for future stages is removed as it is an unnecessary detail as contributions are charged on a per lot basis.

5. Condition D8

D8 Construction Workers Vehicles

Construction workers vehicles are not to be parked within adjoining landowner's properties, or obstruct access along Woodhouse Road at any time.


Reason: The limit on construction vehicles accessing via Woodhouse Road is removed as it is an unnecessary detail.

Yours faithfully
GEOFF SMYTH CONSULTING



GEOFF SMYTH
gs.jm



						de Groot & Benson				A.C.N. 052 300 571 236 Harbour Drive, Coffs Harbour NSW 2450		Scale 1:500 @ A1		Cad File No. 09095 GJK Concept 2013-02-26.dwg		Project: PROPOSED SUBDIVISION LOT 221 DP 1044292 & LOT 1 DP 262300 MOONEE BEACH		Title: GENERAL ARRANGEMENT		Project No. 09095	
												Surveyed NKWP		Datum AHD							
												Drawn BAW		Designed GJK		Approved GJK					
												Checked GJK		Date 20-10-2010		No. of dwgs					
																		Client:		Amendment No. DA7	

Application to modify a development consent



NSW GOVERNMENT
Department of Planning

Date lodged: ____/____/____

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		ABN	
<input type="text" value="TELPAT PTY LTD"/>		<input type="text"/>	
<input type="checkbox"/> Mr <input type="checkbox"/> Ms <input type="checkbox"/> Mrs <input type="checkbox"/> Dr <input type="checkbox"/> Other <input type="text"/>			
First name		Family name	
<input type="text" value="C/- GEOFF SMYTH CONSULTING"/>		<input type="text"/>	
STREET ADDRESS			
Unit/street no.	Street name		
<input type="text" value="12A"/>	<input type="text" value="BELLINGEN ROAD"/>		
Suburb or town	State	Postcode	
<input type="text" value="COFFS HARBOUR"/>	<input type="text" value="NSW"/>	<input type="text" value="2450"/>	
POSTAL ADDRESS (or mark 'as above')			
<input type="text" value="PO BOX 1925"/>			
Suburb or town	State	Postcode	
<input type="text" value="COFFS HARBOUR"/>	<input type="text" value="NSW"/>	<input type="text" value="2450"/>	
Daytime telephone	Fax	Mobile	
<input type="text" value="0266524490"/>	<input type="text" value="N/A"/>	<input type="text" value="0418 398 492"/>	
Email			
<input type="text" value="geoff.smyth@bigpond.com.au"/>			

7. Description of modification

- In the case of a section 66(1) application, indicate the nature of the minor error, misdescription or misclassification in the space below.
- In the case of a section 66(1A), section 66(2) or section 66(3A) application, describe the impact of the modification in the space below. If the modification is a deletion, it will need to be consistent with the conditions under which the development consent was granted. Any development as proposed to be modified in accordance with section 66(1) of the EP&A Act is subject to the *Interim Lease Variation Act 2015* may also apply to works or modification of works adjoining a water body.
- In the case of a section 66(3) application under the *Environment Planning and Assessment Regulation 2000*, a development consent in force immediately before the commencement of Part 3 of the Act may be modified only if section 66(3) is the force of an approval under that Part. However, approval from the Minister is required for each section 66 application. Applicants should contact the Department if they are considering applying for a modification under section 66(3).

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

SEE ATTACHED CORRESPONDENCE

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.

Commonwealth Department of Environment, Water, Heritage and the Arts; Coffs Harbour City Council; Department of Environment and Climate Change; Department of Primary Industries; NSW Rural Fire Service; Department of Water and Energy; Roads and Traffic Authority; Department of Lands; NSW Police Service; State Emergency Service; Northern Rivers Catchment Management Authority; Marine Parks Authority; Local Aboriginal Land Council/s and other Aboriginal community groups; and Infrastructure providers.

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 (one person employed full time for 9 months would equal 0.75 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)

12

Operational jobs (full-time equivalent)

3

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

2.88 MILLION

Original application fee

\$30,944.70

Total fees lodged

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

DIRECTOR, TELPAT PTY LTD

Date

27 FEBRUARY 2013

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



GEOFFREY SMYTH

Date

27 FEBRUARY 2013

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.

Political donations disclosure statement



NSW GOVERNMENT
Department of Planning

Office use only:

Date received: ____/____/____

Planning application no. _____

This form may be used to make a political donations disclosure under section 147(3) of the *Environmental Planning Assessment Act 1979* for applications or public submissions to the Minister or the Director-General.

Please read the following information before filling out the Disclosure Statement on pages 3 and 4 of this form. Also refer to the 'Glossary of terms' provided overleaf (for definitions of terms in *italics* below). Once completed, please attach the completed declaration to your planning application or submission.

Explanatory information

Making a planning application or a public submission to the Minister or the Director-General

Under section 147(3) of the Environmental Planning and Assessment Act 1979 ('the Act') a person:

- (a) who makes a *relevant planning application* to the Minister or the Director-General is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by any *person with a financial interest* in the application, or
- (b) who makes a *relevant public submission* to the Minister or the Director-General in relation to the application is required to disclose all *reportable political donations* (if any) made within the *relevant period* to anyone by the person making the submission or any *associate of that person*.

How and when do you make a disclosure?

The disclosure to the Minister or the Director-General of a *reportable political donation* under section 147 of the Act is to be made:

- (a) in, or in a statement accompanying, the relevant planning application or submission if the donation is made before the application or submission is made, or
- (b) if the donation is made afterwards, in a statement of the person to whom the relevant planning application or submission was made within 7 days after the donation is made.

What information needs to be included in a disclosure?

The information requirements of a disclosure of reportable political donations are outlined in section 147(9) of the Act.

Pages 3 and 4 of this document include a Disclosure Statement Template which outlines the information requirements for disclosures to the Minister or to the Director-General of the Department of Planning.

Note: A separate Disclosure Statement Template is available for disclosures to councils.

Warning: A person is guilty of an offence under section 125 of the *Environmental Planning and Assessment Act 1979* in connection with the obligations under section 147 only if the person fails to make a disclosure of a political donation or gift in accordance with section 147 that the person knows, or ought reasonably to know, was made and is required to be disclosed under section 147.

The maximum penalty for any such offence is the maximum penalty under Part 6 of the *Election Funding and Disclosures Act 1981* for making a false statement in a declaration of disclosures lodged under that Part.

Note: The maximum penalty is currently 200 penalty units (currently \$22,000) or imprisonment for 12 months, or both.

Glossary of terms (under section 147 of the *Environmental Planning and Assessment Act 1979*)

gift means a gift within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981*. Note. A gift includes a gift of money or the provision of any other valuable thing or service for no consideration or inadequate consideration.

Note: Under section 84(1) of the *Election Funding and Disclosures Act 1981* gift is defined as follows:

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration.

local councillor means a councillor (including the mayor) of the council of a local government area.

relevant planning application means:

- a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site, or
 - b) a formal request to the Minister or the Director-General for development on a particular site to be made State significant development or declared a project to which Part 3A applies, or
 - c) an application for approval of a concept plan or project under Part 3A (or for the modification of a concept plan or of the approval for a project), or
 - d) an application for development consent under Part 4 (or for the modification of a development consent), or
 - e) any other application or request under or for the purposes of this Act that is prescribed by the regulations as a relevant planning application,
- but does not include:
- f) an application for (or for the modification of) a complying development certificate, or
 - g) an application or request made by a public authority on its own behalf or made on behalf of a public authority, or
 - h) any other application or request that is excluded from this definition by the regulations.

relevant period is the period commencing 2 years before the application or submission is made and ending when the application is determined.

relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

reportable political donation means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. Note. Reportable political donations include those of or above \$1,000.

Note: Under section 86 of the *Election Funding and Disclosures Act 1981* reportable political donation is defined as follows:

86 Meaning of "reportable political donation"

- (1) For the purposes of this Act, a reportable political donation is:
 - (a) in the case of disclosures under this Part by a party, elected member, group or candidate—a political donation of or exceeding \$1,000 made to or for the benefit of the party, elected member, group or candidate, or
 - (b) in the case of disclosures under this Part by a major political donor—a political donation of or exceeding \$1,000:
 - (i) made by the major political donor to or for the benefit of a party, elected member, group or candidate, or
 - (ii) made to the major political donor.
- (2) A political donation of less than an amount specified in subsection (1) made by an entity or other person is to be treated as a reportable political donation if that and other separate political donations made by that entity or other person to the same party, elected member, group, candidate or person within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1).
- (3) A political donation of less than an amount specified in subsection (1) made by an entity or other person to a party is to be treated as a reportable political donation if that and other separate political donations made by that entity or person to an associated party within the same financial year (ending 30 June) would, if aggregated, constitute a reportable political donation under subsection (1). This subsection does not apply in connection with disclosures of political donations by parties.
- (4) For the purposes of subsection (3), parties are associated parties if endorsed candidates of both parties were included in the same group in the last periodic Council election or are to be included in the same group in the next periodic Council election.

a person has a financial interest in a relevant planning application if:

- a) the person is the applicant or the person on whose behalf the application is made, or
- b) the person is an owner of the site to which the application relates or has entered into an agreement to acquire the site or any part of it, or
- c) the person is associated with a person referred to in paragraph (a) or (b) and is likely to obtain a financial gain if development that would be authorised by the application is authorised or carried out (other than a gain merely as a shareholder in a company listed on a stock exchange), or
- d) the person has any other interest relating to the application, the site or the owner of the site that is prescribed by the regulations.

persons are associated with each other if:

- a) they carry on a business together in connection with the relevant planning application (in the case of the making of any such application) or they carry on a business together that may be affected by the granting of the application (in the case of a relevant planning submission), or
- b) they are related bodies corporate under the *Corporations Act 2001* of the Commonwealth, or
- c) one is a director of a corporation and the other is any such related corporation or a director of any such related corporation, or
- d) they have any other relationship prescribed by the regulations.

Political Donations Disclosure Statement to Minister or the Director-General

If you are required under section 147(3) of the Environmental Planning and Assessment Act 1979 to disclose any political donations (see Page 1 for details), please fill in this form and sign below.

Disclosure statement details Name of person making this disclosure MR TERRY O'ROURKE - DIRECTOR, TELPAT PTY LTD		Planning application reference (e.g. DA number, planning application title or reference, property address or other description) MP 08-0003
Your interest in the planning application (circle relevant option below)		
You are the APPLICANT	<input checked="" type="radio"/> YES / <input type="radio"/> NO	OR
You are a PERSON MAKING A SUBMISSION IN RELATION TO AN APPLICATION		YES / NO
Reportable political donations made by person making this declaration or by other relevant persons		
<small>* State below any reportable political donations you have made over the 'relevant period' (see glossary on page 2). If the donation was made by an entity (and not by you as an individual) include the Australian Business Number (ABN).</small>		
<small>* If you are the applicant of a relevant planning application state below any reportable political donations that you know, or ought reasonably to know, were made by any persons with a financial interest in the planning application, OR</small>		
<small>* If you are a person making a submission in relation to an application, state below any reportable political donations that you know, or ought reasonably to know, were made by an associate.</small>		
Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made
Please list all reportable political donations—additional space is provided overleaf if required.		
By signing below, I/we hereby declare that all information contained within this statement is accurate at the time of signing.		
Signature(s) and Date 	1/05/2013	
Name(s) TERRY JAMES O'ROURKE		

Cont...

Political Donations Disclosure Statement to Minister or the Director-General

Name of donor (or ABN if an entity)	Donor's residential address or entity's registered address or other official office of the donor	Name of party or person for whose benefit the donation was made	Date donation made	Amount/ value of donation