

Appendix C – Notice of Modification

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Modification of Concept Approval

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

As delegate of the Minister for Planning, the Independent Planning Commission approves the modification of the Concept Plan approval referred to in Schedule 1, subject to the modified terms of approval outlined in Schedule 2.

Member of the Commission

Member of the Commission

Sydney

2018

SCHEDULE 1

- Concept Plan Approval:** MP 06_0258 granted by the Minister for Planning on 20 September 2009.
- Proponent:** Kings Beach No. 2 Pty Ltd
- For the following:** Mixed use subdivision at Lot 223 DP 1048494; Lot 3 DP 1042119; Lot 144 DP 1030322 and Lots 10 and 13 DP 1014470 – Tweed Coast Road, South Kingscliff, Tweed local government area.
- Modification:** MP06_0258 MOD 10: replacement of a hotel and medium density allotments with low density residential development, increase the maximum building height on the main street from 3 to 4 storeys, changes to roads, open space, cycleway layout, staging, and changes to storm water works and other infrastructure.

SCHEDULE 2

- (a) Schedule 1 Part C – Definitions – The definition of ‘sub-stage’ is amended as follows:

Sub-stage refers to individual Stages 1A, 1B, 1C, and the balance of Stage 1 under Stage 1 **1D and 1E**.

- (b) Schedule 2 Part A – Terms of Concept Approval Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the struck-out words/numbers as follows:

A1 Project Description

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

- 1) Subdivision of land into 97 **172** lots including low and medium density residential, retail, commercial, and mixed use, **open space and drainage lots**. The construction of dwellings on lots less than 450m² is permitted.
 - 2) Construction of a retail centre comprising a supermarket, restaurants and shops;
 - 3) ~~Construction of a hotel;~~
 - 4) Construction of the associated road network and car parking;
 - 5) Construction of all necessary services; and
 - 6) Landscaping and open space
- (c) Schedule 2 Part A – Terms of Concept Approval Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the struck-out words/numbers as follows:

A2 Staging

The project is to be constructed in ~~four~~ **two** stages generally as follows:

- (1) Stage 1 comprises:
 - (a) Bulk earthworks;
 - (b) Subdivision of the land into 97 **172** lots;
 - (c) Construction of a retail centre;
 - (d) Closure of Dianella Drive;
 - (e) Construction of roads and services; and
 - (f) Landscaping.
 - (g) Development of medium density residential lot 3; and
 - (h) Development of low density residential lots 58 to 97
 - (i) **Development of low density residential lots 1 to 71, 73 to 77, and 84 to 93**
- (2) Stage 2 comprises:

- (a) Development of all mixed use **and medium density** lots 5, 12 and 17, **35, 47-52, 77 and the lot created from lots 72 and 78 to 83 as required by modification B6**;
- (b) Development of commercial lot 2; and
- ~~(3) Stage 3 comprises:~~
 - ~~(a) Development of mixed use lots 6 and 13; and~~
 - ~~(b) Development of medium density residential lots 4, 10, 11 and 16.~~
- ~~(4) Stage 4 comprises:~~
 - (a) Development of hotel lot 18.

Stage 1 works may be carried out in four **five** separate sub-stages, referred to as 'Stage 1A', 'Stage 1B', 'Stage 1C', and ~~'the balance of Stage 1'~~ **'Stage 1D' and 'Stage 1E'**, as described in the documents and drawings listed under Condition A4(d) and A4(g) **(i) and as modified by Condition B7**.

The **first** four sub-stages under Stage 1 may be undertaken concurrently, and must be completed prior to the development of Stages ~~2 to 4~~ **1E or 2**. The ~~order of subsequent Stages 2 to 4 may be varied only with the written approval of the Director-General.~~

- (d) Schedule 2 Part A – Terms of Concept Approval Condition A3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the struck out words/numbers as follows:

A3 Project in Accordance with Plans

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

Design Drawings prepared by ML Design			
Drawing No.	Revision	Name of Plan	Date
MP-31(N)		Concept Plan	17/08/09
MP-19(R)		Land Use Plan	17/08/09
MP-30(W)		Open Space Plan	17/08/09
MP-01-04(U)		Casuarina Beach Town Centre – Indicative Master Plan	17/08/09
MP-01-13(G)		Sun Study – Winter Solstice – June 21 – 3pm	17/08/09
Design and Survey Drawings prepared by Cardno (Qld) Pty Ltd			
DA22I	I	Existing Contours Plan	10/08/09
DA24M	M	Finished Surface Contours	06/01/10
DA39J	J	Subdivision Layout Plan	10/08/09
DA40N	N	Dedication and Easement Plan	21/12/09
8491-101	g	Tweed Coast Road/Town Centre Drive Intersection Concept	03/07/09
8491-102	D	Casuarina Way/Town Centre Drive Intersection Concept Option 1	23/01/09

8491-901	H	Parking Bay Dimensions	14/08/09
8491-902	F	Parking Bay Dimensions	06/02/09
8491-903	F	Parking Bay Dimensions	06/02/09
8491-904	D	Parking Bay Dimensions	23/01/09
8491-905	E	Parking Bay Dimensions	03/07/09
8491-909	C	Public Parking	14/08/09
Stage 1A drawings prepared by Cardno (Qld) Pty Ltd.			
DA103	B	Stage 1A Works Plan	18/11/10
DA105	B	Stage 1A Finished Surface Contours	18/11/10
DA120	B	Stage 1A Dedication and Easement Plan	18/11/10
Drawings prepared by Newton Denny Chapelle (06_0258 MOD 6)			
12/111 B	A	Development Staging Plan	10/02/14

As amended by the following drawings submitted as part of Modification 10:

Casuarina Beach Town Centre Vision and Landscape Document by RPS			
<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<u>Page 2 of 9</u>	<u>E</u>	<u>Casuarina Beach Concept</u>	<u>17/08/09</u>
<u>Page 3 of 9</u>	<u>E</u>	<u>Casuarina Beach Concept</u>	<u>17/08/09</u>
<u>Page 4 of 9</u>	<u>E</u>	<u>Grand Parade</u>	<u>17/08/09</u>
<u>Page 5 of 9</u>	<u>E</u>	<u>Density</u>	<u>17/08/09</u>
<u>Page 6 of 9</u>	<u>E</u>	<u>Built Form</u>	<u>17/08/09</u>
<u>Page 7 of 9</u>	<u>E</u>	<u>Built Form</u>	<u>17/08/09</u>
<u>Page 8 of 9</u>	<u>E</u>	<u>Yield Estimate</u>	<u>17/08/09</u>
<u>119385-3 Page 3 of 5</u>	<u>F</u>	<u>Landscape Masterplan</u>	<u>28/09/2017</u>
<u>119385-3 Page 4 of 5</u>	<u>F</u>	<u>Neighbourhood Park</u>	<u>28/09/2017</u>
<u>119385-3 Page 5 of 5</u>	<u>F</u>	<u>Foreshore</u>	<u>28/09/2017</u>
<u>Drawing Prepared by BG&E Engineering</u>			
<u>Drawing No.</u>	<u>Revision</u>	<u>Name of Plan</u>	<u>Date</u>
<u>C-0003</u>	<u>E</u>	<u>Site Layout Plan</u>	<u>01/02/2018</u>

except for:

- (1) any modifications which 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 – Terms of Concept Approval Condition A4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

A4 Project in Accordance with Documents

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

Environmental Assessment Documentation

- a) *Environmental Assessment Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated August 2008; and,

Preferred Project Report Documentation

- b) *Preferred Project Report* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated 25 March 2009 (except in relation to the density requirements for future medium density residential and mixed use residential lots, as outlined in row 6 of the table on page 62, which is deleted).

Section 75W Modification Request Documentation

- c) *Request to Modify a Major Project under Section 75W, Environmental Planning and Assessment Act 1979* prepared by Victor G Feros Town Planning Consultants on behalf of Kings Beach No. 2 Pty Ltd, dated February 2010.

Section 75W Modification Request Documentation

- d) *Section 75W Modification: Concept and Project Approval, MP 06_0258, (as already modified) Casuarina Town Centre* prepared by BBC Consulting Planners on behalf of Kings Beach No. 2 Pty Ltd, dated November 2010.

Section 75W Modification Request Documentation

- e) *Section 75W Modification: Project Approval MP 06_0258 (as already modified) Casuarina Town Centre* prepared by BBC Consulting Planners on behalf of Kings Beach No. 2 Pty Ltd, dated November 2011.

Section 75W Modification Request Documentation

- f) *Section 75W Modification No. 4 Project Approval MP06_0258 (as Already Modified) for Casuarina Town Centre* prepared by Newton Denny Chappelle on behalf of Clarence Property, dated November 2012; and supplementary information supporting the modification request, prepared by Newton Denny Chappelle, dated 18 April 2013.

Section 75W Modification Request Documentation

- g) *Section 75W Modification No. 6 Project Approval MP06_0258 (as Already Modified) for Casuarina Town Centre* prepared by Newton Denny Chappelle on behalf of CTC Multiple Lots Pty Ltd, dated October 2013; and supplementary information supporting the modification request, prepared by Newton Denny Chappelle, dated 16 December 2013.

Section 75W Modification Request Documentation

- h) *Section 75W Modification No. 7 Project Approval MP 06_0258 Casuarina Town Centre* prepared by BBC Consulting Planners on behalf of Consolidated Properties Group, dated December 2013; and supplementary information supporting the modification request prepared by Cardno Eppell Olsen, dated 5 February 2014 (Traffic Response) and 19 February 2014 (Traffic and Transport Infrastructure Charges Review).

Section 75W Modification Request Documentation

- i) *Section 75W Modification No. 9 Project Approval MP 06_0258 Casuarina Town Centre* prepared by BBC Consulting Planners on behalf of Consolidated Properties Group, dated February 2015, as amended by *Section 75W Modification No. 9 Project Approval MP 06_0258 Casuarina Town Centre Addendum Report* prepared by BBC Consulting Planners and dated April 2015.

Section 75W Modification Request Documentation

- j) *Section 75W Modification No. 8 Project Approval MP 06_0258 Casuarina Town Centre* prepared by BBC Consulting Planners on behalf of Consolidated Properties Group, dated August 2014, as amended by *Section 75W Modification No. 8 Project Approval MP06_0258 Casuarina Town Centre Addendum Report*, prepared by BBC Consulting Planners, and dated 16 December 2014.

Section 75W Modification Request Documentation

- k) **Section 75W Modification No. 10 Project Approval MP 06 0258 Casuarina Town Centre prepared by Newtown Denny Chapelle, on behalf of CTC Unit Trust, dated January 2016, as amended by Response to Submissions titled MP06 0258 Casuarina Town Centre – Modification 10, prepared by Newtown Denny Chapelle and dated 3 October 2017 as amended by additional information submitted on 15 December 2017, 19 January 2018, 6 February 2018, 13 March 2018 and 10 April 2018.**

- (f) Schedule 2 Part B – Modifications to the Concept Plan Condition B1 is deleted as follows:

~~B1 – Building Setbacks~~

~~A minimum building setback of 2m shall be provided to all future lots adjoining the southern boundary of the 20m wide east-west open space corridor.~~

- (g) Schedule 2 Part B – Modifications to the Concept Plan Condition B2 is deleted as follows:

~~B2 – Cycleway~~

~~The cycleway is modified such that:~~

- ~~1) the sharp right turn at the junction of lots 4, 10 and 11 is realigned to provide a provide a larger radius curve.~~

~~Modified plans are to be submitted to the Department for approval prior to the issue of a Construction Certificate for the balance of Stage 1 works.~~

- (h) Schedule 2 Part B – Modifications to the Concept Plan Condition B6 is added as follows:

B6 Conversion of lots 72 and 78 to 83 to medium density mixed use

Lots 72 and 78 to 83 are to be converted to a single medium density mixed use allotment which incorporates an active street frontage to Grand Parade, and which may incorporate an active frontage to the park.

- (i) Schedule 2 Part B – Modifications to the Concept Plan Condition B7 is added as follows:

B7 Staging

All remaining infrastructure, including the development and dedication of parks and open space is to be carried out as part of Stage 1D.

- (j) Schedule 2 Part B – Modifications to the Concept Plan Condition B8 is added as follows:

B8 Future Development of Medium Density Lots

The future built forms shown in the Casuarina Beach Town Centre Vision and Landscape document approved as part of Modification 10 are only approved to the extent that they indicate the location of where three and four storey building envelopes can be developed. The GFA of the proposed building envelopes indicated on the plans is not approved as the buildings will be subject to further design refinement as part of the assessment of future development applications.

- (k) Schedule 2 Part C – Requirements for Future Applications Condition C1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C1 Residential Flat Buildings

All future applications involving the development of a residential flat building (within the definition of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings) is to include a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

Future applications are to demonstrate the buildings have been designed in accordance with the relevant building siting, configuration, and amenity design criteria and guidance of the Apartment Design Guide and the built form controls of Tweed LEP 2014 (excluding height and number of storeys provisions where Condition B8 and C2 apply).

- (l) Schedule 2 Part C – Requirements for Future Applications Condition C2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C2 *Overshadowing*

Future applications for all three **or four** storey buildings are to include an assessment of the potential for overshadowing of both adjoining buildings and public open space areas (in particular, areas of public open space).

- (m) Schedule 2 Part C – Requirements for Future Applications Condition C3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C3 *Footpath Trading*

Future applications for the development of the mixed use lots (~~Lots 5, 6, 12, 13 and 17~~) require the submission of details in relation to any proposed footpath trading or alfresco dining activities.

- (n) Schedule 2 Part C – Requirements for Future Applications Condition C4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

C4 *Operational Management Plan*

Future applications for the development of the mixed use lots (~~Lots 5, 6, 12, 13 and 17~~) and the hotel (~~Lot 18~~) require the submission of an operational management plan which includes, but is not limited to:

- a. Hours of operation;
- b. Security arrangements;
- c. Waste management; and
- d. Servicing arrangements.

- (o) Schedule 2 Part C – Requirements for Future Applications Condition C7 is added as follows:

C7 *Street Activation*

Future Applications for the development of buildings with a frontage to Grand Parade between Road B and the foreshore must incorporate ground floor retail and commercial uses along the entire frontage to Grand Parade.

- (p) Schedule 2 Part C – Requirements for Future Applications Condition C8 is added as follows:

C8 *Delivery of Icon Building, Lifesaving Facilities and Beach Access*

Future Applications for the development of any buildings in Stage 2 must demonstrate that construction of the Icon Building, including lifesaving facilities, and the additional new beach access path will be completed prior to the occupation of any other building within Stage 2.

The proponent is to obtain approval and any licences from the relevant agencies regarding the provision of the proposed beach access to the east of the icon building. Evidence of the approval for the construction of the beach access shall be provided prior to the issue of a Development Consent for the Icon Building.

Note:

- 1. This may require the closure of one of the existing beach accesses.*
- 2. This may require approval under the Crown Lands Act 1989.*
- 3. Relevant agencies may include (but are not limited to) the Tweed Coast Reserve Trust and Crown Lands.*

End of MP 06_0258 MOD 10
