



Minister's Approval Modification

Major Project Approval No. 06_0258

Prepared for CTC Multiple Lots Pty Ltd
By Planit Consulting Pty Ltd

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1 Introduction

Planit Consulting has been engaged by CTC Multiple Lots Pty Ltd to prepare an application for the modification of Major Project Approval No. 06_0258. This application relates to an error encountered during the survey undertaken for MOD 6 of the project. Specifically, prior to this Modification the approval contained several stages and individual allotments as demonstrated within the Plan of Development of the original approval included under Appendix A. This plan formed part of the original approval and has carried generally the same throughout the Modifications to date. This modification can be known as MOD12 to the Major Project 06_0258.

This modification application seeks to correct the oversight in not maintaining separate titles for two parcels of land, which as part of Mod6 were amalgamated as Lot 16 in DP1198266. The Medium density lot (totaling 8679m²) has always been intended for medium density development as part of Stage 1C and the Car Parking Lot (totaling 928.2m²) contains a constructed car park (as demonstrated from Concept Approval through all modifications). This car parking allotment is maintained as intended for the provision of car parking spaces for the Casuarina Town Centre locality. The Stage 1C Lot (3) is for medium density development which has since been incorrectly registered on title to include the medium density allotment and the car parking allotment as one parcel of land and registered as Lot 16 in DP1198266. This oversight presents a legal issue in terms of use and accessibility. The appropriate mechanism to amend the major project approval to correct this concern is via s4.55(1A) of the Act.

Section 4.55(1A) of the Act, states:-

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

This application has been made in accordance with the above provisions.

2 The Existing Consent

Major Project Approval MP06_0258 was originally granted consent on 20/09/2009. Since that time the consent has been subject to a number of modifications. A brief summary of these is provided below. A copy of the original project approval MP06_0258 is included under **Appendix A** for reference.

Concept and Project Approvals – Modification 1

Approval was granted on 17th June 2010 to modifications to the Concept Plan and Project Approval (Modification 1, referred to herein as “the first modifications”). The first modifications involved:

- carrying out of stormwater infiltration works and landscaping within adjoining Lots 10 and 13;
- filling of the existing drainage easement within the site and relinquishing the easement rights that benefitted Council in exchange for dedication of these areas to Council (once landscape works were complete); and
- carrying out of works and landscaping to facilitate the construction of a cul-de-sac at the western end of Dianella Drive and subsequently closing the existing intersection of Dianella Drive and Tweed Coast Road.

Essentially, the first modifications were the result of Tweed Shire Council granting the Proponent land owner's consent to undertake stormwater, sewerage and landscaping works on Council-owned land, such consent having previously been withheld during the original assessment of the Concept and Project Applications.

Concept and Project Approvals – Modification 2

Approval was granted on 1 July 2011 to further modifications to the Concept Plan and Project Approval (Modification 2). Modification 2 had the effect of allowing Stage 1 of the development to be carried out in two stages: Stage 1A and the balance of Stage 1. The modified plans and conditions reflected the staging. It is noted that the retail centre would be undertaken as part of the Stage 1A development, although the approvals as modified facilitate the issue of separate Construction Certificates for the retail centre and other Stage 1A works.

Concept and Project Approvals – Modification 3

Approval was granted on 7 March 2012 to further modifications to the Concept Plan and Project Approval (Modification 3). This modification related to the retail centre and had the effect of reducing the size of the centre.

Concept and Project Approvals – Modification 4

Modification 4 relates to modification to the staging of the subdivision, consolidation of lots 7, 8, 9, 14 & 15 into a development lot, modification of Condition A2 to allow the sequencing for future stages to be varied with the written approval of the Department, insert of a new condition relating to the timing to obtain approval for the beach access and the amendment to the timing in which Section 94 and Section 64 Contributions are paid for the shopping centre. The Modification was approved in April 2013.

Concept and Project Approvals – Modification 5

Modification 5 approved an amendment to the location of a retaining wall on the southeastern boundary of the Casuarina Town Centre site adjacent to the cul-de-sac of Road 6. The modification was approved on 24 September 2013.

Concept and Project Approvals – Modification 6

Modification to the Concept Plan and Stage 1 Project Application for the Casuarina Town Centre involving:

The number of lots through the subdivision of Lots 7,8 ,9, 14 & 15 into 40 torrens title residential lots;
the introduction of additional sub-stages 1B and 1C;
an associated amendment to the concept plan staging

The modification as approved on 16 May 2014. The Car Parking Lot has erroneously been included as part of Lot 16 undertaken during survey for DP1198266.

Concept and Project Approvals – Modification 7

Approval was granted on 18 June 2014 to further modifications to the Concept Plan and Project Approval (Modification 7). This modification related to the retail centre and allowed an increase in size with additional supermarket and specialty shop floor space. It also allowed the centre to be constructed in stages.

Concept and Project Approvals – Modification 8

Approval was granted on 21 January 2015 to permit design revisions to the retail centre and inclusion of new Condition B5B to permit the installation of a 12 m high illuminated pylon sign on the north-eastern corner of the site.

Concept and Project Approvals – Modification 9

Approval was granted on 15 June 2016 for further modifications to the design of the approved retail shopping centre and the installation of a 12m high illuminated pylon sign on the north-eastern corner of the site.

Concept and Project Approvals – Modification 10

Modification 10 is currently under assessment and seeks a raft of changes to the remainder of the town centre area that has not yet been constructed.

Concept and Project Approvals – Modification 11

Modification 11 is currently under assessment and seeks to establish revised operating hours for the Coles Supermarket.

3 The Proposed Modification

The original approval included a medium density allotment and car park in a separate allotment as demonstrated in the Figure below.



Figure 1. "X" above is the car parking lot per the original major project documentation MP06_0258.

Since the original project approval MP06_0258, there have been several modifications and changes to the plan, particularly where the car parking boundaries have been reconfigured in relation to the redirection of the swale drain and easements granted in favour of Tweed Shire Council which have reduced the overall size of the car parking lot to the current size (as demonstrated in Figure 2). The intended purpose of the car parking lot has been envisaged since concept approval for car parking purposes to service the local catchment as a freehold, torrens title allotment.

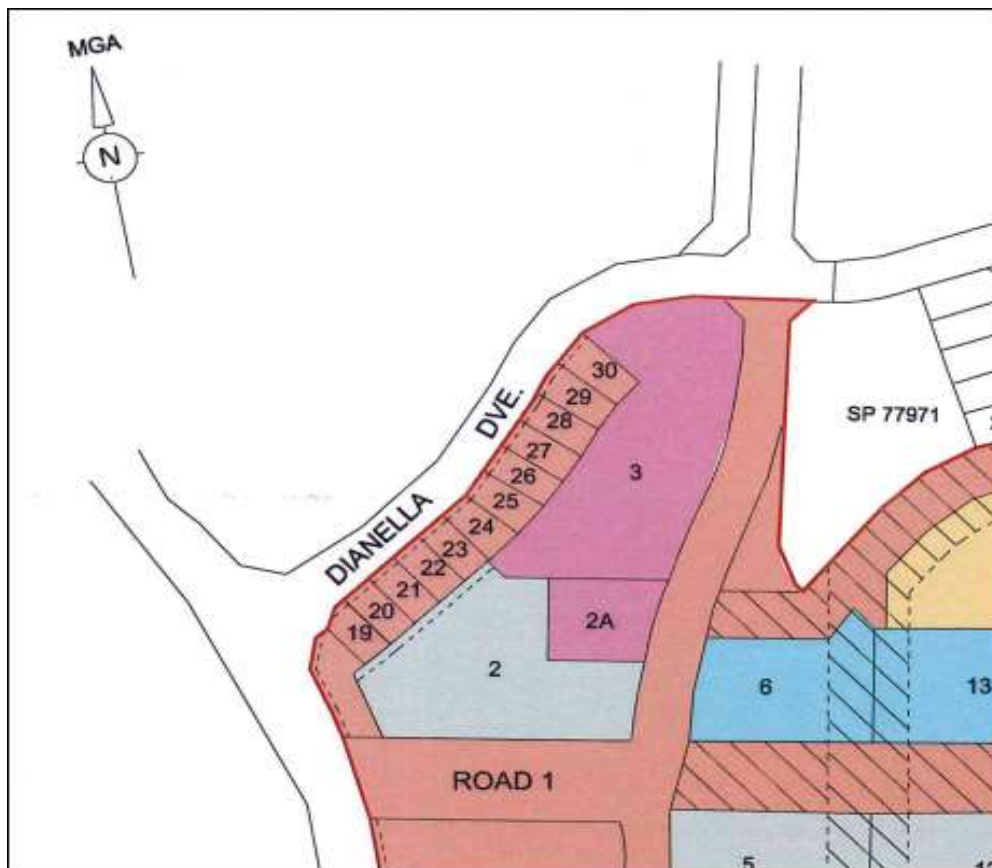


Figure 2. Mod 6 proposed the lot 3 for medium density use (Stage 1C), clearly excluding the carpark lot

The current survey however presents a legal issue of use and accessibility as originally intended for MP06_0258 and the community. Whereby the current titling does not permit legal access to the allotment as it is erroneous tied to the medium density allotment, known within the major project MP06_0258 (Mod 6) as Stage 1C medium density lot 3 and the carparking component as part of Stage 1A (refer to Mod 6 approved plan titled "Development Staging Plan" dated 17/10/13. This allotment (lot 3) is currently under construction for medium density development.

As such, we seek to amend the Major Project MP06_0258 to include specific provision for Car Parking Lot to be reinstated as Torrens title tenure, as evident throughout the development's modification progression. Presently, the allotment is utilised by the community as a car park to access local facilities and the beach. As the car parking lot has always been intended to remain as freehold, to avoid future tenure concerns with development of lot 16 in DP1198266 such as trespass with Lot 16, we seek to amend the title to exclude the car park portion from Lot 16 in DP1198266. The resulting areas is included as a plan of subdivision included within **Appendix C**. The reverted lot sizes place the subdivision of Lot 16 in DP1198266 into two allotments consistent with the Major Project approval with the medium density lot (totaling 8679m²) and Car Parking Lot (totaling 928.2m²) as demonstrated in Figure 3.

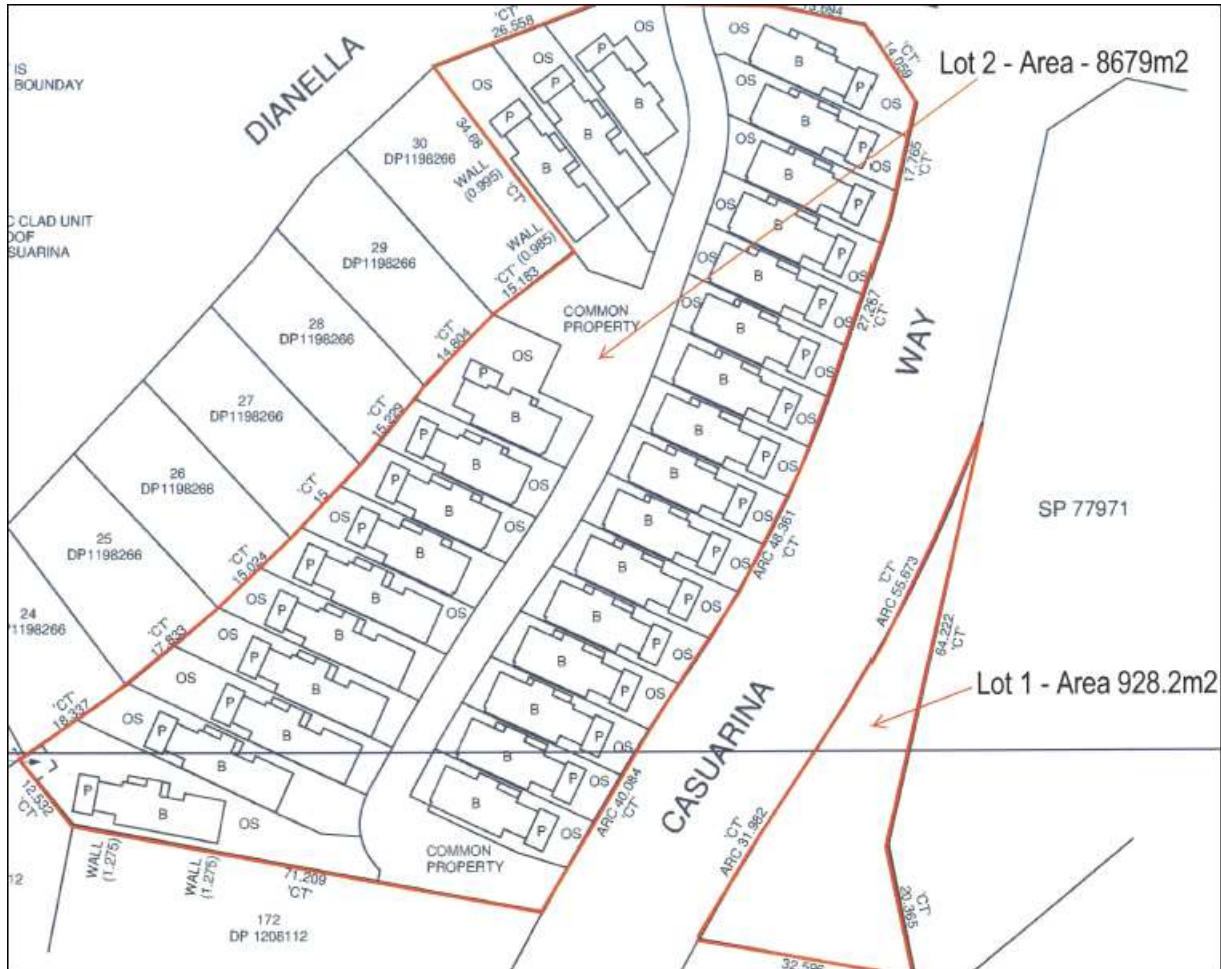


Figure 3. Medium Density Lot (labelled as lot2) and Car Parking Lot (labelled as lot 1).

This modification may require an additional condition to outline the purpose of the car parking allotment, which has not been detailed from initial concept approval nor through any of the modifications or planning assessment reports (other than as represented upon plans) of MP06_0258. The proposed wording for this condition is as follows:

A Plan of Survey is to be lodged with the Land and Property Information service that grants separate Torrens title of the two portions of Lot 16 in DP1198266 in perpetuity.

As the current use of the Lot is as a constructed car park, we request that provision of services such as water and sewer not apply to this allotment until such time as it is to be used for private occupation. This is in accordance with Tweed Shire Council's DCP Chapter 5 Subdivision manual which states (A5.4.13):

All lots created in urban areas for private occupation must be fully and individually serviced with sealed road (equipped with kerb and gutter both sides of the road) frontage, water supply, sewerage, underground electricity and telecommunications.

We request this deferral of service connection be reflected within an additional condition as the use of the allotment is not yet for private occupation. Further to this support within the council DCP, a restriction of use can be included to inhibit any habitable occupation of the allotment until such time as the relevant services are approved by the local authority.

4 Environmental Assessment

The Car Parking parcel of land is located erroneously as part of Lot 16 in DP1198266 Casuarina Way, Casuarina. The particulars for the site are summarized in the table below:

Real Property Description	Part of Lot 16 in DP1198266 (car parking portion)
Physical Address	Casuarina Way, Casuarina
Site Area	928.2m ²
Local Government Authority	Tweed Shire Council
LEP Zoning Designation	R1 – General Residential, pursuant to the Tweed Local Environmental Plan 2014

The proposed modification will have no impact in respect of the functionality or efficiency of the proposed development, nor will it lead to any associated environmental or public risk. The proposal is not considered to raise any issues in regards to ongoing compliance with the relevant provisions of any State Environmental Planning Policy, Tweed Local Environmental Plan 2014 and Tweed Development Control Plan 2008. Rather, the proposal seeks to correct a titling error which occurred with the survey of Mod 6 to reinstate the car parking parcel of land in tenure as Torrens title.



Figure 4. Aerial Image of the car parking lot.

No adverse Social or Environmental impacts are considered likely in the context of the proposed modification and there is no legislative impediment to amending the proposal to comply with the original approval.

5 Conclusion

Modification as per this proposal is authorised by Section 4.55(1A) of the Environmental Planning and Assessment Act.

The proposed modification does not give rise to any 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, subsequent modifications and this Modification Application 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.



Simon Halcrow
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Planit Consulting Pty Ltd



Appendix A – Original Project Approval



Appendix B – Owners Consent (Lot 16 in DP1198266)



Appendix C – Plan of Subdivision
