



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



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

September 2013

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## EXECUTIVE SUMMARY

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This report is an assessment 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 proposed 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 modification application was notified to Tweed Shire Council (Council) and neighbouring properties from 26 July 2013 until 13 August 2013. The department received a total of three (3) public submissions, all objecting to the proposal. One (1) of these submissions raised issues unrelated to the modification proposal. The other two (2) public submissions raised concerns in relation to the design and location of the retaining wall, construction impacts and potential amenity impacts.

Council raised no objection to the proposal subject to refinements to the design of the proposal.

On 16 August 2013, the proponent submitted its Response to Submissions (RtS) to address issues raised in public submissions.

The department has assessed the merits of the proposal and considers the key issues to be cut and fill, design and construction impacts. An assessment of these key issues is provided in this report.

The department has consulted with the proponent in relation the design of the retaining wall and the location of the access stair to address concerns raised by neighbouring properties in relation to potential amenity impacts. Amended plans were subsequently lodged satisfactorily addressing these issues.

The construction of the retaining wall and the associated access arrangement are necessary to resolve level changes between the site and neighbouring properties. Therefore, the department considers the modification request to be in the public interest and accordingly, recommends that the application be approved, subject to the conditions outlined in the instrument of Modification.



## 1. BACKGROUND

### 1.1 Current Modification Application- project approval

This report is an assessment of a request to modify the Project Approval for MP 06\_0258, which comprises a mixed use subdivision (Casuarina Town Centre) at Tweed Coast Road, Casuarina Beach in the Tweed local government area, pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This application (MP06\_0258 MOD 5) seeks approval to construct a retaining wall and associated infrastructure in the south-eastern corner of the site adjacent to the turning head of the Road 6 cul-de-sac and the southern boundary of the site as part of the Stage 1A construction. The retaining wall is required to reconcile the change of levels of approximately 2.5 metres between the construction levels approved for Road 6 and the neighbouring land to the south.

Construction of Stage 1A of the project has commenced, including earthworks associated with the road infrastructure and the retaining wall. This matter is discussed in further detail below.

### 1.2 Concept Plan and Stage 1 Project Approval

A Concept Plan and concurrent Stage 1 Project Application were approved by the then Minister for Planning on 20 September 2009 under Part 3A of the EP&A Act. Concept Plan approval was granted for:

- the subdivision of land into 61 lots including low and medium density residential, retail, commercial and mixed use lots
- construction of a retail centre comprising a supermarket, restaurants and shops
- construction of a hotel
- construction of the associated road network and car parking
- construction of all necessary services, and
- landscaping and open space.

Stage 1 Project Approval was granted for:

- the subdivision of land into 61 lots
- construction of the supermarket anchored retail centre
- bulk earthworks and vegetation clearing
- construction of all roads
- closure of Dianella Drive
- provision of infrastructure and services, and
- landscaping.

The Project Approval has been modified on four (4) occasions, as outlined below:

- On 17 June 2010, the then Acting Director – Regional Projects approved a modification (MOD 1) to the proposal allowing stormwater infiltration and landscaping works to be carried out on adjoining lots; filling within the existing drainage easement within the site; and the carrying out of works to facilitate the closure of the Dianella Drive and Tweed Coast Road intersection, to be replaced with a cul-de-sac.
- On 1 July 2011, the Director-General approved a modification (MOD 2) involving amendments to the staging regime of the site to allow Stage 1 to be carried out across two separate stages of development ('Stage 1A' and 'the balance of Stage 1').

Of relevance to the current modification (MOD5), MOD 2 included changes to the cut and fill depths across the site including adjacent to the southern boundary relative to the Road 6. This modification was accompanied by a revised finished surface plan to reflect the changes to the extent of cut and fill. However, limited details are provided on the plan in relation to reconciling



- On 7 March 2012, the Director – Metropolitan and Regional Projects North approved a modification (MOD 3) involving a reduction of the gross floor area of the supermarket; reduced size and scale of the retail centre building; removal of all basement car parking; reconfiguration of the at-grade car park; provision of car park shade structures; additional signage; and further landscaping works.
- On 24 April 2013, the Director- Metropolitan and Regional Projects North approved a modification (MOD 4) to both the concept plan approval and the Stage 1 project approval involving:
  - consolidation of five (5) medium density residential lots within Stage 1A requiring amendments to the Stage 1 project approval;
  - deletion of the time restriction to provide evidence of the approval for the construction of the beach access, as required under Term B5 of the concept plan approval;
  - amendments to the timing of Section 94 and Section 64 monetary contributions outlined in the Stage 1 project approval; and
  - revisions to the approved concept staging; and
  - providing flexibility in regard to the development and the delivery of future Stage 2 to 4.
  -

On 12 April 2013, Tweed Shire Council issued a construction certificate (CC13/007) for bulk earthworks and civil works on the site. The approved construction plans included the construction of a proposed retaining wall, stairs and associated works on and adjacent to the southern boundary of the site, as illustrated in **Figure 1** below. CC13/007 shows the retaining wall being constructed on the southern boundary of the site i.e. there is no setback.

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The aerial photograph at **Figure 2** illustrates that earthwork adjacent to the southern boundary of the site have commenced. The site manager, has recently advised that the department that the levels relative to the boundary have been built up in order to prepare for the construction of the retaining wall. Works relating to the construction of the retaining wall have ceased pending the determination of this MOD 5.

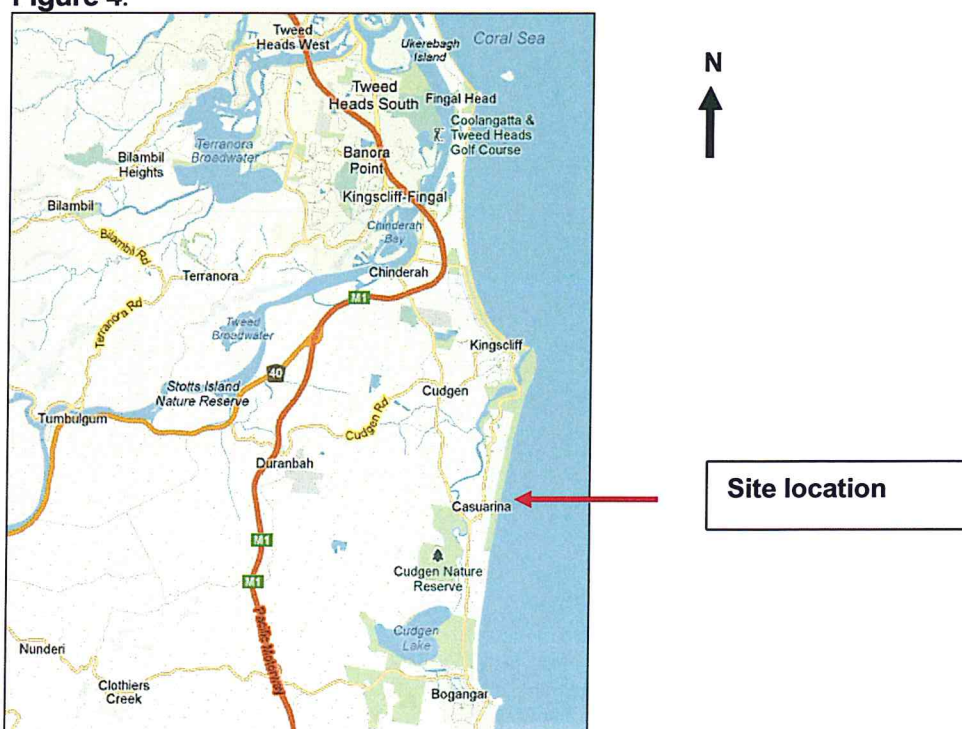


**Figure 2:** Aerial Photograph of the site- 5 August 2013 (Source: Nearthmaps)

### 1.3 Subject Site

The subject site is located at Casuarina Beach, approximately 15km to the south of Tweed Heads and 4km north of Cabarita Beach. Low to medium density residential development adjoins the site to the north and south. The Casuarina Beach foreshore adjoins the site to the east, with Tweed Coast Road adjoining the western site boundary. The Cudgen Nature Reserve is located further to the west.

The site forms part of the master planned Casuarina development precinct involving the integration of residential, tourist and commercial developments fronting the Casuarina Beach foreshore. The location of the subject site is shown below at **Figure 3**. The approved concept plan is provided at **Figure 4**.



**Figure 3: Site location – Casuarina Town Centre**





**Figure 4:** Approved Casuarina Town Centre Concept Plan (source: Preferred Project Report MP 06\_0258)

## 2 PROPOSED MODIFICATION

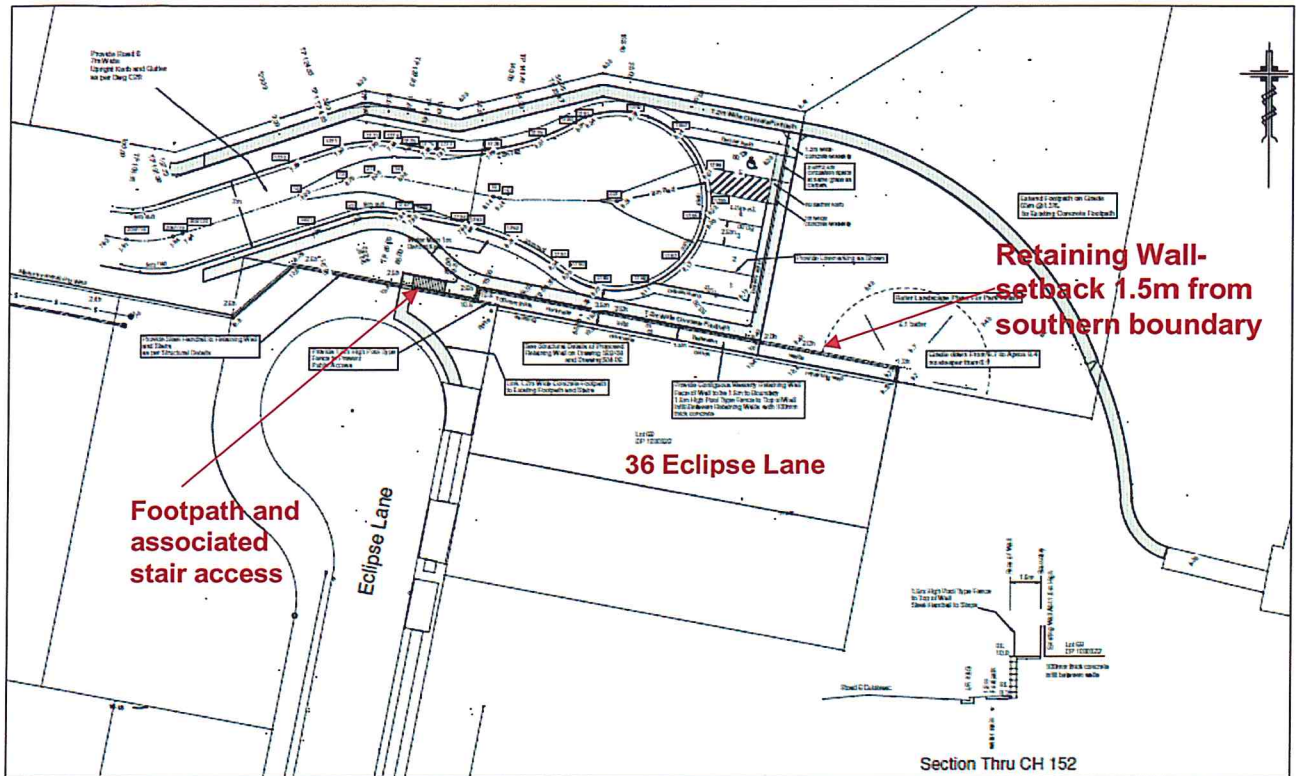
On 26 July 2013, Newton Denny Chapelle on behalf Clarence Property Corporation Pty Ltd (the proponent), submitted a S75W modification request to the Stage 1 Project Approval MP06\_0258. The proposed modification relates to the location and design of the retaining wall adjacent to the cul-de-sac head of Road 6 (a new road), in the south-eastern corner of the site. The retaining wall is proposed to reconcile level changes between the site and the neighbouring properties directly to the south including, No. 36 Eclipse Lane and the turning head of Eclipse Lane. There is approximately a 2.5 metres difference (fall) between the natural ground level at the southern boundary and the design level of Road 6 - refer **Figure 5** below.

The retaining wall is proposed to be setback a minimum of 1.5 metres from the southern boundary of the site, where it adjoining 36 Eclipse Lane. A 1.5 metre high pool type fence is proposed to be constructed above the retaining wall- refer **Figure 6** below. Further to the west, the retaining wall is proposed to be located on the site boundary where the land is contiguous with the cul-de-sac head of Eclipse Lane.

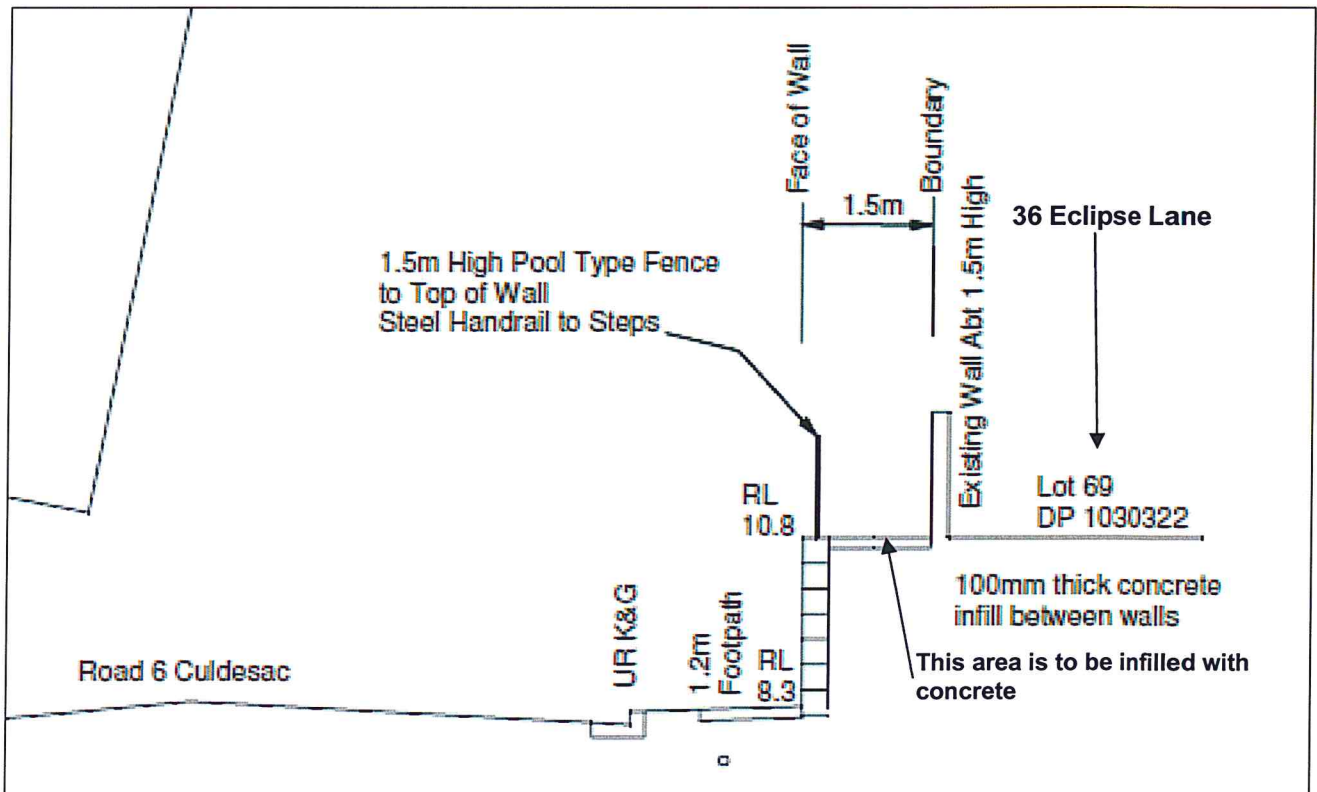
The application also includes minor changes to the footpath alignment and the access stairway adjacent to Eclipse Lane, as illustrated in **Figures 5** and **6** below.

The department notes that this modification application has been lodged to amend the location of the retaining wall approved by Council for construction under CC13/007- refer to discussion in **section 1.2** above.





**Figure 5:** Plan of proposed retaining wall and associated works (Source: Newton Denny Chapelle)



**Figure 6:** Typical section through retaining wall (Source: Newton Denny Chapelle)

In response to a request from the department, the proponent has also provided details regarding several design options considered to resolve the level changes between Road 6 and the southern boundary of the site. Such options include the following:



- The construction of a 1:4 batter instead of the retaining wall. This option was ruled out as there is insufficient distance to accommodate the batter given the approved alignment of Road 6 ie. it has been estimated that 10 metres would be required.
- Raising the height of the Road 6 to a height matching the cul-de-sac head of Eclipse Lane. This option would require significant changes to the bulk earthworks volumes and would also require significant revision to the road design and associated civil works. For these reasons, this option was ruled out.

The proponent's s.75W modification request is provided at **Appendix A**.

### 3. STAUTORY CONTEXT

Approval of MP06\_0258 was granted in accordance with Part 3A under Sections 75O and 75J of the EP&A Act. Section 75W of the EP&A Act provides for the modification of the Minister's approval.

Pursuant to Section 75W(2) of the EP&A Act, the proponent may request the Minister to modify approval of a project. Any request is to be lodged with the Director-General. A copy of the proponent's modification request is included at **Appendix A**.

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs) with respect to the proposed modification. Following an assessment of the modification request, it was considered that DGRs are not required in this instance.

Under Section 75W(4) of the EP&A Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The following report outlines the department's assessment of the modification request.

#### 3.1 Delegated Authority

Under the Instrument of Delegation dated 14 September 2011, the Minister for Planning and Infrastructure has delegated his functions to determine section 75W modification requests to the Directors in Major Project Assessments, whereby:

- the relevant local council has not made an objection to the proposal;
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.

Having regard to the above, Council has not objected to the proposal, a political disclosure statement has not been made and there were only three (3) submissions received in the nature of objections. Accordingly, the Director – Industry, Social Projects and Key Sites may therefore determine the modification request under delegation.

### 4. CONSULTATION AND SUBMISSIONS

Under Section 75W of the EP&A Act, it is at the department's discretion as to whether a modification request is required to be publicly exhibited. Notwithstanding this, pursuant to Section 75X(2)(f) of the EP&A Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. Accordingly, the department publicly exhibited the modification from 26 July 2013 until 13 August 2013 on its website. Surrounding property owners, relative the land which comprises the modification, were also notified.

The application was referred to Tweed Shire Council (council) for consideration and comment. The department notes that Council is the appointed Principal Certifying Authority (PCA) for the project.

A total of four (4) submissions were received in response to the public exhibition of the modification. These submissions comprised one (1) submission from Council and three (3) public submissions. One (1) of the public submissions raised issues unrelated to the



modification proposal. The other two (2) public submissions raised concerns in relation to the design and location of the retaining wall, construction impacts and potential amenity impacts.

#### 4.1 Tweed Shire Council

Council has raised no objection to the modification request.

The department notes that the proposed design for the retaining wall has been resolved in consultation with Council. It is also noted that this land and the associated infrastructure forms part of a future land dedication to Council.

#### 4.2 Public Submissions

Three (3) public submissions were received and the key issues raised in public submissions are outlined in **Table 1** below:

**Table 1: Public Submissions**

Sub.	Issue	Department comments
1.		
a.	A new bridge should be constructed (to replace the existing bridge) to accommodate the increase in traffic flow.	The comments raised in the submission do not relate to the modification application.
2.	<b>Property Owner of 32 Eclipse Lane</b>	
a	The earth works undertaken to date have resulted in damage property. Request that the department issue an order for corrective action to be undertaken to repair damage.	Matters in relation to property damage as a consequence of construction are a civil matter. The department notes that pre-construction dilapidation reports are required by Condition B7 of the Project Approval and are required to be undertaken to the satisfaction of the Certifying Authority (i.e. council) prior to the issue of a construction certificate. Refer to further discussion in Section 5.3 below.
b	Requests that a structural engineer be engaged (at the developers cost) to inspect damage to property.	Refer to comments made with respect to Point 2a above. The department has recommended a condition to require further dilapidation reports to be prepared for neighbouring properties to the south prior to the commencement of construction works relating to the retaining wall. Refer to further discussion in Section 5.3 below.
c	The diversion of the footpath from the new development to the footbridge adjoining No.32, 34 and 36 Eclipse Lane is unnecessary and inconvenient and should be installed directly in front of the proposed car parks.	The design of the pathway connecting to the footbridge to the east is consistent with the design shown on the Concept Approval and Project Approval drawings and does not form part of this modification application.
d	By encouraging pedestrian traffic to the proposed location, proposal will directly impact on the noise, safety and security of the adjoining properties.	The department has recommended that the stair access to Road 6 be relocated further to the west. The proponent has submitted an amended plan illustrating this amendment. Council has raised no objection to this amendment to the proposal. Refer to further discussion in Section 5.2 below.
3.	<b>Property Owner of 36 Eclipse Lane</b>	
a	Works on the retaining wall have been illegally undertaken, including illegal fill and compaction works adjoining the property boundary- this has resulted in property damage, which was not identified or present in the dilapidation report commissioned by the developer.	Works in relation to property damage is a civil matter. The department is satisfied that appropriate conditions have been imposed on the project approval. Refer to comments for submission 2b above.
b	The vibration box should be relocated to immediately next to my property to ensure that the vibration measure are accurate.	The department agrees that vibration impacts from earthworks should be appropriately monitored and in particular, to mitigate damage to neighbouring properties. A condition is recommended to address this matter, as relevant to the retaining wall construction. Notwithstanding that, vibration is adequately covered by existing condition D15- refer to further discussion in section 5.3 below.



c	The retaining wall should be relocated to the northern side of Road 6 OR the retaining wall placed 4-5 metres away from the southern boundary.	The relocation of the retaining wall to the northern side of Road 6 would require significant changes to the civil design. Given the levels proposed in the modification application are generally consistent with the Project Approval, substantial changes to the civil works are unwarranted in this instance.
d	The concrete capping and pool fencing is unacceptable. The design will make maintenance difficult. The design should use stainless steel wire fencing and to 1.5m at least 4-5 metres from the boundary and the area should be planted, consistent with the rest of the town centre.	The retaining wall will be dedicated to council on completion of construction. Council has raised no objection to the design. The concrete infill between the pool fencing and the boundary fence will minimise ongoing maintenance requirements, and is considered to be appropriate in the circumstances.
e	The steps should be relocated to the western side of the courtyard to accommodate the majority of the pedestrian traffic.	The department concurs with these comments. The proponent has agreed to locate the stairs to western side of the cul-de-sac. A revised plan has been submitted to address this matter. Refer to further discussion in section 5.2 below.
f	The current proposal will require pedestrians to use the footpath and deteriorating footbridge in front of our property raising concerns regarding noise, safety and security.	The design of the pathway connecting to the footbridge to the east is consistent with the design shown on the Concept Approval and Project Approval drawings and does not form part of this modification application.
g	The retaining wall is not in keeping with the natural landscape of the Casuarina beachfront.	Refer to comments at Point 3d above.
h	There does not need to be any retaining wall in front of the property. There is plenty of fill to provide for natural contouring across the site.	The levels proposed to be constructed are generally consistent with the Project Approval. For this reason, it is considered inappropriate that the civil works be redesigned to provide for the graduation of the land contours.
i	Radiation hotspots have been identified on the site. Require assurances that there are no unsafe levels of radiation near the southern boundary.	Condition B1 of the Project Approval requires that full depth radiation investigations of the whole development site be undertaken prior to the commencement of works. Furthermore, the condition also requires that the site be remediated prior to commencement of construction on the site. The proponent has provided the department with relevant information to confirm that the further site investigations have been completed and furthermore, that the site has been remediated to suitable standard including, the land immediately adjacent to the boundary of No. 36 Eclipse Lane, which was identified in the initial surface investigations as requiring further investigations. The department notes that the final Site Audit Summary Report, Site Audit Statement and Validation Report are required to be submitted to the Certifying Authority prior to the issue of a subdivision certificate for the site in accordance with Condition E5 of the Project Approval.
j	24 items of concern have been raised in a letter regarding the development. It is requested that these items be considered in the rejection of this application.	Tweed Shire Council has responded to the key items raised in the letter. The key issues raised have been appropriately considered in this report, as relevant to the assessment of this modification application.

The department has fully considered the issues raised in submissions in its assessment of the modification. As relevant the matters raised above are further considered in **Section 5** below. A copy of all submissions is included at **Appendix B**.

#### 4.3 Applicant's Response to Submissions

Newton Denny Chapelle on behalf of Clarence Property Corporation Pty Ltd (the proponent) submitted a response to the issues raised in the submissions (RtS) on 16 August 2013. Where relevant, Newton Denny Chapelle's response to key issues raised in submissions is given further consideration in **Section 5.0** below.



## 5. ASSESSMENT

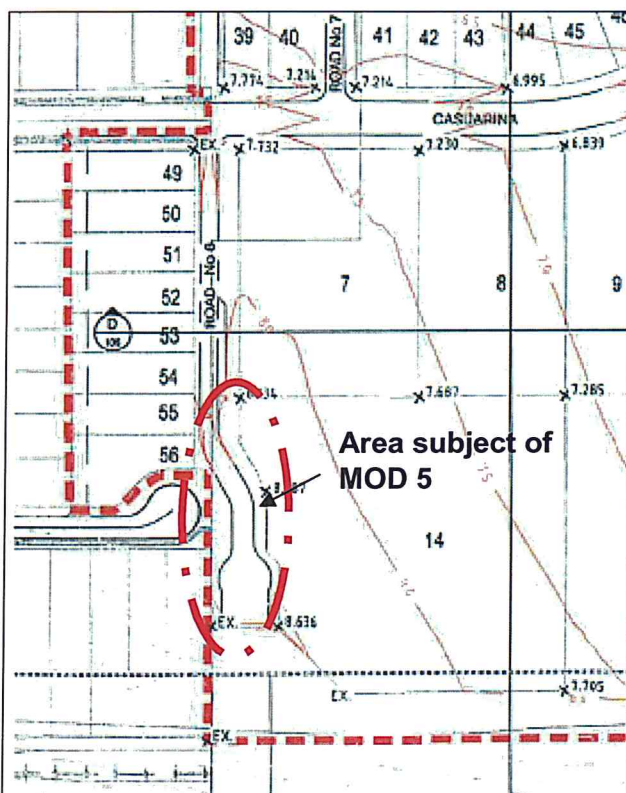
The department considers the key assessment issues associated with the proposal include:

- cut and fill/ development levels;
- design; and
- construction impacts.

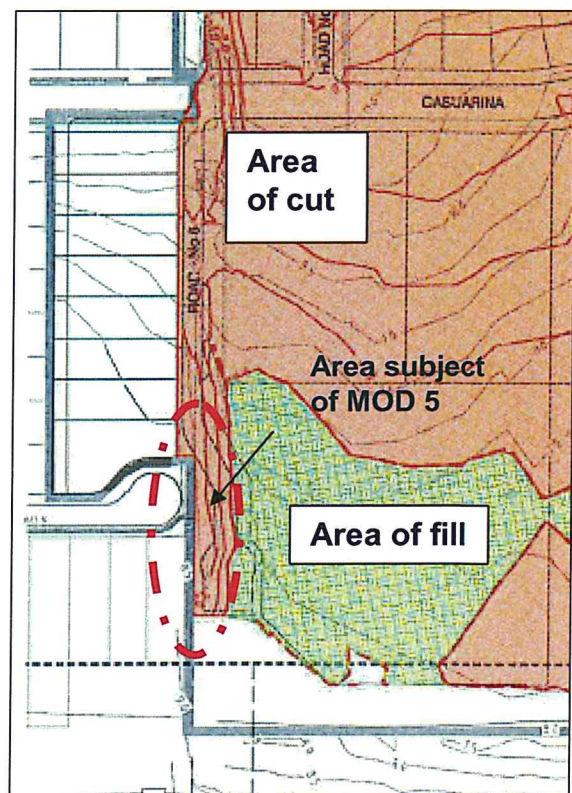
### 5.1 Cut and Fill/Development levels

As detailed in Section 1.2 above, MP 06\_0258 MOD 2 included an amendment to the extent of approved cut and fill on the site. An extract of the approved plans, showing the levels relative to the south-east corner of the site are provided at **Figures 7** and **8** below. These plans illustrate that there would be cut relative to the southern boundary for the road construction to reconcile with the existing level of RL8.6 at the southern end of the cul-de-sac head of Road 6.

CC13/007 issued for the Stage 1A works (including the bulk earthworks), generally accords with the levels illustrated in **Figures 7** and **8**. Whilst insufficient details were shown on the application drawings accompanying MOD 2 to indicate that a retaining wall was required along the southern boundary of the site (the department notes that this was not identified on any plan), it is relevant and appropriate that an engineered solution be constructed to reconcile these new land levels with those existing at the boundary.



**Figure 7:** extract from approved plan DA105 (MOD 2)



**Figure 8:** Extract from approved plan DA106 (MOD 2)

In this instance, the department is satisfied that the construction of the retaining wall is the most appropriate and practical solution without significantly altering the subdivision layout (as approved). The department is also satisfied that the proponent has given sufficient consideration to alternative options to reconcile the level changes and notes that Council has raised no objection to the proposal.

Whilst a number of submission raise objection to the proposal (namely the construction of the retaining wall and associated works), the department is satisfied that an engineered solution is required to reconcile the level changes and furthermore, that the proposal provides an



acceptable solution, given the constraints imposed by the approved location of Road 6 and the surrounding finished levels.

Further to the above, department notes that existing condition B33 of the Project Approval for the Stage 1A works requires the structural engineer details for all retaining walls to be submitted to the PCA prior to the issue of the Construction Certificate. The department is satisfied that this condition suitably addresses matters relevant to the design and engineering of any retaining walls in Stage 1A.

## **5.2 Design**

### **Retaining Wall**

As detailed in section 4.2, the neighbouring land owner at 36 Eclipse Lane has raised concerns in relation to the design of the retaining wall, including the location of the wall. The modification application seeks approval to locate the retaining wall 1.5 metres off the southern boundary of the site and furthermore, to install a pool type fence on the northern edge, for safety reasons. The retaining wall is proposed to be surfaced in a shotcrete finish. As illustrated in **Figures 5 and 6**, the area between the retaining wall and the boundary fence of No.36 Eclipse Lane is to be infilled with concrete.

Council has raised no objection to the proposed design. As Road 6 and the surrounding land to the southern boundary will be dedicated to Council, Council has advised that the infill area between the boundary wall and the new fence is not to be landscaped in order to minimise ongoing maintenance requirements and furthermore, that the concrete infill is to be provided with a grade of 1%, falling towards the face of the retaining wall. Council has also advised that the area is to be provided with a lockable gate, to allow future access for maintenance.

The department has considered the design options provided by the proponent and furthermore, the concerns raised in objections. As stated above, an engineering solution which suitably retains the excavated land is required. The construction of a retaining wall is a practical and appropriate solution and therefore, the design is considered to be acceptable in the circumstances. Whilst concerns have been raised by the landowner of No.36 Eclipse Lane in respect to safety (i.e. potential for a person to fall off their boundary fence past the retaining wall and fall to the road below) the 1.5 metres setback and the inclusion of the pool fence at the top of the retaining wall has suitably resolved this issued. It is noted that in the approved construction certificate (CC13/007), the retaining wall was directly on the boundary to No. 36 Eclipse Lane.

Subject to the final construction details complying with the requirements of Council, the department raises no objection to the design of the retaining wall. The design requirements of Council are recommended in new condition B2(5).

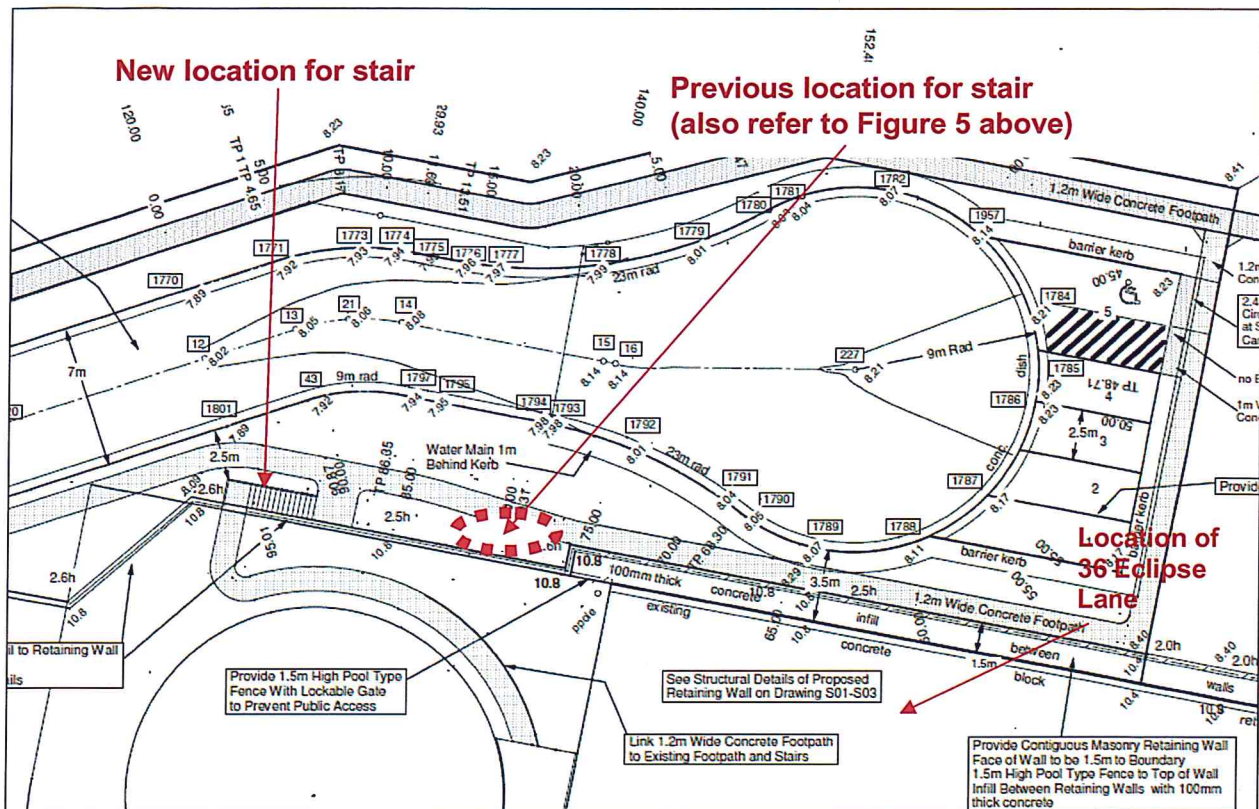
### **Stair Access**

**Figure 5** above indicates that a new stair is to be constructed at the northern end of Eclipse Lane to provide public access to the new levels established relative to Road 6. These stairs are proposed to link into the pathway network which provides access to the public parking at the eastern end of Road 6 and further beyond to the east, to the beach.

Concern has been raised in public submissions in relation to the location of the stair and the potential for its use to impact on the amenity and safety of neighbouring properties i.e. given its proximity to these properties. The department concurs with the concerns raised in submissions and considers that these impacts could be mitigated by relocating the stair further to the west of its current locations. Following further consultation with the department, the proponent has agreed to relocate the stair to the western side of Eclipse Lane as illustrated in **Figure 9**.

Council has been consulted in relation to this design amendment and has raised no objection. On this basis, the department considers the amended design to be acceptable.





**Figure 9:** Extract from amended Plan C56 Rev 6 showing relocated access stair (Source: Newton Denny Chapelle)

### 5.3 Construction Impacts

#### General

As identified in section 4.2, two (2) submissions have raised a number of issues in relation to impacts resulting from construction. As detailed in **Table 1** above, matters in relation to property damage as a consequence of construction are a civil matter between the appointed contractor and the respective land owner/s. The department notes that standard conditions were imposed on the Project Approval to require the preparation of pre-construction dilapidation plan/s (Condition B7) and post-construction dilapidation report/s (Condition E7). In particular, Condition E7 requires that the post dilapidation report is to be prepared to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads and furthermore, to include a recommended course of action to carry out repairs, if required.

In respect to the construction of the retaining wall, the department notes that the following conditions are also of relevance:

- B33- that structural details for all retaining wall is to be submitted to Certifying Authority for approval.
- C3- that prior to the commencement of works, a certificate of adequacy of design, signed by a practising Structural Engineer of all proposed retaining wall in excess of 1.2m in height must be provided to the Principal Certifying Authority.

In its issuing of the Construction Certificate, Council as PCA for the project, has satisfied itself that Conditions B7, B33 and C3 were satisfied. The department has been informed by both the Development Engineer at Council and the property owner of No.36 Eclipse Lane that some damage has occurred to the existing boundary wall at No.36 Eclipse. The department understands that the damage to the retaining wall is to be rectified and will in any event be captured by the post-dilapidation report required to undertaken (Condition E7).

Whilst a number of the submissions to the modification application have also made claims regarding additional damage to property as a result of construction work (refer **Table 1**), any damage incurred



to property as a result of construction is a civil matter between the Project Manager/Construction Company (and/or contractor/s) and the individual property owner and is not a matter for the department.

In order to ensure accountability with respect to the construction of the retaining wall and associated works, and to ensure that any future claims with respect to damage can be appropriately measured, the department recommends that a pre-construction dilapidation report/s of neighbouring properties be prepared prior to the commencement of the works relating to MOD 5 and furthermore, that a post completion dilapidation report/s be undertaken following the completion of the retaining wall to ensure that any damage to the buildings and property is appropriately recorded and can be rectified, as relevant, in a timely manner. New conditions B7A and E7A are recommended to address these matters (refer to Section 6 of this report).

### **Vibration Impacts**

The department is satisfied that relevant conditions are included in the approval to address vibration impacts resulting from construction, including, to ensure that vibration does not exceed the evaluation criteria presented in the *Environmental Noise Management manual- Assessing Vibration: A Technical Guide (DEC, 2006)*, as stipulated in condition D15.

Notwithstanding the above, to ensure that vibration impacts at the boundary of the site are appropriately managed, the department considers it appropriate for a vibration management plan to be prepared to specifically address the construction of the retaining wall. It is recommended that the Plan demonstrates how compliance with Condition D15 will be achieved. It is also recommended that the Plan should identify what monitoring measures will be implemented to record vibration impacts to neighbouring properties including, with respect to properties identified as No.s 32, 34 and 36 Eclipse Lane and furthermore, to ensure appropriate mitigation measures are in place.

### **Dust**

Further to the above, the department is satisfied that existing Condition D11 (dust control measures) is relevant and can be appropriately applied to the retaining wall construction. The department notes that recent advice from Council has confirmed that suitable dust mitigation measures are in place and furthermore, that Council's Technical Officer visits the site on a daily basis to ensure compliance.

## **6. MODIFICATIONS TO CONDITIONS OF APPROVAL**

The proposed modification will require amendments to the Project Approval. Conditions proposed to be modified are outlined below:

- **Amend Condition A2** – it is recommended that this condition be amended to reference the amended drawings showing the design details for the retaining wall and associated works.
- **Amend Condition A3** - it is recommended that this condition be amended to reference the relevant documents submitted in respect of the modification application.
- **New Condition B2(5)** – as detailed in Section 5.2, Council has recommended that the final design for the retaining wall incorporate a locked gate and furthermore, that the concrete infill be design with a grade of 1%. New Condition B2(5) is recommended to address these requirements.
- **New Condition B7A** – it is recommended that new condition B7A be inserted to require that prior to the commencement of work in relation to the retaining wall that a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads including properties identified as No's 32, 34 and 36 Eclipse Lane.
- **New Condition C3A** – it is recommended that new Condition C3A be inserted to address requirements for the preparation of a vibration management plan prior to commencement of

works, which demonstrates how compliance with Condition D15 will be achieved. The Plan is also to identify what monitoring measures will be implemented to record vibration impacts to neighbouring properties including, with respect to properties identified as No's 32, 34 and 36 Eclipse Lane.

- **New Condition E7A** – it is recommended that new Condition C3A be inserted to address requirements for the preparation Post Construction Dilapidation Report, related to the retaining wall construction to ascertain if any damage has occurred to the adjoining and adjacent buildings and structures including, with respect to properties identified as No's 32, 34 and 36 Eclipse Lane. The report is required to include a recommended course of action to carry out the repairs (if required) within 1 month of the date of completion of the report.

## 7. CONCLUSION AND RECOMMENDATIONS

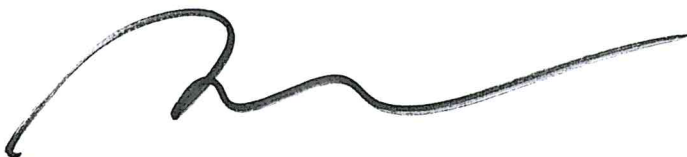
The department has assessed the merits of the modification and is satisfied that the proposed changes will not give rise to any adverse environmental impacts and is of a suitable design. The department is also satisfied that potential construction impacts can be adequately covered via existing and new conditions of approval.

All statutory requirements relating to the proposed modification have been met, and the department considers the application warrants support and should be approved, subject to the recommended conditions.

## 8. RECOMMENDATION

Accordingly, it is recommended that the Director – Industry, Social Projects and Key Sites as delegate of the Minister:

- a) Consider the findings and recommendations of this report;
- b) **approve** the modification under section 75W of the EP&A Act; and
- c) **sign** attached Instrument of Modification.



Sara Roach  
**Contract Planner**  
**Industry, Social Projects and Key Sites**



Heather Warton  
**Director**  
**Industry, Social Projects and Key Sites**



**APPENDIX A**  
**SECTION 75W MODIFICATION REQUEST**

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[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6063](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6063)

**APPENDIX B**  
**SUBMISSIONS**

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[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6063](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6063)



## APPENDIX C

### PROPONENT'S RESPONSE TO SUBMISSIONS

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[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6063](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6063)