

ADDENDUM REPORT

**MODIFICATION REQUEST:
CASUARINA TOWN CENTRE
TWEED COAST ROAD, CASUARINA
06_0258 MOD 5**



ADDENDUM REPORT to
Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

September 2013

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1 BACKGROUND

This report is an addendum report to the Director-General's Assessment Report of a modification application (MP 06_0258 MOD 5) lodged under section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act), by Newton Denny Chapelle on behalf of Clarence Property Corporation Pty Ltd (the proponent). The modification application seeks approval to modify the Project Approval issued for a mixed-use subdivision and associated infrastructure works at Tweed Coast Road, South Kingscliff.

MP 06_0258 MOD 5 proposes the construction of a retaining wall and associated infrastructure (including stair access and relocation of pathways) in the south-eastern corner of the site adjacent to the turning head of the Road 6 cul-de-sac (a new road) and the southern boundary of the site. The retaining wall is required to reconcile level changes of approximately 2.5 metres between the approved level for construction of Road 6 and the neighbouring land to the south. The modification application also proposes changes to the access stair and associated pathways in the vicinity of the retaining wall.

The DG's Assessment Report for the above modification application was made publicly available on the department's website on 16 September 2013. Accordingly, the earliest date a determination can be made is 23 September 2013.

On 23 September 2013, the department received a submission from the property owner of No.36 Eclipse Lane (refer Attachment B) raising concerns with the recommendation. Specifically, it was requested that the proponent be required to repair damage which has already occurred to No.36 Eclipse Lane as a result of construction activities on the site including those preparatory works associated with the construction of the subject retaining wall.

2 CONSIDERATION

The department is aware that claims have been made with respect to purported damage to No.36 Eclipse Lane as a result of construction activities. This matter is addressed in sections 4.2 and 5.3 of the DG's Assessment Report.

In order to ensure that the current state of the property is recorded prior to the commencement of works relating to the construction of the retaining wall, the current recommendation includes a requirement for pre and post construction dilapidation reports to be prepared (refer to Conditions B7A and E7A, respectively). Additionally, the post-construction Dilapidation Report includes a requirement for a course of action to carry out any repairs (if required) within one (1) month of the date of completion of the report.

The submission has raised concerns regarding existing damage to No.36 Eclipse Lane and furthermore, delays and lack of action by the proponent to rectify the damage. Current Condition E7 requires any such damage to be rectified on completion of the Stage 1A works. The proponent has also advised that the timeframe for completion of works relating to the retaining wall will be approximately 6 weeks and therefore, any rectification works linked to the construction work will not be undertaken in the short term.

The department considers it to be fair and reasonable that damage to the property which has the potential to cause undue risk or harm to the building occupants be repaired in a timely manner. Whilst this is ordinarily a civil matter, it is evident from the submission that there is certain damage to the property which requires immediate rectification ie. cracked windows.

Further consultation has been undertaken with the proponent and the property owner of No.36 Eclipse Lane regarding this matter. Both parties are agreeable to a new condition (additional) being imposed which requires that within one (1) week of the preparation of the new dilapidation report being prepared in accordance with Condition B7A, that a report be submitted to the Certifying Authority and the department which compares the structural state of the property to that originally recorded in the Dilapidation Report undertaken in accordance with Condition B7. The Report is to include a course of action and a timeframe to carry out the repair works. It has also been agreed that any repair works that are high risk, being to rectify that damage which has the potential to cause harm or threaten the safety of the occupants of the property, be carried out within one (1) week of the completion of the report, unless otherwise agreed to by both parties. It is recommended that the new Condition be imposed as Condition B7B and state the following:

Condition B7B.

Within 1 week of the completion of the Dilapidation Report required to be undertaken in accordance with Condition B7A, the proponent is to submit a Report to the Certifying Authority and the Department which compares the current state of the property identified as No.36 Eclipse Lane with the pre-construction Dilapidation Report undertaken in accordance with Conditions B7.

The Report is to compare the structural state of the property and is to clearly identify any damage to the property which has occurred as a consequence of construction activities. The report is to include a recommended course of action and a timeframe to carry out the repair works. Any repair work considered to be high risk (ie. potential to cause harm or threaten the safety of the occupants of the property) is to be carried out within a week of the completion of the Report unless otherwise agreed to in revised action plan prepared in consultation with the property owner of No.36 Eclipse Lane.

The department considers that the new Condition B7B will ensure that any urgent repairs are completed in the short term and furthermore, will minimise any undue risk to the property owner and will appropriately respond to the matters raised in the submission.

The department also notes that the submission includes reference to the design and construction of the pathway leading to the footbridge to the east of the No.36 Eclipse Lane. Matters in relation to this issue are appropriately addressed in the section 4.2, point 3f of the DG's Assessment Report.

3 RECOMMENDATION:

It is recommended that the Director- Industry, Social Projects and Key Sites as delegate of the Minister:

- a) **Consider** the findings and recommendations of the Director- General's Environmental Assessment Report;
- b) **Consider** the findings and recommendations of this addendum report;
- c) **Approve** the modification under section 75W of the EP&A Act; and
- d) **Sign** the attached updated Instrument of Modification (Attachment A).



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Industry, Social Projects and Key Sites



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