



+ MODIFICATION REPORT – MAJOR PROJECT APPROVAL NO. 09_0166

PROPOSED RESIDENTIAL SUBDIVISION, “ALTITUDE ASPIRE”

Fraser Drive, Terranora

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MODIFICATION REPORT – MAJOR PROJECT APPROVAL NO. 09_0166

ALTITUDE ASPIRE RESIDENTIAL SUBDIVISION FRASER DRIVE, TERRANORA

1.0 INTRODUCTION

Mettricon Queensland 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. 09_0166, which relates to the Altitude Aspire residential subdivision located in the Tweed Shire Local Government Area.

The proposed modification involves the following key elements:

- Deletion of the Community Title Scheme from the project, including the Community Recreation Facility on proposed Lot 713;
- Dedication of Lot 713 as public open space, including a high level of embellishment.
- Proposed Lot 712 will not be dedicated as Public Open Space but rather will be used as Medium Density Residential.

2.0 PROJECT APPROVAL

On 30 May 2014 the Planning and Assessment Commission (PAC) granted Major Project Approval No. 09_0166 for the following project:

Community Title Residential Subdivision comprising:-

- 250 residential and 4 medium density lots;
- 4 public reserve lots, 1 water reservoir site, 1 drainage reserve lot, 1 community lot
- Landforming and earthworks;
- Community recreation facility on Lot 713;
- Associated roads, stormwater and utility infrastructure.

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

Details of the modifications proposed as part of this application, including a description of the proposed modifications, are contained in **Section 4.0** of this Report.

3.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS

Schedule 6A, Clause 3 of the Act relates to Continuation of Part 3A—transitional Part 3A provisions states that Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of 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:*

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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.

The scale and nature of the proposed modifications are relatively minor and do not give rise to any adverse impacts or noncompliance issues. The proposed modified project will be substantially the same as the approved project and therefore it is concluded that the proposed changes can be considered under Section 75W.

4.0 PROPOSED MODIFICATION

4.1 Description of the Proposed Modification

This Modification Application involves the following key elements:

- ♦ Deletion of the Community Title Scheme from the project, including the Community Recreation Facility on proposed Lot 713;
- ♦ Dedication of Lot 713 as public open space, including a high level of embellishment. A Landscape Master Plan outlining the proposed embellishment is contained at **Annexure C**;

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- Proposed Lot 712 will not be dedicated as Public Open Space but rather will be used as Medium Density Residential. A Concept Plan of the proposed medium density development is attached at **Annexure D**.

No change to the approved subdivision layout is proposed with the exception of a proposed pathway (linking Road 2 to Road 12) between Lots 901/925 and 711/712.

All proposed roads, drainage reserves, public reserves and reservoir sites will be dedicated to Council in accordance with the terms of the original Project Approval.

Table 1 summarises the approved and proposed staging, lot numbers and intended uses of each lot.

TABLE 1 – SUMMARY OF APPROVED AND PROPOSED LOTS				
Stage	Approved Lots	Proposed Use	Proposed Lots	Proposed Use
1	101 – 143 (43)	Residential	101 – 143 (43)	Residential
2	201 – 228 (28)	Residential	201 – 228 (28)	Residential
3	301 – 324 (24)	Residential	301 – 324 (24)	Residential
4	401 – 451 (51)	50 Residential 1 Public Reserve	401 – 451 (51)	50 Residential 1 Public Reserve
5	501 – 524 (24)	23 Residential 1 Reservoir	501 – 524 (24)	23 Residential 1 Reservoir
6	601 – 610 (10)	9 Residential 1 Drainage Reserve	601 – 610 (10)	9 Residential 1 Drainage Reserve
7	701 – 713 (13)	9 Residential 2 Medium Density 1 Public Reserve 1 Residents' Lot	701 – 713 (13)	9 Residential 3 Medium Density 1 Public Reserve
8	801 – 841 (41)	40 Residential 1 Public Reserve	801 – 841 (41)	40 Residential 1 Public Reserve
9	901 – 926 (26)	24 Residential 2 Medium Density	901 – 926 (26)	24 Residential 2 Medium Density
10	1001 (1)	Public Reserve	1001 (1)	Public Reserve
TOTAL	261	250 Residential 4 Public Reserve 1 Drainage Reserve 1 Reservoir 4 Medium Density 1 Community Lot	261	250 Residential 4 Public Reserve 1 Drainage Reserve 1 Reservoir 5 Medium Density

4.2 Consultations

On 29 January 2015, the proposed modifications were discussed with Tweed Shire Council Officers. Council Officers were supportive of the proposed modifications subject to submission of details in relation to the proposed embellishment of Lot 713.

A further meeting was held with Council Officers on 5 February 2015 in relation to embellishment details for Lot 713. Subsequently, Council advised by email dated 13 February 2015 as follows:

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"Recreation Services supports the Altitude Aspire developer's proposal to relocate the park from Lot 712 to Lot 713, which was the previously proposed Community Association building. The landscape master plan supplied gives a suitable broad concept for the new park, although discussion is now underway with the proponent regarding some minor amendments.

For the record, estimates of the area of casual open space required to be dedicated are reviewed below:

- Population calculations are based on figures used in 2012*
- Population was estimated at 653 people, which requires 7,379 m² of Casual Open Space (11.3m² x 653 persons).*
- Prior to the proposed park modification, the amount of functional casual open space proposed for dedication is around 9,000 m². The figure is debateable given the previously questioned suitability of the proposed Lot 820 park and other considerations for Lot 451.*
- The proposal will remove a 4,695m² park and replace it with a 3,658m² park, meaning a technical loss of around 1,037m², say 1000m².*
- These estimates of area required and dedicated are only one guide to assessing the benefits of the casual open space under negotiation.*
- The loss of around 1,000m² is suitably offset by the benefits gained by the way the new park location interfaces with, and improves public access to the proposed path network in the adjoining drainage reserve (Lot 610)."*

As indicated in Section 4.5, the amended proposal results in an estimated population of 709 people which generates a demand for approximately 8017m² of usable casual open space. **Table 2** indicates that a total of approximately 5.5 hectares of casual open space will be dedicated, of which 8208m² will be usable. In summary, there is no loss of usable open space and the modified proposal complies with Council's numerical requirements.

On 2 February 2015, an email was forwarded to the Department of Planning and Environment seeking comments from the Department in relation to the proposed modification to assist in preparation of the application. On 4 February 2015 the Department responded by email.

The issues raised in the Department's email are addressed in Section 4.3 of this Report.

4.3 Response to Department of Planning and Environment Email of 4 February 2015

Generally, your application should include

- ♦ written details of Council's views:*

Council supports the application and will accept dedication of proposed Lot 713, subject to satisfactory embellishment.

- ♦ detailed environmental planning justification for the proposed modifications:*

Deletion of the proposed Community Facility on Lot 713 and abandoning the Community Title Scheme is based on market research and commercial considerations. In summary, it is considered that better planning and urban design outcomes can be achieved by dedicating Lot 713 as a public reserve, including a high level of embellishment. This approach ensures that the lot is available to the general public for use not just the owners/occupiers of Altitude Aspire.

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The proposed use of Lot 712 as a medium density residential site rather than casual open space also ensures that all medium density lots are clustered in one locality but still with convenient access to the key access roads (Broadwater Parkway and Road 2) and the proposed public reserve on Lot 713, which is within a walkable distance of all medium density lots.

The amended proposal still retains dedication of all roads, drainage reserves, open space and reservoir sites to Council but does not increase the quantum of casual open space which Council will be required to maintain. No changes to the approved layout are proposed other than provision of a pedestrian pathway linking Roads 2 and 12.

The amended proposal does not give rise to any noncompliance issues nor does it alter the approved final landform or development footprint. It is therefore concluded that the proposal is justified in terms of environmental planning considerations.

- ♦ details of whether the proposed changes can be considered under section 75W of the Environmental Planning and Assessment Act 1979:

See Section 3.0.

- ♦ identification of the condition numbers/proposed modified wording sought; and

See Section 4.4.

- ♦ any consequential changes to the Statement of Commitments.

See Section 4.4.

1. Lot 713 - dedication as public open space

- ♦ Your section 75W application should include written details of Council views. Is council prepared to accept and manage the open space? If not, we would require details of how the open space is proposed to be managed.

Tweed Shire Council is prepared to accept dedication of Lot 713 subject to suitable embellishment (see comments at Section 4.2).

- ♦ Address the suitability/utility of Lot 713 for public open space given residents would have to cross an additional road to access it. And, address its proximity to/identify the uses of lots 610 and 701.

Lot 610 is a proposed drainage reserve which will be suitably embellished to facilitate casual public use including a proposed area of embellished usable casual open space in the approximate centre of the drainage reserve (see **Annexure C** for details).

Lot 701 is a proposed medium density lot immediately west of Lot 610 and south of Lot 713. Medium density and residential lots located on the western side of Road 2 will also have convenient access to public reserve Lot 819 on the corner of Parkes Lane and Market Parade.

In addition, future residents on the western side of Road 2 can safely and conveniently access the proposed public reserve on Lot 713 via the proposed pathway and Road 2, which is a collector road in terms of road hierarchy because it is in a nominated bus route carrying relatively minor traffic volumes.

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-
- ♦ Does the proposed amount of open space on Lot 713 comply with Council's relevant controls?

The area of usable casual open space complies – see Section 4.5.

- ♦ Is the approved community recreation facility on Lot 713 incorporated into the Landscape Master Plan Sketch Plan (dated 28/1/15) attached to your email?

The community recreation facility is to be deleted from the Project Approval and is not included in the Landscape Master Plan for Lot 713.

- ♦ Will the proposal have implications for the Voluntary Planning Agreement (Condition B2)?

The proposed modification is not inconsistent with the approved Voluntary Planning Agreement.

2. Community Title

- ♦ Provide details of the proposed land titling arrangement for the approved project, and any implications for the provision/management of associated infrastructure/facilities.

The approved project is based on a subdivision under the Community Land Development Act, with the only common property being the community facility on proposed Lot 713. All roads, public reserves, drainage reserves and infrastructure is to be vested in Tweed Shire Council.

The proposed modification deletes the Community Title Scheme and as such the proposal will revert to a conventional land subdivision, with all roads, public reserves, drainage reserves and infrastructure is to be vested in Tweed Shire Council as is the case with the current approval.

3. Lot 712 - Medium Density Residential Lot

- ♦ Provide details of the proposed layout, developable areas and site suitability/utility. This should include indicative site plans and elevations, and compliance with Council's relevant controls.

The Concept Medium Density Plan at **Annexure D** indicates potential yields and site layout in general compliance with the relevant design standards in Tweed Development Control Plan 2008, Section A1 – Residential and Tourist Code.

- ♦ Provide details of any additional requirements for Section 94 contributions.

No changes to Conditions E4 and E5 relating to contributions are required as a result of the proposed modification on the basis that the contribution allocated to Community Lot 713 will now apply to Lot 712 (medium density lot) (see Section 4.4).

4.4 Modification of Conditions

The proposed modifications can be given effect by amending the Instrument of Approval and conditions as follows:

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- ♦ **Project Approval (Page 1)**

Delete project description.

Insert amended description as follows:

Project:

Conventional Residential Subdivision comprising:-

- 250 residential and 5 medium density lots;
- 4 public reserve lots, 1 water reservoir site, 1 drainage reserve lot;
- Landforming and earthworks;
- Associated roads, stormwater and utility infrastructure.

- ♦ **Definitions**

Delete Director General

Insert

Secretary means Secretary of the Department of Planning and Infrastructure, or nominee/delegate.

Change Director General to Secretary wherever it appears throughout the Instrument of Approval.

- ♦ **Condition A1 – Project Description**

Delete Condition A1 and insert an amended Condition A1(a) as follows:

Condition A1(a) – Project Description

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

- 1) Subdivision of Lot 1 Council 304649, Lot 1 Council 175235, Lot 1 Council 781687, Lot 2 Council 778727, Lot 1 Council 781697, Lot 1 Council 169490, Lots 40 & 43 Council 254416 Fraser Drive Terranora;
- 2) Creation of 250 residential housing lots;
- 3) Creation of 5 medium density lots comprising Lot 701, Lot 711, Lot 713, Lot 925 and Lot 926;
- 4) Creation of 4 open space lots for public recreation reserve comprising Lot 451, Lot 713, Lot 819 and Lot 1001;
- 5) Creation of 1 drainage reserve lot, comprising Lot 610;
- 6) Creation of a reservoir site at Lot 501 and dedication to the Council;
- ~~7) Creation of a Community Association Lot (Lot 713) and Construction of a Community Facility on that lot;~~
- 7) Construction of roads, footpaths, access driveways, earthworks and drainage infrastructure; and
- 8) Dedication of land for roads, public parks and public infrastructure to Council.

- ♦ **Condition A2 - Staging**

Delete Condition A2 and insert an amended Condition A2(a) as follows:

Condition A2(a) - Staging

The project is to be constructed in ten (10) stages, generally in accordance with the 'Plan Showing Existing topography and Proposed Subdivision Layout' dated 18 July 2013, prepared by B & P Surveys Revision D (Drawing No 18779B), incorporating the lots as follows:

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-
- (1) Stage 1 comprises ~~Community title Residential~~ lots 101 -143 inclusive, incorporating roads and required infrastructure;
 - (2) Stage 2 comprises ~~Community title Residential~~ lots 201 – 228 inclusive, incorporating roads and required infrastructure;
 - (3) Stage 3 comprises ~~Community title Residential~~ lots 301 – 324 inclusive, incorporating roads and required infrastructure;
 - (4) Stage 4 comprises ~~Community title Residential~~ lots 401 – 450 inclusive, public reserve on Lot 451 and incorporating roads and required infrastructure;
 - (5) Stage 5 comprises ~~Community title Residential~~ lots 502 – 524 inclusive, water reservoir site on Lot 501 and incorporating roads and required infrastructure;
 - (6) Stage 6 comprises ~~Community title Residential~~ lots 601 – ~~610~~ inclusive, drainage reserve on Lot 610 and incorporating roads and required infrastructure;
 - (7) Stage 7 comprises ~~Community title Residential~~ lots 702 – ~~713~~ inclusive, ~~3~~ medium density ~~Community title Residential~~ lots 701, ~~711 and 712~~, public reserve on Lot ~~713~~, ~~construction of the community facility on Lot 713~~ and incorporating roads and required infrastructure;
 - (8) Stage 8 comprises ~~Community title Residential~~ lots 801 – ~~841 and lots 820–841~~ inclusive, public reserve on Lot 819 and incorporating roads and required infrastructure;
 - (9) Stage 9 comprises ~~Community title Residential~~ lots 901 – ~~926~~ inclusive, ~~2~~ medium density ~~Community title Residential~~ lots 925 and lot 926 and incorporating roads and required infrastructure; and
 - (10) Stage 10 comprises the public reserve on Lot 1001, and incorporating roads and required infrastructure.

Subject to any conditions of approval, staging of allotment and/or road construction may vary in sequence and timing. Essential infrastructure associated with and including, but not limited to, roads, roundabouts, bus routes, footpaths, parks, services, landscaping and environmental management, shall be constructed as specified in the staging listed above or as otherwise provided in these conditions and the proponent's Statement of Commitments.

Any revised staging plan that varies the stage boundaries or components listed in (1) – (10) inclusive, shall be submitted for the approval of the ~~Director-General~~ Secretary, prior to the issuing of a Construction Certificate for subdivision works.

• **Condition A3 – Project in Accordance with Plans**

Delete relevant parts of Condition A3 and insert amended Table A3(a) as follows:

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

- a) Environmental Assessment prepared by Darryl Anderson Consulting Pty Ltd dated December 2010;
- b) Preferred Project Report prepared by Darryl Anderson Consulting Pty Ltd dated April 2013;
- c) Addendum to the PPR prepared by Darryl Anderson Consulting Pty Ltd dated August 2013 and further information relating to remediation submitted on 15 October 2013; and
- d) ~~Modification Report prepared by Darryl Anderson Consulting Pty Ltd dated February 2015.~~

and the following drawings, except where varied by the conditions of this approval:

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Subdivision Layout Plans prepared by B & P Surveys, Reference No T15263			
Drawing No.	Revision	Name of Plan	Date
18779B	G	Plan Showing Existing Property Descriptions and Tweed LEP2000 Zonings and TLEP2014 (Sheet 1)	12 February 2015
18779B	G	Plan Showing Existing Topography and Proposed Subdivision Layout (Sheet 2)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 1, 4 & 5) (Sheet 3)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 1, 4 & 6) (Sheet 4)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 2, 3, 6 & 10) (Sheet 5)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 6, 7 & 8) (Sheet 6)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 6, 7, 8, 9 & 10) (Sheet 7)	12 February 2015
18779B	G	Plan Showing Proposed Subdivision Layout and Design Contours (Stages 7, 9 & 10) (Sheet 8)	12 February 2015
18779B	I	Locality/Context Plan	10 July 2013

Altitude Aspire Community Facility, prepared by BDA Architecture, ref No 319800			
Drawing No.	Revision	Name of Plan	Date
Sheet 1	-	Introduction	March 2012
Sheet 2	-	Local context plan	March 2012
Sheet 3	-	Site Analysis	March 2012
Sheet 4, 4.01 & 4.02	-	Site Plan, Floor Plan, Roof Plan	March 2012
Sheet 5 & 5.01	-	Key Dimensions 1 and 2	March 2012
Sheet 6	-	Building Colours and Materials	March 2012
Sheet 7	-	Perspective Views	March 2012
Sheet 8.00 & 8.01	-	Elevations 1 and 2	March 2012
Sheet 9 & 9.01	-	Site Section A and B	March 2012

Landscape Drawings prepared by Form Landscape Architects, Project No 100906, DA09 dated 11 February 2015			
Drawing No.	Revision	Name of Plan	Date
Figure 1	-	Landscape Master Plan	11 February 2015
Figure 2	-	Landscape Structure	11 February 2015
Figure 3	-	Circulation Network	11 February 2015
-	-	Fence Types	11 February 2015
-	-	Fraser Drive Entry	11 February 2015
-	-	Landscape Sections 1 – 15 inclusive	11 February 2015

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Landscape Drawings prepared by Form Landscape Architects, Project No 100906, DA09 dated 11 February 2015			
Drawing No.	Revision	Name of Plan	Date
-	-	Community Park Node	11 February 2015
-	-	Drainage Corridor and Wetlands	11 February 2015
-	-	Pocket Park 1	11 February 2015
-	-	Pocket Park 2	11 February 2015
-	-	Planting Palette	11 February 2015

♦ **Condition A4 – Project in Accordance with Documents**

Delete relevant parts of Condition A4 and insert amended Condition A4(a) as follows:

The project will be undertaken in accordance with the following documents except where varied by the conditions of this approval:

- (1) *Environmental Assessment Report* dated September 2010, as revised December 2010 prepared by Darryl Anderson Consulting Pty Ltd;
- (2) *Preferred Project Report/Response to Submissions* prepared by Darryl Anderson Consulting Pty Ltd dated April 2013 and PPR Addendum dated August 2013 and October 2013;
- (3) *Cultural Heritage Assessment* prepared by Everick Heritage Consultant Pty Ltd dated March 2012;
- (4) *Acoustic Report* prepared by Sound matters ttm, Reference No 11GCA0048 R01 7 dated 8 April 2013;
- (5) *Stormwater Assessment and Management Plan* prepared by Gilbert & Sutherland dated April 2013;
- (6) *Revised Ecological Assessment* prepared by JWA Pty Ltd Ecological Consultants dated April 2013, Job No N09031/EA/2013/Rw7 and Addendum to the Ecological Assessment prepared by JWA Pty Ltd dated August 2013;
- (7) *Revised Vegetation Management and Rehabilitation Plan* prepared by JWA Pty Ltd Ecological Consultants dated April 2013, Job No N09031/VMRP/2013/MJ1;
- (8) *Preferred Project Report (Revised)* for MP 09_0166 for Altitude Aspire Terranora (Engineering) prepared by Bradlees Civil Consulting dated March 2013 (Job No 09-374 Altitude Aspire and *Response to DOP Outstanding Issues* in Addendum to PPR.
- (9) *Amended Biting Insect Management Plan* prepared by HMC Environmental Consulting Pty Ltd dated April 2012, Report No 2012.045;
- (10) *Bushfire Assessment Report* prepared by Bushfire Safe (Australia) Pty Ltd dated March 2012;
- (11) *Altitude Aspire Revised Transport Assessment* prepared by Bitzios Consulting dated 8 April 2013, Version 002 Project No P1197;
- (12) *Acid Sulphate Soil Assessment and Management Plan* prepared by Gilbert & Sutherland dated April 2012, Ref No 10849_ASS&MP;
- (13) *Hydrological and Hydraulic Assessment* prepared by Gilbert & Sutherland dated April 2013 (Revision 2), Ref No 10849 HHA;
- (14) *Soil Contamination Assessment* for 'Area E' Properties Terranora dated October 2003, prepared by Gilbert & Sutherland Pty Ltd;
- (15) *Sampling, Analysis and Quality Plan* prepared by Gilbert & Sutherland dated October 2013 (Revision 3), Ref No 10849_SAQP_RZ1F.docx;
- (16) *Remediation Action Plan*, prepared by Gilbert & Sutherland dated October 2013 (Revision 3), Ref No 10849_RAP_RZ1F.docx;

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- (17) *Section B Site Audit Statement* prepared by Marc Salmon dated 15 October 2013, Ref 14003 (Site Audit Statement – 0103 – 1301);
 - (18) *Interim Site Audit Advice* prepared by Marc Salmon dated 9 August 2013;
 - (19) *Soil Preservation Management Plan* prepared by Gilbert & Sutherland Pty Ltd dated April 2013 (Ref 10849_SPMP_RMF);
 - (20) *Broad Geotechnical Engineering Assessment* prepared by Morrison Geotechnic Pty Ltd dated November 2010;
 - ~~(21) *Draft Community Management Statement* dated July 2013.~~
 - (21) *Section 75W Modification 1 Report* prepared by Darryl Anderson Consulting Pty Ltd dated February 2015.

- **Condition A15 – Community facility (Lot 713)**

Delete Condition A15.

~~**A15 Community facility (Lot 713)**~~

~~The use of the community facility will be subject to the following:-~~

- ~~a) Hours of operation of the facility are (including use of the swimming pool and tennis court): Monday to Sunday 6am to 10pm~~
- ~~b) The swimming pool must be fenced in accordance with the requirements of the *Swimming Pools Act 1992 (NSW)* and operated in accordance with relevant legislation;~~
- ~~c) Light spillage from the tennis court is to be minimised and operated in accordance with the *AS 4282 1997 Control of the obtrusive effects of outdoor lighting*;~~
- ~~d) The community facility lot is to be managed as an Inner Protection Area as outlined in Appendix 2 and 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*.~~
- ~~e) The community facility is to be constructed in accordance with the requirements of the *Building Code of Australia*.~~
- ~~f) All deliveries and collection of rubbish shall be undertaken within the approved hours of operation.~~
- ~~g) All vehicles shall enter and leave the site in a forward direction.~~
- ~~h) All car parking spaces shall be available for car parking at all times and shall not be used for the purpose of storage of goods or materials at any time.~~
- ~~i) Any advertising or signage (not including the entrance signage to the subdivision) shall be subject to a separate development application.~~

- **Condition E4 – Section 64 Contributions**

Stage 7 will increase from two medium density lots to three medium density lots and eliminate the residents' lot. There is no increase in the number of lots and therefore no changes to the condition apply.

- **Condition E5 – Section 94 Contributions**

Stage 7 will increase from two medium density lots to three medium density lots and eliminate the residents' lot. There is no increase in the number of lots and therefore no changes to the condition apply.

- **Condition E10 – Community Management Statement**

Delete Condition E10.

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~~E10 Community Management Statement~~

~~Prior to issue of any Subdivision Certificate, a Community Management Statement is to be submitted to and approved by the PCA that addresses the relevant Stage of the development being released, and that Stage's relationship in context with the overall Community Titled development. The statement must also provide a Utility Services Plan, showing works as executed (WAE), within any Community Lot being created.~~

- ♦ **Revised Statement of Commitments**

As a consequence of the proposed modification, the approved Statement of Commitments (April 2013, Revised October 2013) has been amended as follows:

Statement of Commitment 11 – Delete reference to Community Land Development Act and insert amended plan numbers.

Statement of Commitment 24 – Delete Statement of Commitment 24 as the Community Facility is to be deleted from the Project Approval.

4.5 Tweed Development Control Plan 2008, Section A5 – Subdivision Manual

As indicated on the amended Proposed Subdivision Plans (**Annexure B**) the proponent proposes to dedicate and embellish proposed Lots 451 (6032m²), 713 (3658m²), 819 (2703m²) and Lot 1001 (4.29ha) having a total area of 5.53 hectares.

Section A5.4.7 of Tweed Development Control Plan 2008, Section A5 – Subdivision Manual requires 1.13 hectares per 1000 population (11.3m² per person) to be dedicated and embellished as usable casual open space.

Based on the occupancy rates contained in the exhibited Draft Section 94 Plan No. 31 of 2.4 persons per lot/ET; 1.7 persons per 2 bedroom unit and 1.3 persons per 1 bedroom unit, the total area of usable casual open space required will be as follows:

Dwelling House Lots

251 lots @ 2.4pp/lot @ 11.3m² pp = 6807m²

Medium Density Lots

Lot 926 – 7729m² @ say one 2 bedroom dwelling/370m² = 21 dwellings

Lot 925 – 2938m² @ say one 2 bedroom dwelling/378m² = 8 dwellings

Lot 711 – 3745m² @ say one 2 bedroom dwelling/374m² = 10 dwellings

Lot 701 – 5269m² @ say one 2 bedroom dwelling/376m² = 14 dwellings

Lot 712 – 4499m² @ say one 2 bedroom dwelling/450m² = 10 dwellings

Total medium density dwellings = 63

63 dwellings at 1.7pp/dwelling @ 11.3m² pp results in a requirement for 1210m² of usable casual open space.

Based on the anticipated dwelling yield and population within Altitude Aspire, to comply with Council's Subdivision Manual a total usable casual open space area of 8017m² is required.

The following **Table 2** summarises proposed casual open space provisions.

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TABLE 2 – SUMMARY OF CASUAL OPEN SPACE PROVISIONS		
LOT NO.	AREA	TOTAL COMPLYING AREA (FIGURE 3 OF ANNEXURE C)
713	3658m ²	2150m ²
Part 610#	Approx 1.9ha	1954m ²
451	6032m ²	2786m ²
819	2703m ²	1318m ²
1001	4.29ha	Nil
Total	7.42ha	8208m²
# Proposed Lot 610 is to be dedicated as a drainage reserve, however part of the lot will be embellished and used as casual open space (see Annexure C).		

In summary, the usable area of casual open space contained in proposed public reserves and part of Lot 610(drainage reserve), will be 191m² more than is required under Section A5.

Compliance with the requirements of Section A5 is addressed in Table 3.

TABLE 3 – CASUAL OPEN SPACE COMPLIANCE	
REQUIREMENT OF SECTION A4.5.7	COMMENTS
Casual parks – 1.13 hectares/1000 population (11.3m ² /person). Desirable minimum area 2500m ² – 4000m ² .	Complies – see above.
95% of residences within 400m walking distance of casual parks.	Complies – all lots are within 400m walking distance (see Layout Plan).
Land form of casual park – slopes less than 8%.	Complies – see Annexure C .
Access from more than one local road.	Complies – see Annexure B .
Road frontage – 50% of perimeter.	Complies – see Annexure B .
Embellishment.	Complies – the local parks will be embellished in accordance with Table A5-8.2.1 of Section A5.

5.0 ENVIRONMENTAL ASSESSMENT

The Modification Application does not result in any change to the approved subdivision layout, landforms or residential lot yield. It will result in the creation of one additional medium density lot which is likely to increase the overall yield of residential dwellings by approximately 10 dwellings.

Deletion of the community facility lot and changing from a Community Title Scheme to a conventional subdivision does not give rise to any environmental impacts which were not assessed in the original Environmental Assessment Report.

Similarly, developing proposed Lot 713 as a public reserve (casual open space) in lieu of Lot 712 does not result in any additional maintenance burden for Council and as indicated in Section 4.5, maintains Council's minimum usable area requirements for embellished casual open space, based on the proposed lot yield.

Consultations with Council have indicated that Council Officers have no objections to the proposed modification and indeed, support deletion of the Community Scheme.

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Council Officers have also confirmed that Council will accept dedication of Lot 713, subject to appropriate embellishment prior to issue of a Subdivision Certificate for Stage 7 of the estate.

6.0 CONCLUSION

Modification of the Project Approval as proposed will enable the project to proceed in a timely manner. In this regard, the Construction Certificate Application for Phase 1 bulk earthworks was lodged with Tweed Shire Council on 6 February 2015 and it is anticipated that subject to a Certificate being issued, construction works will commence in April 2015, subject to obtaining the modified Project Approval prior to that date.

The modification does not give rise to any significant issues or impacts but essentially involves a change of the type of subdivision and swapping of the two open space Lots 712 and 713.

The proposed modification of the Project 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 Project Approval No. 09_0166 and Relevant Approved Plans Issued by the
Planning & Assessment Commission on 30 May 2014**

Darryl Anderson Consulting Pty Ltd
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Town Planning & Development Consultants

Modification of Major Project No. 09_0166
Project No: NEW 15/04 – February 2015

Altitude Aspire
Fraser Drive, Terranora



ANNEXURE B Proposed Subdivision Plans – B & P Surveys

- ♦ Plan Showing Existing Property Descriptions and Tweed Local Environmental Plan 2000 Zonings, Drawing No. 18779B, Sheet 1, Rev G, 12 February 2015
- ♦ Plan Showing Existing Topography and Proposed Subdivision Layout, Drawing No. 18779B, Sheet 2, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 3, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 4, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 5, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 6, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 7, Rev G, 12 February 2015
- ♦ Plan Showing Proposed Subdivision Layout & Design Contours, Drawing No. 18779B, Sheet 8, Rev G, 12 February 2015

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**ANNEXURE C Altitude Aspire Terranora – Amended Landscape Master Plan (24 Sheets) –
Form Landscape Architects, 11 February 2015**

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**ANNEXURE D Concept Plans of Future Medium Density Housing on Proposed Lot 712,
Drawing No. SK0009 – Local Office Architecture, February 2015**

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**ANNEXURE E Amended Statement of Commitments – Darryl Anderson Consulting Pty Ltd,
February 2015**

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