

Modification of Project Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Project Application referred to in Schedule 1, subject to the conditions in Schedule 2.



Keiran Thomas
Director
Regional Assessments

Sydney

12 October 2020

SCHEDULE 1

Project Approval:	MP 07_0026 granted by the Minister for Planning on 12 November 2008
For the following:	A 63 lot subdivision comprising 54 residential lots, 6 super lots for future development, 2 open space lots and a residual lot
Proponent:	Clarence Property Corporation Limited
Approval Authority:	Minister for Planning
The Land:	Lot 7 DP 1239938, Lennox Head in the Ballina local government area
Modification:	MP 07_0026 MOD 6: the modification includes: <ul style="list-style-type: none">• 61 lot subdivision comprising 33 residential lots, 26 live-work lots and 2 commercial lots (for the purpose of a tavern and storage facility)• amend the lot layout and road network• Live-Work Design Guidelines.

SCHEDULE 2

The above approval (MP 07_0026) is modified, as follows:

- (a) Schedule 2 Part A – Administrative Conditions, Condition A1 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

A1 Project Description

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

(3) Subdivision of Super Lot 7 into 61 lots ranging in size from 187m² to 4,600m², comprising:

(a) 33 residential lots from 366m² to 870m²

(b) 26 live-work lots from 187m² to 294m²

(c) 2 commercial lots at 4000m² and 4600m²

~~(3)~~ **4** Two open space lots of 910 m² and 641 m²;

~~(4)~~ **5** Earthworks;

~~(5)~~ **6** Associated roads and civil works; and

~~(6)~~ **7** Landscaping.

- (b) Schedule 2 Part A – Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

A2 Staging

The project shall be undertaken in ~~two~~ **three** stages:

(3) Stage 1C - Subdivision of Lot 7 into 33 residential lots, 26 live-work lots and 2 commercial lots and the construction of associated civil works (roads, sewer, water, drainage and earthworks).

- (c) Schedule 2 Part A – Administrative Conditions is amended by inserting the following Condition A2A:

A2A Modifications Approved by Modification MP 07 0026 MOD 6

The modifications approved by Modification MP 07 0026 MOD 6 are limited to only those modifications expressly described in the approved Section 75W Modification Application (Modification 6) prepared by Newtown Denny Chapelle dated August 2018.

- (d) Schedule 2 Part A – Administrative Conditions, Condition A3 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

A3 Project in Accordance with Plans

The project will be undertaken in accordance with the following drawings:

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
14/351	<u>F</u>	Illustration P1 Stage 1 Project Application Plan	16.11.16 <u>28/07/20</u>
14/351	<u>E</u>	Illustration P2 Stage 1 Subdivision Plan	16.11.16 <u>21/07/20</u>
14/351	<u>G</u> <u>F</u>	Illustration C5 Development Staging	27.02.17 <u>28.07.20</u>
14/351	<u>E</u>	Illustration P3 Stage 1 Landscape Plan	16.11.16 <u>21/07/20</u>
14/351	<u>E</u>	Illustration P4 Stage 1 Stormwater Concept Plan	16.11.16 <u>21/07/20</u>
14/351	<u>E</u>	Illustration P5 Stage 1 Proposed Bulk Earthworks	16.11.16 <u>21/07/20</u>
		Illustration P7 Stage 1 Erosion and Sedimentation Control Plan	28/06/10
		Illustration P8 Stage 1 Erosion and Sedimentation Control Details	27/11/07
<u>140351</u>		<u>Plan - Bulk Earthworks Retaining Wall Presentation</u>	<u>08/07/20</u>
<u>SK004</u>	<u>G</u>	<u>Lot Layout</u>	<u>02/07/20</u>
<u>14351-S7-DA-BE-01</u>	<u>C</u>	<u>Super Lot 7 Bulk Earthworks</u>	<u>03/07/20</u>
<u>14351-S7-DA-CI-01</u>	<u>D</u>	<u>Super Lot 7 Civil Services Plan</u>	<u>03/07/20</u>
<u>14351-S7-DA-CI-21</u>	<u>C</u>	<u>Super Lot 7 Civil Services Plan</u>	<u>03/07/20</u>
Servicing Drawings prepared by Adill Payne and Partners			
T01-A-S		Services Layout Plan Stage 1	02/06/08
T01-B-S		Services Layout Plan Stage 1B	29/05/08
T01-C-S		Services Layout Plan Stage 1C	02/06/08
Road Long Section Drawings prepared by Ardill Payne and Partners			
T01-INT01		Location Plan Intersection Layout	02/06/08
T01-A-R		Road Layout Plan Stage 1A	02/06/08
T01-A-L1		Road Longsection Stage 1A	02/06/08
T01-A-L2		Road Longsection Stage 1A	02/06/08
T01-B-R		Road Layout Plan Stage 1B	02/06/08
T01-B-L1		Road Longsection Stage 1B	02/06/08
T01-B-L2		Road Longsection Stage 1B	02/06/08
T01-C-R		Road Layout Plan Stage 1C	02/06/08
T01-C-L1		Road Longsection Hutley Drive Stage 1C	02/06/08

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in *Ballina Shire Development Control Plan – Exempt and Complying Development* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
 - (2) otherwise provided by the conditions of this approval.
- (e) Schedule 2 Part A – Administrative Conditions, Condition A4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

A4 Project in Accordance with Documents

The project shall be undertaken in accordance with the following documents:

Design Guidelines

- f) **Live/Work Design Guidelines – EPIQ Lennox Head prepared by RPS, Planners North, Newton Denny Chapelle and Dominic Finlay Jones Architects, dated July 2020;**

Modification Documentation

- g) *Pacific Pines Modification Report* including all appendices prepared by Geolink, dated 1 September 2010;
- h) *Pacific Pines Modification Application Response to Submissions 1439012*, including *Pacific Pines Addendum to Modification Report* prepared by Geolink and received 28 January 2011;
- i) *Design Note – Traffic and Transport – Addendum to Traffic Impact Assessment* prepared by Cardon and dated 5 January 2011; and
- j) Updated drawings to reflect staging and dated 8 April 2011.
- k) *Pacific Pines Modification Report* including all appendices prepared by Geolink, dated July 2012.
- l) Updated plans to reflect expansion of the conservation zone prepared by GeoLINK, dated May and July 2012; and
- m) Section 75W Modification No.5 Report, including all attachments prepared by Newton Denny Chapelle, dated November 2016, as updated by letter, including attached plans dated 27 January 2017; **and**
- n) **EPIQ Lennox Section 75W Modification No. 6 Report, including all attachments prepared by Newton Denny Chapelle, dated August 2018, as amended by revised attachments in response to submissions email dated 9 July 2019, and as amended by revised plans and design guidelines in email dated 28 July 2020.**
- (f) Schedule 2 Part A – Administrative Conditions is amended by inserting the following Condition A6

A6 Live-Work Lots

- (1) The business/work operator shall reside within the residential component of the building on the same site and no part of the live-work development shall be separately leased or occupied.
- (2) Each live-work lot is limited to a maximum of four (4) workers at any one time, including the owner(s).

(g) Schedule 2 is amended by inserting the following Part D

PART D – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE FOR STAGE 1C

D1 Bushfire Protection

- (1) The entire area of each lot must be managed as an inner protection area (IPA). The IPA must comply with section A4.1.1 of *Planning for Bushfire Protection 2019*.
- (2) A restriction to the land use pursuant to section 88B of the *Conveyancing Act 1919* shall be included over Lots 1 and 17, measured 5.5 metres wide from the western boundary, to prohibit the construction of a dwelling or Class 10a building within 6m of a dwelling.
- (3) Public roads shall comply with section 4.1.3(1) of *Planning for Bushfire Protection 2006*, except with the layout and dimension as indicated on the drawing titled 'Civil Works Plan' prepared by Newton Denny Chapelle, Ref: 2014/351, Dwg No. 14351-S7-DA-CI-01, Rev. D, dated 3 July 2020.
- (4) A temporary turning area is to be provided at the western termination of Road 5 in accordance with Figure A3.3 of *Planning for Bushfire Protection 2019*.
- (5) Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bushfire Protection 2006*.
- (6) Landscaping of the site must comply with the principles of Appendix 5 of *Planning for Bushfire Protection 2006*.
- (7) A report/documentation demonstrating compliance with conditions D1(1) to (7), prepared by a suitably qualified and experienced bushfire consultant, is to be submitted to the satisfaction of the Certifier prior to commencement of construction.

D2 Pathway Landscaping

A plan is to be submitted for approval by Council to ensure that pedestrian pathways include appropriate landscaped verges, where service location permits.

D3 Removal of Rough-Shelled Bush Nut Tree

The approval of Council shall be obtained for the proposed removal of the single mature Rough-Shelled Bush Nut tree.

(h) Schedule 2, Condition G20 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

*G20 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects **Unexpected Finds Protocol – Historic Heritage***

(i) Schedule 2, Condition G21 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the words/numbers, as follows:

G21 *Impact of Below Ground (Sub-surface) Works—Aboriginal Objects* Unexpected Finds Protocol – Aboriginal Heritage

- (1) If Aboriginal cultural objects are uncovered due to the construction activities, all works shall halt in the immediate area ~~to prevent any further impacts to the find or finds~~ **and a temporary fence erected around the site, with a buffer zone of at least 10 metres around the known edge of the site.** A qualified archaeologist and Aboriginal community representatives shall be contacted to determine the significance of the find(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS; managed by the ~~Department of Environment and Climate Change~~ **the Biodiversity and Conservation Division of the Department of Planning, Industry & Environment (BCD)**) and the management outcome for the site included in the information provided to the AHIMS. Aboriginal community representatives, **the archaeologist and BCD** shall be consulted in developing and implementing management strategies for all **objects/sites**, with all necessary information required for informed consent being given to the representatives. **Works shall only recommence with the written approval of BCD.**
- (2) **If human remains are uncovered due to earthworks, all works shall halt in the immediate area. The site shall be cordoned off and the remains left untouched. The Ballina Police Station, BCD and the Jali Local Aboriginal Land Council are all to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the site for criminal activities, the Aboriginal community and BCD should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties.**
- (3) **All effort must be taken to avoid any impacts on Aboriginal Cultural Heritage values at all stages during the development works. If impacts are unavoidable, mitigation measures should be negotiated between the proponent, BCD and the Aboriginal community.**

(j) Schedule 2, is amended by inserting the following Part J:

PART J - PRIOR TO SUBDIVISION CERTIFICATE FOR STAGE 1C

J1 Retaining Walls

- (1) **Retaining Walls are to be constructed of natural stone or decorative split face blockwork, and**
- (2) **Retaining walls exceeding a height of 1200mm (measured from finished footpath level), that face an internal or external public road, must incorporate a landscaping strip adjacent to the retaining wall of minimum 40cm width for the length of the retaining walls. The landscaping strip is to be planted with low maintenance, low water use planting that reaches a mature height of at least 900mm.**

**End of Modification
(MP07_0026 MOD 6)**