



DARRYL ANDERSON CONSULTING PTY LTD

TOWN PLANNING & DEVELOPMENT CONSULTANTS

MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0034

**PROPOSED RESIDENTIAL SUBDIVISION
AT LOTS 2 & 3 DP 244652
BILAMBIL ROAD, BILAMBIL VILLAGE**

PREPARED FOR:

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AUGUST 2010

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MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0034

PROPOSED RESIDENTIAL SUBDIVISION AT BILAMBIL VILLAGE

1.0 INTRODUCTION

Jackson International Pty Ltd (the owner of the land) has commissioned Darryl Anderson Consulting Pty Ltd to prepare an application for modification of Major Project Approval No. 08_0034 which relates to a residential subdivision.

2.0 MAJOR PROJECT APPROVAL

On 8 July 2010 the Minister for Planning granted Project Approval No. 08_0034 for the carrying out of the following project:

- 48 residential lots ranging in size from 476m² – 704m²;
- One lot for a proposed commercial use (childcare centre) (Lot 50) – 1300m²;
- Dedication of foreshore as public reserve and revegetation of the area adjacent to Bilambil Creek (Bilambil Creek Foreshore, Lot 52) – 8160m²;
- Provision of embellished open space – 2625m²;
- Creation of an easement for electricity transmission lines 40m wide over the existing overhead transmission lines through the site adjacent to Hogan's Road;
- Construction of proposed roads within the project and upgrading of certain surrounding roads to Council standard;
- Construction of a sewer pumping station on site (Lot 53 – 200m²); and
- Earthworks, re-contouring and preparation of the site, including vegetation clearing and weed removal, establishment of water, stormwater and other services.

The project will be constructed in one stage.

A copy of the Project Approval and relevant Subdivision Plans are contained at **Annexure B**.

Following a review of the consent and discussions between the Project Manager and Departmental Officers, this Modification Application has been prepared to enable proposed Lot 1 to be reinstated.

Modifications are also proposed to enable the open drain at the rear of Lots 1, 2 and 3 to be piped and filled to achieve improved amenity for those lots.

Details of the proposed modifications are contained in Section 4.0 of this Report.

3.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

Section 75W of the Act 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.

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- (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."*

Currently there are no regulations of relevance to a modification application.

4.0 PROPOSED MODIFICATIONS

4.1 Amended Subdivision Layout Plans

Condition A2 of the consent is in the following terms:

"The project shall be amended as follows:

- (1) *Proposed Lot 1 is to be deleted and the area (467m²) incorporated into proposed Lot 2 to give a final area for Lot 2 of 1132m².*

NOTE: It is the intention of this Condition A2(1) to enable the asset protection zone to be entirely provided for within private property, and provide a greater width to ensure the ongoing ecological integrity of the riparian zone (Lot 52)."

The consent plan (Drawing No. 17154D, Rev G, 15 February 2010) shows Lots 1 and 2, however Condition A2 prevails over the plan by virtue of Condition A5.

Based on Drawing No. 17154D, Rev G, the distance from the south western corner of proposed Lot 1 to the "creek title" is approximately 34.72m.

A buffer of 50m (including the proposed road) has been agreed to by the DECCW which equates to approximately 35m excluding the road. The configuration of the proposed Lot 52 achieve approximately 35m from the creek to the proposed road alignment.

Annexure C comprises an Amended Subdivision Plan showing the "reinstatement" of proposed Lot 1 while maintaining a 35m buffer to the low creek bank of Bilambil Creek and a 10m asset protection zone entirely within proposed Lot 1, to comply with Planning for Bushfire Protection 2006.

Annexure D comprises an amended plan showing indicative building footprints demonstrating how compliant dwellings can be established on each proposed lot.

This layout amendment has been achieved by slightly adjusting the configuration of Lots 1, 2 and 3. The area of proposed Lot 52 (Bilambil Creek proposed foreshore reserve) is slightly reduced from 8160m² to 8035m², however buffer widths of nominal 35m width are maintained.

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Having regard to the above, it is submitted that the amended layout achieves the intention of Condition A2 and accordingly, modification of the approval is requested by:

- ♦ Deleting Condition A2 and,
- ♦ Amending Condition A3 as follows:

Survey Drawings prepared by B & P Surveys Consulting Surveyors			
Drawing No.	Revision	Name of Plan	Date
17154 D	K	Proposed Subdivision Plan, Sheet 2 of 3	21/7/2010
17154 D	K	Proposed Subdivision Plan, Sheet 3 of 3	21/7/2010
17628 D	B	Proposed Layout of Proposed Lots 2,3,9, 10, 29 and 30, Sheet 1 of 2	15/5/2009
17628 D	B	Proposed Layout of Proposed Lots 2,3,9, 10, 29 and 30, Sheet 2 of 2	15/5/2009
17532 D	F	Showing Indicative Building Envelopes, Sheet 1 of 2	21/7/2010
17532 D	F	Showing Indicative Building Envelopes, Sheet 2 of 2	21/7/2010

4.2 Proposed Culvert Upgrade at the Rear of Proposed Lots 1, 2 and 3.

To improve the amenity of Lots 1, 2 and 3 it is proposed to construct a pipeline from the existing culvert under Uriup Road to the western boundary of Lots 1 and 2, within the existing open drain and fill the lots such that they are of a more usable landform.

The Existing Site Survey Plan at **Annexure F** shows the location and topographic features of the existing open drain.

Details of the drainage and filling work are shown in the Engineering Report and Plans at **Annexure E**. Implementation of this Modification can be achieved by including in the table to Condition A3 under the heading Engineering Drawings prepared by CLA Consultants, Civil and Structural Engineers the following:

Engineering Drawings prepared by CLA Consultants Civil and Structural Engineers			
Drawing No.	Revision	Name of Plan	Date
08418 001	F	Site Plan, Drawing Schedule & Notes	25/11/2009
08418 002	G	General Arrangement	25/11/2009
08418 003	F	Earthworks Plan	25/11/2009
08418 003A	B	Earthworks – Isopache Details	25/11/2009
08418 004	E	Earthworks Cross Sections, Sheet 1 of 2	29/6/2009
08418 005	E	Earthworks Cross Sections, Sheet 2 of 2	29/6/2009
08418 006	C	Road #1 Longitudinal Sections	15/3/2009
08418 007	C	Road #2 Longitudinal Sections	15/3/2009
08418 008	E	Water Quality Management Construction Phase	25/11/2009
08418 009	D	Construction Management Plan	15/3/2009
08418 010	E	External Sewer Rising Main Alignment	29/6/2009

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Engineering Drawings prepared by CLA Consultants Civil and Structural Engineers			
Drawing No.	Revision	Name of Plan	Date
08418 012	-	Lot 50 Earthworks Concept	24/2/2010
08418	A	Urliup Road Culvert Upgrade	4/8/10

5.0 ENVIRONMENTAL ASSESSMENT

Modification of the consent as proposed is intended to achieve improved outcomes by reinstating Lot 1 and making Lots 1 to 3 more usable with improved amenity.

Based on the specialist studies and reports contained in the Environmental Assessment, there are no cultural, biophysical or geophysical constraints which might give rise to significant adverse impacts resulting from reinstating Lot 1, constructing the culvert and filling the open drain within Lots 1, 2 and 3.

Figure 6 of the Flora and Fauna Assessment at Annexure 15 of the Environmental Assessment indicates that the open drain comprises Community 5 vegetation being low closed herb land (mixed weed species) which is of low conservation value (a copy of Figure 6 is reproduced at **Figure 1** below).

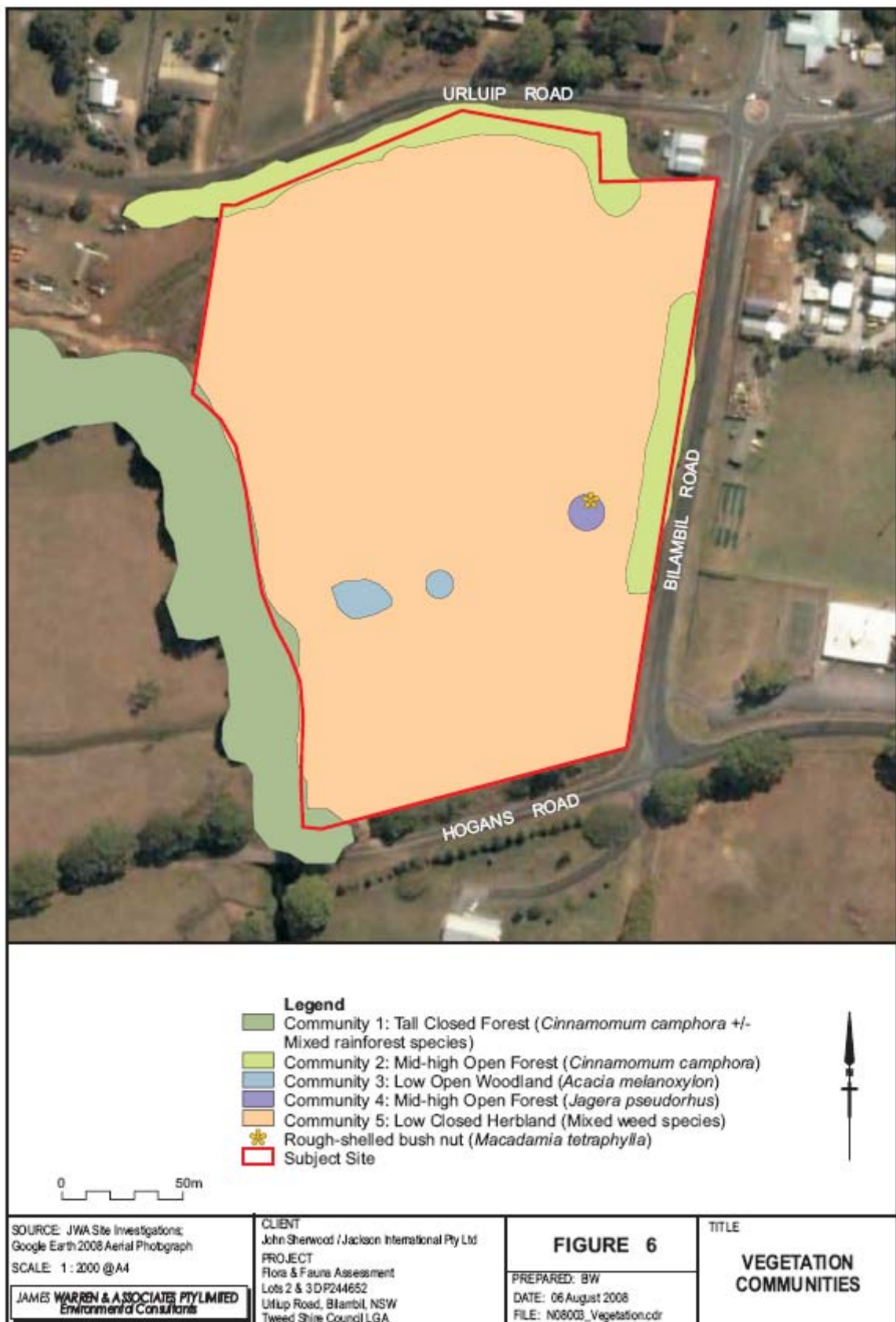


Figure 1 – Vegetation Communities
Source: James Warren and Associates, May 2010

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Following consultations between the Project Manager Mr John Sherwood and Mr Thomas Fitzgerald of the Department of Planning, four key issues were identified as requiring assessment as part of any Modification Application. Those issues are addressed as follows:

Affect of Proposed Culvert and Filling on the Proposed Boulder Retaining Wall and Approved Building Footprint

As indicated in Sections 2 and 3 of the Uriup Road Culvert Upgrade Report at **Annexure E** the currently proposed non-structural retaining wall will be deleted and replaced by the pipe culvert and filling of the existing open drain.

The Amended Plan of Indicative Building Envelopes at **Annexure D** demonstrates that compliant building envelopes can be achieved on proposed Lots 1, 2 and 3 following installation of the culvert and filling of the open drain.

Implications of Proposed Culvert and Filling for Approved Earthworks

The proposal has no significant impact as only a marginal additional amount of fill will be required which will be obtained from cut areas on the site. The final landform will be similar to adjacent allotments which are not affected by the existing open drain.

Identification of Impacts of Proposed Culvert and Filling on Adjoining Properties

Justification for the proposed culvert size and identification of overland flow paths, identification of legal point of discharge and existing and proposed landform contours are contained in **Annexure E**.

In summary, the culvert and filling will be wholly contained within the development site and appropriate scour protection will be provided at the culvert headwall outlet to dissipate energy, reduce flow velocities and minimise potential impacts on the downstream property. Subject to the above no adverse impacts are likely on the downstream property.

Implications of Having an Asset Protection Zone on Proposed Lot 1

The Amended Subdivision Plan at **Annexure C** provides a total frontage of 21.7m which facilitates an 11.7m building envelope clear of the asset protection zone. Council requires a 10m x 15m minimum building footprint which can be readily achieved as demonstrated on the plans at **Annexure D**. Therefore the proposed lot layout and asset protection zone arrangements do not limit the siting of a garage or other structures on Lot 1.

Consultations with the Rural Fire Service and Tweed Shire Council

As discussed with Mr Tom Fitzgerald on 10 August 2010, the Department will undertake formal consultations during assessment of this application.

Other Key Potential Issues

Other key potential issues such as mitigation of construction phase impacts, acid sulphate soils, erosion and sedimentation control and stormwater design are adequately addressed by existing conditions of approval B7, B8, B9, B16, B17, B19, D6, D7, D8, D10, D12, D13 and D15.

No additional impacts are likely to arise and indeed the modified project will enable the development to proceed on a more viable basis.

In the circumstances, it is therefore submitted that the Environmental Assessment accompanying the original Major Project Application provides an adequate Environmental Assessment of the modified project.

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6.0 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 significant 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 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.

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ANNEXURE A Completed Modification Application Form

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Project No: JAC 10/95 – August 2010

Lot 2 DP 244652
Bilambil Road, Bilambil



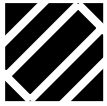
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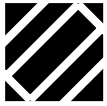
**ANNEXURE C Amended Plan of Proposed Subdivision, Drawing No. 17154D, Rev K (3 Sheets) –
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**ANNEXURE D Amended Plan of Indicative Building Envelopes, Drawing No. 17532D, Rev F –
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**ANNEXURE E Engineering Report and Plans of Proposed Culvert Upgrade, Rev A - CLA
Consultants, 4 August 2010**

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**ANNEXURE F Existing Site Survey Plans, Drawing No. 17149D (3 Sheets) - B & P Surveys,
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