



**MODIFICATION REQUEST:
CASUARINA TOWN CENTRE
TWEED COAST ROAD, CASUARINA
06_0258 MOD 3**



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

February 2012

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1.0 BACKGROUND

This report is an assessment of a request to modify Major Project 06_0258 – 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).

The 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 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 depicted below in **Figure 1**. The approved concept plan is provided at **Figure 2**.



Figure 1: Site Location – Casuarina Town Centre (source: Environmental Assessment – 06_0258)



Figure 2: Approved Casuarina Town Centre Concept Plan (source: Preferred Project Report – 06_0258)

The approved project has been modified on two occasions:

- On 17 June 2010, the then Acting Director – Regional Projects approved a modification to the proposal allowing stormwater infiltration and landscaping works to be carried out on adjoining lots; filling of 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 road; and,
- On 1 July 2011, the Director-General approved a modification 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).

2.0 PROPOSED MODIFICATION

On 21 November 2011, BBC Consulting Planners (on behalf of the proponent – Kings Beach No.2 Pty Ltd) submitted a S75W modification request to MP 06_0258. The modification is sought primarily to facilitate design amendments to the retail centre, approved as part of the Stage 1 project approval. The modification proposes an overall reduction in the size of the approved retail centre, including reductions of the building footprint, floor area, height, bulk and scale of the building; and the removal of all basement car parking. The proposed modification specifically involves the following:

- a 200m² reduction of the supermarket gross floor area (GFA);
- a 200m² reduction of the first floor office space, to be relocated and utilised as ancillary office space of the supermarket tenant;
- a total GFA reduction of 596m² for the retail centre from 4,301m² to 3,705m²;
- removal of all basement car parking;
- reconfiguration of the at-grade car park to compensate for the removal basement car parking, resulting in an overall reduction of 14 car parking spaces;
- relocation of the sub-station;
- the provision of shade structures over part of the at-grade car park;
- an additional sign to be attached to the western facade of the retail centre; and,
- additional landscaping works.

3.0 STATUTORY CONTEXT

Approval of MP 06_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 C**.

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.

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 and taking effect from 1 October 2011, the Minister for Planning and Infrastructure (the Minister) has delegated his functions to determine S75W modification requests to the Director, Metropolitan and Regional Projects North 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.

Whilst council has raised concern with aspects of the proposal, it is considered that council does not object to the overall nature of the modification request being for a reduction of the size and scale of the retail centre and removal of basement car parking. No political disclosure statement has been made; and as the modification request was not required to be publicly exhibited, no submissions in the nature of objections were received. The Director, Metropolitan and Regional Projects North may therefore determine the modification request under delegation.

4.0 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. Given the nature of the modification proposing a reduction in the size and scale of the approved retail centre, public exhibition was not undertaken. Notwithstanding, under 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. In accordance with Clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for modification was made publicly available on the department's website.

Council Referral

The modification request was referred to Tweed Shire Council (council) inviting any issues or requirements to be provided. Council responded in a letter received by the department on 16 January 2012 and requested the department give consideration to the following matters:

- pedestrian footpaths should reflect pedestrian sight lines as much as possible;
- the western facade of the building should be sufficiently articulated through the use of materials and colours compatible with the surrounding coastal character;
- modified plans should depict refuge areas and evidence that these areas can be serviced by local waste collection;
- the walkway proposed to replace the 'outdoor room' should be modified to ensure it does not pose a safety issue through the provision of concealed spaces with limited surveillance opportunities.
- the car parking shade structures are not supported due to visual impacts from Tweed Coast Road;
- the additional sign on the western building facade is not supported as it detracts from the scenic amenity and character of Tweed Coast Road; and,
- contribution rates should be amended to reflect modified ET rates for water, sewer, and roads.

A copy of council's correspondence is provided at **Appendix D**.

5.0 ASSESSMENT

The department has assessed the proposed modifications to approved Lot 1 (retail lot) involving the following:

- modifications to the retail centre GFA;
- design modifications to the height, bulk and scale of the retail centre;
- modifications to the approved car parking;
- the provisions of car park shade structures;
- additional signage;
- modifications to Section 94 and Section 64 monetary contributions, and
- modifications to the conditions of approval for both the concept plan and Stage 1 project approval.

Modifications to the Approved Retail Centre Floor Space Area

The proponent seeks to modify the design and size of the retail centre to address the needs of its major tenant. The retail centre was approved as part of the Stage 1 project approval and incorporated a total GFA of 4,301m² comprising the following:

- a supermarket of 2,500m²;
- specialty retail shops totalling 850m²;
- restaurants totalling 310m², and
- storage and amenities area of 241m².

The proposed modifications to the retail centre floor space area include:

- reducing the supermarket GFA by 200m²;
- relocation and reduction of the first floor office space GFA by 200m²;
- one of the two approved restaurant tenancies is to be converted to retail use, subsequently decreasing the restaurant use by 150m² GFA and increasing specialty retail use by 150m² GFA, and
- the rear loading dock and back of house facilities are to be readjusted.

Table 1 below provides a comparison of the total GFA of the retail centre as approved, and as proposed to be modified. **Figure 3** below is a comparative drawing of the approved retail centre floor space overlayed with the retail centre floor space as proposed (the red cross-hatched area denotes the building extent as approved).

Table 1: Floor Space Comparison – Retail Centre

	Approved Area (m ²)	Proposed Area as Modified (m ²)
Supermarket	2,500	2,300
Specialty Retail Shops	850	1,000
Restaurant	310	160
Total Retail Area (m²)	3,660	3,460
Office Use	400	200
Storage and Amenities	241	45
Total Floor Space (m²)	4,301	3,705

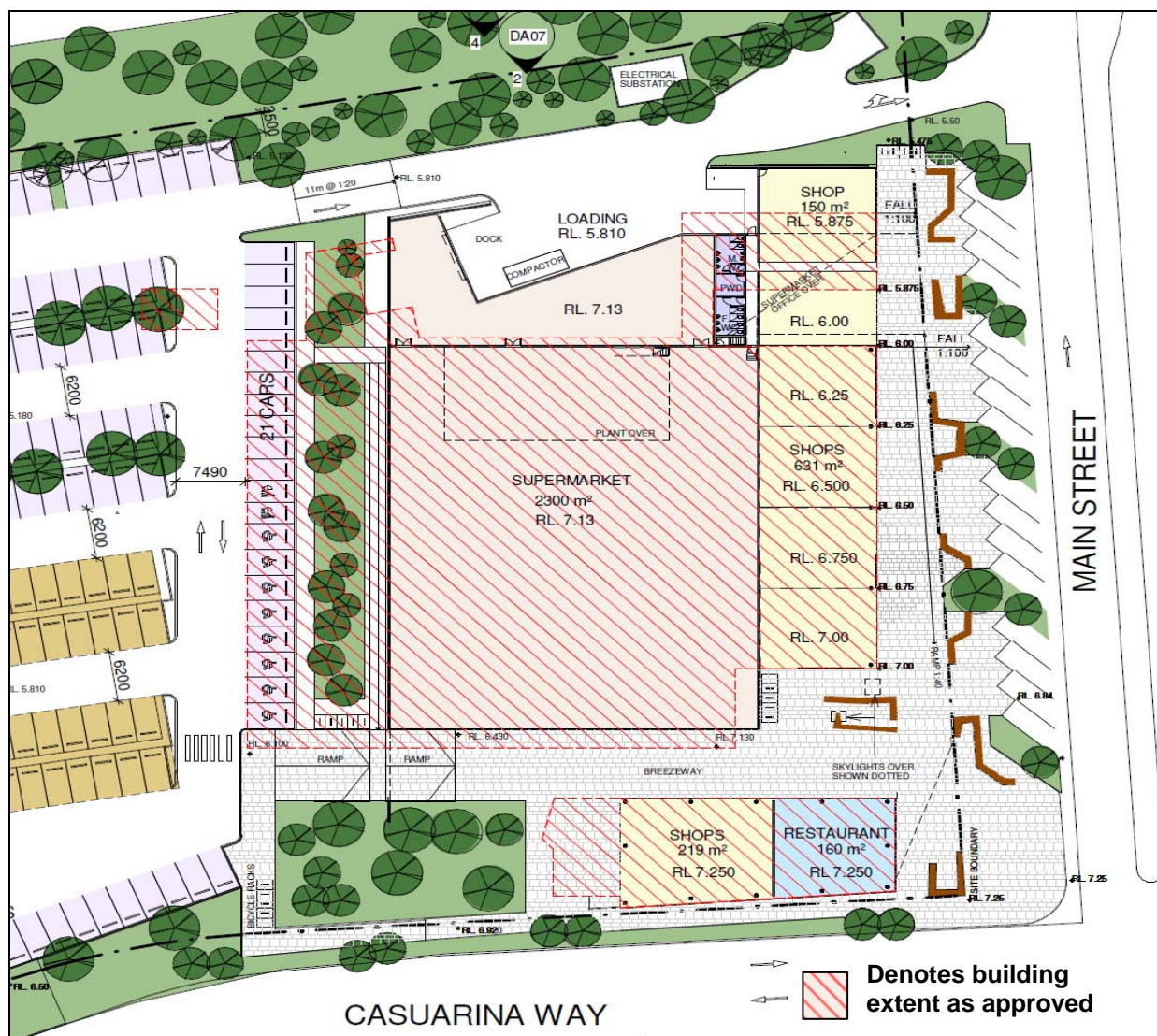


Figure 3: Proposed Retail Centre Overlayed with Building Extent as Approved (source: proponent)

During the original assessment of the proposal, council considered the size of the supermarket at 2,500m² was too large for the population catchment. In response to the proposed modification involving a 200m² reduction of the supermarket GFA, and 150m² increase in specialty retail GFA, council did not raise any issues.

The department considers that the proposed reduction of retail centre GFA and marginal increase in specialty retail does not detract from the original approval and is supportive of this aspect of the proposed modification.

Design Modifications to the Height, Bulk and Scale of the Retail Centre

Design modifications to the approved height, bulk, and scale of the retail centre are proposed a result of the decreased GFA. Design modifications include:

- reduced height of the A-frame architectural feature;
- reduced length of the building fronting Casuarina Way, and
- deletion of the first floor office space resulting in a reduction to the height of the building.

The department's original assessment of the proposal considered the A-frame architectural feature incorporated as part of the retail centre building would unnecessarily exacerbate the visual impact of the building for users of Tweed Coast

Road. The department therefore included a condition as part of the concept plan approval requiring the built form of the retail centre to be modified to reduce the size and scale of the A-frame element on the western side of the building prior to the issue of a Construction Certificate (refer term B3 – Retail Centre). The proponent seeks to satisfy this condition as part of the modification request. **Figures 3 to 6** below are comparative views of the retail centre as approved, and as proposed to be modified.



Figure 3: Approved Retail Centre – View Southeast from the Boulevard Road (source: Preferred Project Report 06_0258)



Figure 4: Modified Retail Centre – View Southeast from the Boulevard Road (source: proponent)



Figure 5: Approved Retail Centre – View from Tweed Coast Road (source: Preferred Project Report 06_0258)



Figure 6: Modified Retail Centre – View from Tweed Coast Road (source: proponent)

The department considers the reduced size and scale of the A-frame architectural feature will provide a more aesthetically pleasing outcome for the site, particularly from view from Tweed Coast Road. The building as modified provides an enhanced urban design outcome for the site and the department is supportive of the proposed reduction to the overall size and scale of the structure. Should the proposed modification be granted approval, Term B3 of the concept plan approval and condition B2 of the project approval are considered to have been satisfactorily complied with.

Whilst council did not raise any concern in relation to the reduced size and scale of the building, it was requested that the western facade of the building be sufficiently articulated through the use of materials and colours compatible with the surrounding coastal character. The proponent has advised that the revised design of the retail centre will retain the approved building character, with the following adjustments:

- articulation of the precast concrete wall panels to the supermarket perimeter have been simplified;
- the soffit linings are proposed to be deleted to provide larger volumes in the public spaces over the laneways, footpath and entry, and
- the extent of landscaping is to be increased.

In addition, the department requested the proponent provide further information on the colours and finishes to be used for the retail centre building. The proponent provided a finishes palette of external materials to be used. The proposed finishes are consistent with what was originally approved for the building and therefore the department is satisfied that the colours and materials will not detract from the surrounding coastal character.

Council also requested the modified plans depict refuse areas and evidence that these areas can be serviced by local waste collection. The modified plans submitted by the proponent show the location of a compactor at the rear of the supermarket building within the loading dock area. Revised swept path plans have also been submitted which show vehicles of 19m, 10.7m, and 8.8m in length have sufficient ingress and egress opportunities within the loading dock area (refer **Appendix F** for modified plans). The department is satisfied the revised swept path plans indicate the site can be adequately serviced by council's local waste collection.

A further modification to the retail lot involves relocation of the approved electrical substation from the south-western corner of the retail centre building to the north-western boundary of the retail centre lot. The proponent has advised that landscaping on all four sides of the substation will screen the structure from view from Tweed Coast

Road. The department does not raise any concern in relation to the relocated substation provided sufficient vegetation screening is provided.

Modifications to the Approved Car Parking

As part of the Stage 1 project approval, the retail centre is required to provide a total of 234 car parking spaces, which includes the provision of 72 basement car parks. All car parking is to be provided in accordance with council's Development Control Plan A2 – Site Access and Car Parking Code (DCP A2), as required in accordance with condition B19. It is noted that condition A1(3) of the Stage 1 project approval outlines a requirement to provide 248 car parking spaces as part of the retail centre (including 72 basement car parks). The department recognises that this figure is an administrative error within the consent and should instead read 234 spaces, as referenced in the department's assessment report and shown on the approved plans.

As part of the modification request, the proponent seeks to remove all 72 basement car parks and the basement access ramp at the south-western corner of the retail centre building. To compensate for the loss of basement car parking, the proposal involves re-configuration of the at-grade car park to provide a more efficient layout, and an increase in the total number of at-grade car parking spaces from 162 to 220. This will result in an overall reduction of 14 car parking spaces for retail centre.

When considering the same car parking ratios that were used to determine the Stage 1 project application, the modified number of car parks exceeds the minimum car parking requirement outlined in DCP A2 by 15 spaces (based on 3,660m² of retail area). It is noted that the approved 234 car parks exceeded the minimum car parking provisions by eight spaces. A total of eight disabled parking spaces are proposed as part of the modification, exceeding the minimum requirement of DCP A2 by approximately one space.

Table 2 below provides an analysis of the required number of car parking spaces for the retail centre as proposed to be modified, in accordance with council's DCP A2.

Table 2: Required Car Parking Rate – Retail Centre as Proposed to be Modified

Use	Area (m ²)	Parking Rate (as per DCP A2)	Minimum Requirement	Provision
Supermarket	2,300	4.4 per 100m ²	101	
Specialty Retail Shops	1,000	4.4 per 100m ²	44	
Restaurant	160	65% of 1 per 7m ²	15	
Office	200	1 per 40m ²	5	
Staff			40	
Disabled Car Parking		1 per 30 spaces	7.3	8
Total	3,660		205	220

Council did not raise any concern in response to the removal of basement car parking; reconfiguration of the at-grade car park; or reduction of total car parking spaces. The department is satisfied that the reduced number of car parks is reflective of a reduction of retail floor space; and that the proposed number of car parking spaces will be sufficient to service the anticipated demand for car parking generated by the retail centre. Given the total number of car parks (as proposed to be modified) will exceed the minimum car parking requirements of council's DCP A2 by a total of 15 spaces, the department does not raise any concern in relation to this aspect of the modification request.

Provision of Car Park Shade Structures

The proponent proposes two lightweight shade structures covering 74 of the 220 at-grade car parking spaces. **Figure 7** below shows those car parking spaces proposed to be shaded.

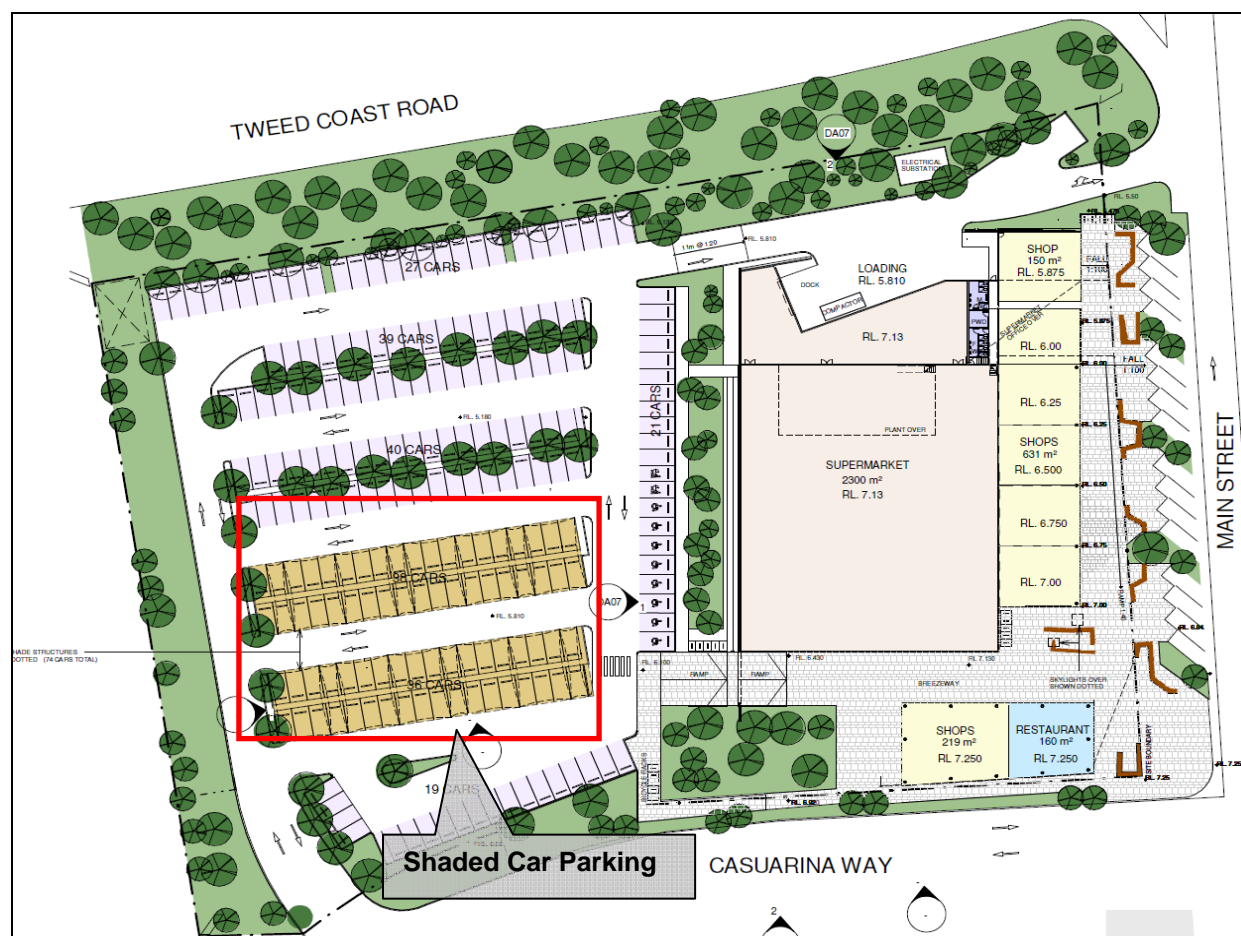


Figure 7: Modified Retail Centre – View from Tweed Coast Road (source: proponent)

The proponent did not provide any detailed design drawings of the proposed shade structures with the modification request. It was therefore proposed to introduce a new condition as part of the Stage 1 project approval requiring the design details of the shade structures be approved by the department prior to the issue of a Construction Certificate for the retail centre.

Council advised in its submissions that the shade structures are not supported due to visual impacts from Tweed Coast Road.

The department was not supportive of the proposal to provide design details prior to the issue of a Construction Certificate for the retail centre without at least having been provided with preliminary information on the visual implications of the structures. The department therefore requested the proponent provide photomontages of the shade structures as part of the modification request. The proponent subsequently submitted revised plans depicting the proposed shade structures and further information in regards to the materials that would be used (**Appendix D** contains the additional information provided by the proponent). **Figures 8 and 9** below are photomontages of the proposed shade structures when viewed from Tweed Coast Road from the north and south respectively. **Figure 10** below is an aerial view of the retail centre which also illustrates the proposed shade structures.



Figure 8: Proposed Shade Structures – View Northeast from Tweed Coast Road (source: proponent)

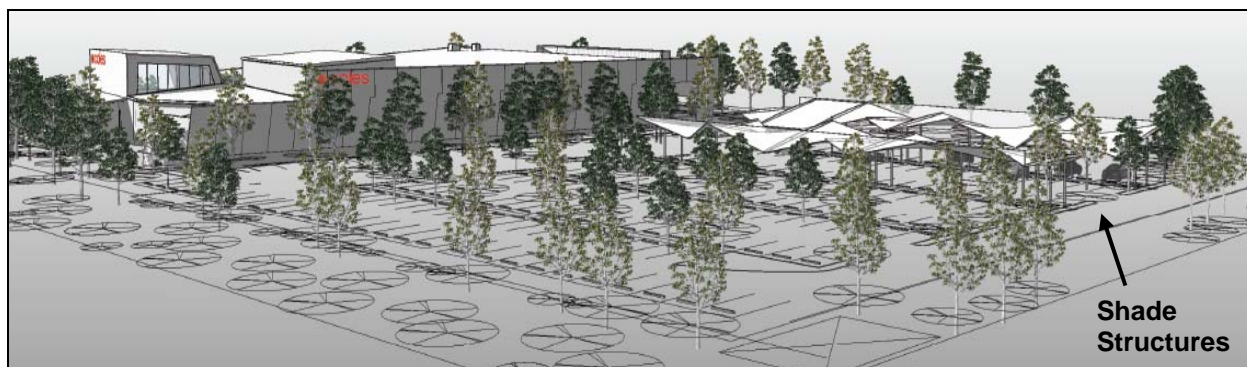


Figure 9: Proposed Shade Structures – View Southeast from Tweed Coast Road (source: proponent)



Figure 10: Aerial View of the Retail Centre and Proposed Shade Structures (source: proponent)

The proponent's architects, Donovan Hill, who were engaged to design the proposed shade structures describe the materials to be used as *semi-translucent tensile fabric on a cantilevered steel structure*. A *turndown of the fabric on the undulating, leading edge mimics the irregular profile of the main building fascia along Main Street*. The structure as proposed is designed with a *3m – 5.5m clearance below the undulating shade fabric*.

The proponent has advised that in response to visual impacts, the shade structures are considered acceptable given:

- only a small portion of the car park is covered;
- the structures are positioned away from Tweed Coast Road;
- the design of the canopy seeks to mimic the building design;
- the structures have a 'lightweight' appearance with limited upright supports and no horizontal walls, enhancing views through the site, and
- the structures will be viewed through, and against a backdrop of, trees and other vegetation.

The proponent further advised that the number of trees shown on the perspective plans is indicative only, and that more trees will be planted than what is shown on the submitted plans, creating further visual improvements through vegetation screening. In addition, the extent of landscaping will be increased throughout the at-grade car park.

The department acknowledges that the proposed shade structures will be visible from Tweed Coast Road. However, the structures will not adversely impact on the visual amenity of the area given they are to be set back from Tweed Coast Road, closer to Casuarina Way, and will be sufficiently screened by vegetation plantings. Furthermore, the positioning of shade structures over exposed car parking areas are a common feature associated with supermarket/shopping centre precincts, and it is therefore considered that the proposed structures are not out of character with the surrounding land use being for a supermarket and retail shopping precinct. It is noted that a detailed Landscape Plan is required to be prepared in accordance with Condition B32 of the Stage 1 project approval, to be approved by council prior to the issue of a Construction Certificate for the retail centre. A requirement of the Landscape Plan is to provide planting details and photomontages illustrating proposed landscaping at maturity overlain over building elevations from street frontages and adjoining the development. Council will have an opportunity to request additional landscaping along the western boundary of the site should the proposed shade structures not be sufficiently screened from view from Tweed Coast Road to council's satisfaction. The department has also introduced a new condition of approval requiring the detailed design of the shade structures to be approved by the department prior to the issue of a Construction Certificate for the retail centre.

Additional Signage

The proponent seeks to provide an additional illuminated sign to the western facade of the retail centre building. The proposed sign is 1.08m in height and 4.65m in width, and will be visible from Tweed Coast Road on the southbound approach to the site. **Figure 11** below is a photomontage of the supermarket building as proposed to be modified with the additional sign on the western building facade. The red hatched area denotes comparative building extents of the approved supermarket building in comparison to the building as proposed to be modified.

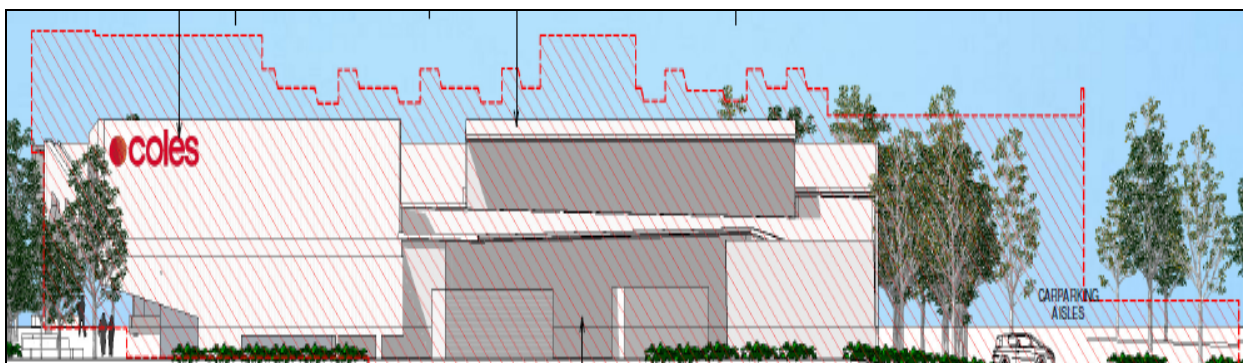


Figure 11: Western Building Facade – View from Tweed Coast Road (excludes landscaping) (source: proponent)

As part of the Stage 1 project application, the department granted approval for three signs as part of the retail centre:

- a fascia sign (illuminated) on the southern elevation which would be visible from Tweed Coast Road on the northbound approach (1.08m x 4.65m in size);
- a fascia sign (illuminated) on the eastern elevation which would be visible from Casuarina Way (1.08m x 4.65m in size), and
- an illuminated sign on the eastern elevation which would be visible from Casuarina Way (1.275m x 5.1m in size).

As part of the original application, the proponent had also sought approval for pylon signage fronting Tweed Coast Road. Concern was raised in regards to visual impacts of the pylon signage during exhibition of the proposal. The department advised at the time that the pylon sign should be eliminated and that additional signage could be better integrated on to the raised section of the roof facing the corner of Tweed Coast Road and the main entry road. The pylon signage was subsequently removed as part of the original application.

Council advised in its submission that the additional sign on the western building facade proposed as part of the modification is not supported as it detracts from the scenic amenity and character of Tweed Coast Road.

The proponent argues that the proposed signage is consistent with the objectives of State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64), as it:

- is compatible with the desired amenity and visual character of the area;
- provides effective communication in a suitable location, and
- is of high quality design and finish.

Refer **Figures 4** and **6** above for indicative views from Tweed Coast Road with the proposed signage attached to the retail centre building.

The department has considered the provisions of SEPP 64 and does not consider the proposed signage will significantly detract from the scenic amenity of Tweed Coast Road, and will in fact provide building identification from the southbound approach of Tweed Coast Road. The proponent has complied with the department's advice on the original application that signage could be better integrated on to the raised section of roof facing Tweed Coast Road and the main entry road. Furthermore, the proposed signage does not obscure or compromise important views, and is compatible with the scale and proportion of the supermarket building. **Figure 12** below shows the location of existing signage approved for the site, and the proposed location of a new illuminated sign on the western side of the building.

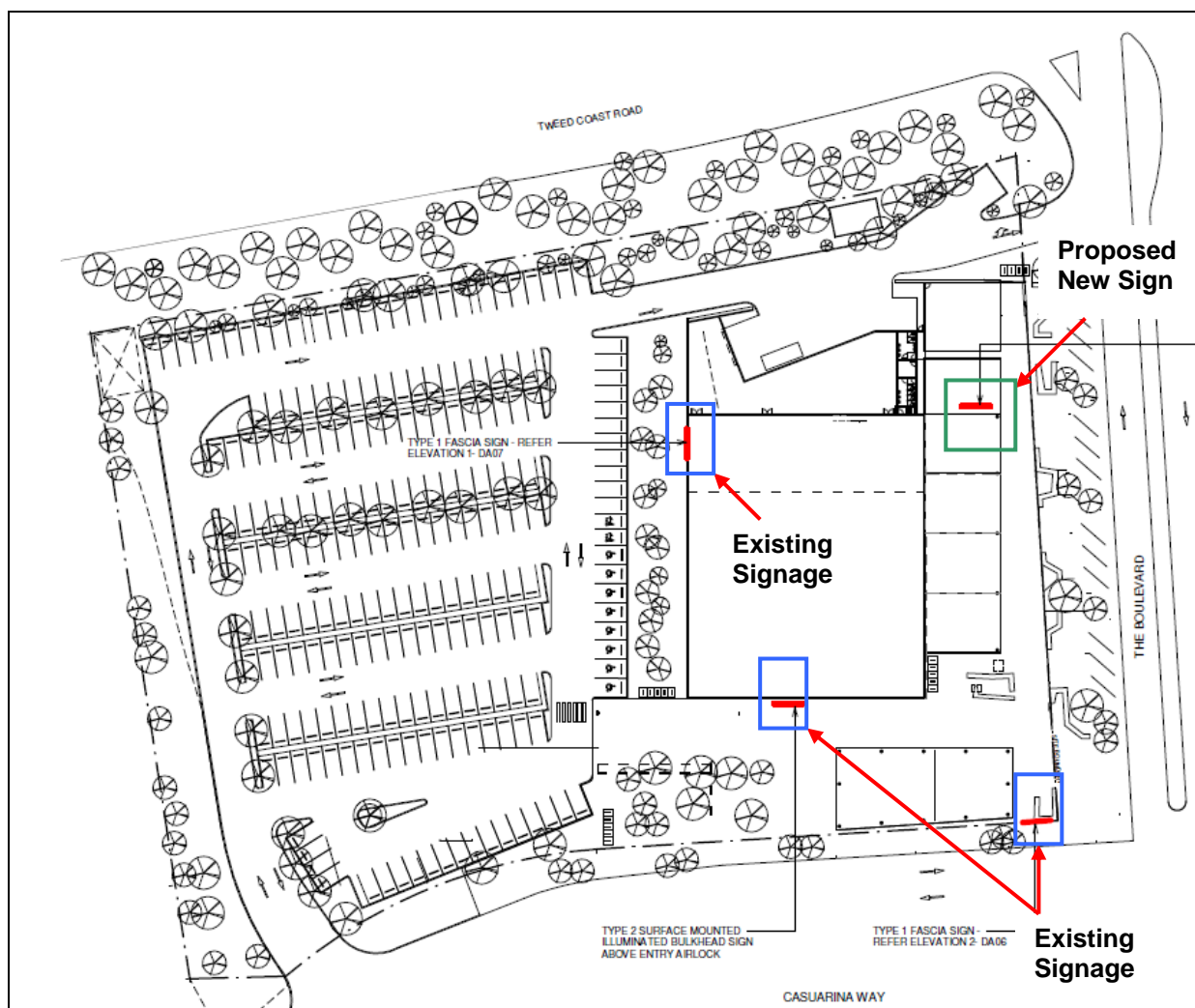


Figure 12: Location of Retail Centre Signage (source: proponent)

Whilst the department is supportive of the proposed identification signage on the western building facade, a new condition of approval has been included as part of the modification requiring all illuminated signage associated with the supermarket and retail shops to be extinguished outside of the retail centre operating hours. The approved hours of operation for the retail centre are restricted to between 8:00am and 9:00pm, seven days a week, as required in accordance with Condition G5. The proponent has advised that the recommended condition is acceptable.

Modifications to Section 94 and Section 64 Monetary Contributions

Council advised in its submission that Section 94 and Section 64 monetary contributions are required to be updated to reflect modified ET rates for water, sewerage, and roads. The proposed reduction of GFA for the retail centre will require a marginal reduction of the total monetary contributions to be provided to council. The department therefore recommends amending the relevant conditions of approval to reflect updated Section 94 and Section 64 monetary contributions rates.

6.0 Modifications to Conditions of Approval

The proposed modification will require amendments to the terms and conditions of approval for both the concept plan and Stage 1 project approval. The modified terms and conditions have been described below.

Concept Plan Approval:

- Term A4 – *Project in Accordance with Documents*: updated to include reference to this most recent modification request documentation.

Stage 1 Project Approval:

Part A – Administrative Conditions

- Condition A1(3) – *Project Description*: updated to reflect modified GFA of the retail centre and modified number of car parking spaces.
- Condition A2 – *Project in Accordance with the Plans*: updated to include reference to modified plans and finishes board submitted with the modification request.
- Condition A3 – *Project in Accordance with Documents*: updated to include reference to this most recent modification request documentation.

Part B1 – Prior to Issue of Construction Certificates for Stage 1A Works and Retail Centre

- New Condition B5A – *Shade Structures*: requiring the detailed design of the shade structures to be approved by the department.

Part E – Prior to Issue of a Subdivision Certificate

- Condition E21 – *Section 94 Monetary Contributions*: updated to reflect modified contribution rates as a result of reduced retail and office GFA.
- Condition E22 – *Section 64 Monetary Contributions*: updated to reflect modified contribution rates towards water supply and sewerage services as a result of reduced retail and office GFA.

Part G – Post Occupation

- New Condition G5A – *Illuminated Signage*: requiring all illuminated signage associated with the supermarket and retail shops to be extinguished outside of the retail centre operating hours.

The Proponent's Statement of Commitments for both the concept plan and Stage 1 project approval have also been amended to reflect the proposed modifications. The amendments are outlined in the attached modifying instruments at **Appendix A** and **B** respectively.

7.0 Conclusion

It is considered that the proposal, as modified, achieves the same objectives as determined under the original approval, and does not alter the overall nature of the approved project. No detrimental environmental, social or economic impacts upon the site or surrounding locality are anticipated as a result of the proposed modifications. The reduced size and scale of the retail centre building is considered to be a positive outcome for the site as the visual impact of the building is reduced.

The proposed modification does not affect the previous assessment against the applicable environmental planning instruments, or any other planning documents and policies specific to the site. Therefore, the relevant documents and policies have not been specifically referred to in this report. The department is satisfied that the development as modified is substantially the same development as approved, and recommends the modification request be granted approval.

8.0 Recommendation

It is recommended that the Director – Metropolitan and Regional Projects North, as delegate for the Minister for Planning and Infrastructure, under Section 75W of the EP&A Act approve the proposed modifications to the concept plan and Stage 1 project approval for MP 06_0258 as detailed in **Section 2.0** of this report; and vary the terms and conditions of approval as set out in the modifying instruments included at **Appendix A** (concept plan approval) and **Appendix B** (Stage 1 project approval). A copy of the plans as proposed to be modified is included at **Appendix F**.

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