

# ***Casuarina Town Centre***

*Modification Assessment  
(MP 06\_0258 MOD 10)*



September 2018

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### **Cover photo**

Residential area. Port Macquarie, NSW.

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## Glossary

Provide a clear and succinct list of the terms not commonly used in everyday language (below is a guide only and needs to be customised for the report).

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
CIV	Capital Investment Value
CIP	Community Involvement Plan
Approval	Approval
Council	Tweed Shire Council
Department	Department of Planning and Environment
DPI	Department of Primary industries
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
MOD	Modification
OEH	Office of Environment and Heritage
RMS	Roads and Maritime Services
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
SSI	State Significant Infrastructure



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# 1. Introduction

This report is an assessment of a request to modify the Concept Plan and Stage 1 Project Approval for the Casuarina Town Centre (MP 06\_0258) in the Tweed local government area. The request has been lodged by Newton Denny Chapelle, on behalf of Clarence Property (the Proponent), pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act).

It seeks approval to modify the Casuarina Town Centre approval by replacing a hotel and medium density residential lots with low density residential development, increasing the maximum building height along the main street from three to four storeys, amending the road layout, open space and other supporting infrastructure.

The Department received 116 submissions, including five from public authorities and 111 (105 objections) from the public. Key issues raised in submissions included increased density, reducing the width of a green corridor along the northern boundary of the site, increased building heights, stormwater / flooding impacts and insufficient open space and car parking.

In response, the Proponent clarified the overall density of the development would be reduced by 47% compared to the original approval, as a result of replacing the medium density residential development with single dwelling lots. The Proponent also amended the proposal by reinstating the approved 20 metre (m) wide green corridor along the northern boundary of the town centre, changing the stormwater design, and increasing on-street parking.

The Department's assessment concludes the proposal is acceptable, as it would result in an appropriate design outcome for the town centre and would not result in any significant environmental, amenity or traffic impacts beyond those already assessed and approved. The proposal would also provide an appropriate mix of housing types to meet current market demand and continue to provide sufficient open space, infrastructure and facilities to support the development. As such, the Department considers the proposal is approval, subject to conditions.

## 1.1 Background

Casuarina Town Centre is a 26.2 hectare (ha) site, located approximately 15 kilometres (km) to the south of Tweed Heads and 4 km north of Cabarita Beach. Low to medium density residential developments adjoin the northern and southern boundaries of the site. The Casuarina Beach foreshore is located to the east of the site, and Tweed Coast Road adjoins the western boundary of the site, with the Cudgen Nature Reserve located further to the west.

Parts of the site have already been developed in accordance with the approval, including a retail centre, medium and low-density housing and associated infrastructure. This modification relates to the part of the site which is not yet developed, other than a public carpark, as shown in **Figure 1**.





**Figure 1:** Aerial view of site overall site in yellow, modification area in red (base image source: Proponent's modification request)



## 1.2 Approval History

### Concept Plan and 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.

The Concept Plan provided for:

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

The concurrent Stage 1 Project Approval permitted:

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

The approved Casuarina Town Centre Plan is shown in **Figure 3**.

### Modifications

The Concept Plan and Project Approval have been modified on ten occasions.

Details of each of the modifications are provided in **Appendix C**. Key changes relevant to the assessment of this request include:

- approval to fill and pipe the existing open drainage easement (Modification 1)
- amendments to staging (Modifications 2, 4 and 6)
- amendments to density requirements (Modification 2)
- change the timing and requirements in relation to construction of a required beach access path (Modification 4)
- conversion of five medium density lots to 40 low density lots (Modification 6).



**Figure 3:** Approved Casuarina Town Centre Concept Plan with area to which this request relates outlined in yellow. The area highlighted pink has since been approved to be converted from medium density residential to 40 low density residential lots (as part of Mod 6) (base image source: approved plans)





## 2. Proposed Modification

### 2.1 Modification as Lodged

On 14 January 2016, the Proponent lodged a section 75W modification request (MP 06\_0258 MOD 10) seeking approval to further modify the Concept Plan and Project Approval for the Casuarina Town Centre. Key changes sought include:

- modification of the approved lot layout and increase in the number of single residential lots permitted on-site from 97 to 177 lots
- change the use of a hotel and some medium density residential lots to low density residential development
- increase the height of buildings permitted along Grand Parade from 3 storeys to 4 storeys
- modifications to road layout and on-street parking
- modifications to open space, parks and pedestrian and cycleway linkages
- revisions to the drainage concept including changes to the approved piping and filling of an existing drainage swale along the northern boundary and stormwater infrastructure within the adjoining Council reserve
- reduction in width of the northern green buffer above the piped swale from 20 m to 10.5 m.
- changes to the approved staging including changes to timing for the provision of additional beach access
- administrative changes to the conditions of approval in response to the above changes.

### 2.2 Revised Modification

On 30 October 2017, the Proponent submitted a Response to Submissions (RTS) amending the proposal to address concerns raised in the public and agency submissions. Additional information and changes were also submitted on 15 December 2017, 19 January 2018, 6 February 2018, 13 March 2018 and 10 April 2018.

Key amendments in the RTS include:

- reinstatement of the approved 20 m wide green buffer along the northern boundary,
- changes to the stormwater design, including changes to the pipe design and landform works as agreed with Council engineers
- changes to the intersection design along the main street (Grand Parade) to incorporate roundabouts to meet Council requirements
- increased on-street car parking
- creation of two additional residential allotments in Stage 1E
- inclusion of Asset Protection Zones (APZ) on the eastern boundary of the site.

The Proponent also provided additional information to clarify that while the proposal would result in an increase in the number of lots on the site, the overall density would decrease, as it is proposed to convert medium density residential lots to individual dwelling house lots.

Details of the proposed modification, as amended, are set out in **Table 1**. Images of the proposed modification are shown in **Figures 5 to 11**.



**Table 1 |** Comparison of approved and proposed development

Aspect	Approved	Proposed		
Staging	Construction in 4 stages ( <b>Figure 5</b> ):	Construction in 2 stages ( <b>Figure 6</b> ):		
	<b>Stage 1</b> (the Project Approval) carried out in 4 substages:	<b>Stage 1</b> (the Project Approval) carried out in 5 substages:		
	<ul style="list-style-type: none"> <li><b>1A</b> – development of Casuarina Way, roads 1, 5 and 6, development lot 1 (retail centre), lots 19 - 56 (low density residential) and associated bulk earthworks, landscaping and services</li> <li><b>1B</b> – development of lots 58 to 97 (low density) and associated road and infrastructure works</li> <li><b>1C</b> – development of lot 3 (medium density) and Lot 2A (childcare centre)</li> <li><b>Balance of Stage 1</b> - Stormwater works, open space works, construction of Grand Parade</li> </ul>	<ul style="list-style-type: none"> <li><b>1A</b> – development of Casuarina Way, roads 1, 5 and 6, development lot 1 (retail centre), lots 19 - 56 (low density residential) and associated bulk earthworks, landscaping and services</li> <li><b>1B</b> – development of lots 58 to 97 (low density) and associated road and infrastructure works</li> <li><b>1C</b> – development of lot 3 (medium density) and Lot 2A (childcare centre)</li> <li><b>1D</b> - Stormwater works, open space works, construction of all remaining roadworks and civil works</li> <li><b>1E</b> – subdivision to create 84 low density Torrens Title and 8 medium density / mixed use lots</li> </ul>		
	<p><b>Stage 2</b> (subject to future assessment) being development of mixed use and commercial lots 2, 5, 12 and 17 (Icon building)</p> <p><b>Stage 3</b> (subject to future assessment) being development of mixed use and medium density residential lots 4,6,10,11,13 and 16</p> <p><b>Stage 4</b> (subject to future assessment) being development of the hotel</p>	<p><b>Stage 2</b> (subject to future assessment) being development of five mixed use, 3 medium density and 1 commercial lot.</p>		
Subdivision of land into 97 lots comprising:	Subdivision of land into 178 lots comprising:			
Subdivision and land use	<ul style="list-style-type: none"> <li>78 low density residential lots;</li> <li>5 medium density residential lots;</li> <li>5 mixed use lots;</li> <li>2 commercial lots;</li> <li>1 retail lot;</li> <li>1 hotel lot;</li> <li>3 open space lots; and</li> <li>2 lots for the purposes of drainage.</li> </ul>	<ul style="list-style-type: none"> <li>162 low density residential lots</li> <li>3 medium density residential lots</li> <li>5 mixed use lots</li> <li>2 commercial lots</li> <li>1 retail lot</li> <li>5 open space and drainage lots</li> </ul>		
Number of Dwellings	663, including: <ul style="list-style-type: none"> <li>585 medium density</li> <li>78 low density</li> </ul>	437, including: <ul style="list-style-type: none"> <li>275 medium density</li> <li>162 low density</li> </ul>		
Building Height	<ul style="list-style-type: none"> <li>3 storey height limits for all mixed use, medium density and hotel development</li> <li>Dwellings houses generally 2 storeys in height.</li> </ul>	<ul style="list-style-type: none"> <li>3 medium density lots would have a height of 4 storeys</li> <li>5 mixed use lots would have a height of 3 storeys</li> <li>All remaining lots would have dwelling houses generally 2 storeys.</li> </ul>		
Open Space Provision	Total Open Space dedication	16,450m <sup>2</sup>	Total Open Space dedication	13,805m <sup>2</sup>
	<ul style="list-style-type: none"> <li>Northern green corridor</li> <li>Civic Park / foreshore land</li> <li>Other foreshore land</li> <li>Southern Park</li> <li>SW infiltration basin</li> </ul>	<ul style="list-style-type: none"> <li>6,033m<sup>2</sup></li> <li>6,563m<sup>2</sup></li> <li>1,240m<sup>2</sup></li> <li>454m<sup>2</sup></li> <li>1,680m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Northern green corridor</li> <li>Civic Park / foreshore land</li> <li>Other foreshore land</li> <li>New stormwater reserve</li> <li>SW infiltration basin</li> </ul>	<ul style="list-style-type: none"> <li>4,965m<sup>2</sup></li> <li>3,500m<sup>2</sup></li> <li>741m<sup>2</sup></li> <li>2,071m<sup>2</sup></li> <li>1,643m<sup>2</sup></li> </ul>

	<ul style="list-style-type: none"> <li>NW infiltration basin 480m<sup>2</sup> (as per original approval)</li> </ul>	<ul style="list-style-type: none"> <li>NW infiltration basin 885m<sup>2</sup></li> </ul>
Cycleways	<ul style="list-style-type: none"> <li>An east-west cycleway within a green corridor in the northern part of the site, dedicated to Council</li> <li>A north-south cycleway within a green corridor on private land with associated easements and connections to Casuarina Way</li> </ul>	<ul style="list-style-type: none"> <li>East-west cycleway in northern green corridor retained and dedicated to Council</li> <li>North-south cycleway provided as part of proposed new road reserves and dedicated to Council. One connection to Casuarina Way deleted.</li> </ul>
Road Layout	<ul style="list-style-type: none"> <li>Three public roads provided in this part of the site.</li> <li>All other access is by private roadways / driveways</li> </ul>	<ul style="list-style-type: none"> <li>Amended road layout incorporating five public roads plus six public laneways provided in this part of the site.</li> </ul>
Car Parking	170 public spaces in the part of the site to which this modification relates	<p>Open Swale to be converted to piped drainage system with single 2700 mm x 1800 mm culvert and associated changes to landform works</p> <p>Provision of modified stormwater infiltration basin within the adjoining Council reserve</p>
Stormwater	Existing open swale approved to be converted to piped drainage system, incorporating 3 x 900 mm diameter pipes with associated landform works	<p>Open Swale to be converted to piped drainage system with single 2700 mm x 1800 mm culvert and associated changes to landform works</p> <p>Provision of modified stormwater infiltration basin within the adjoining Council reserve</p>
Bushfire	No asset protection zones (APZs) required to be provided	APZs will be provided for lots immediately adjoining the Council reserve.

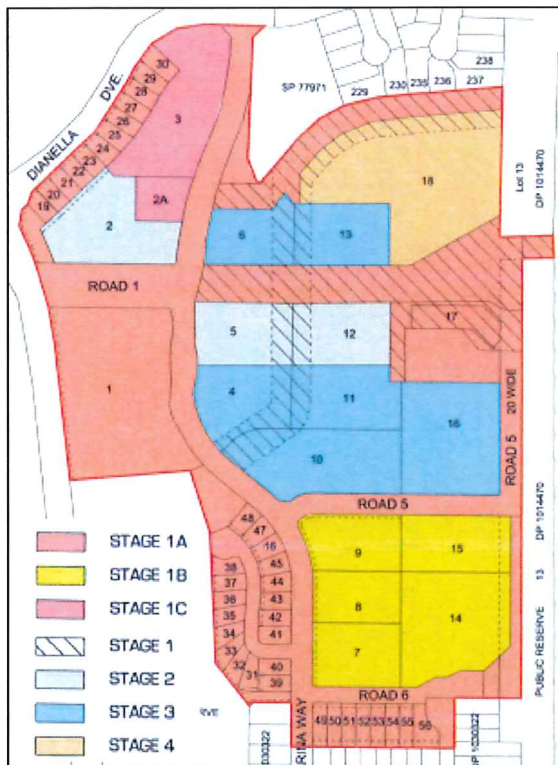


Figure 5: Approved staging (Mod 6 approved plans)

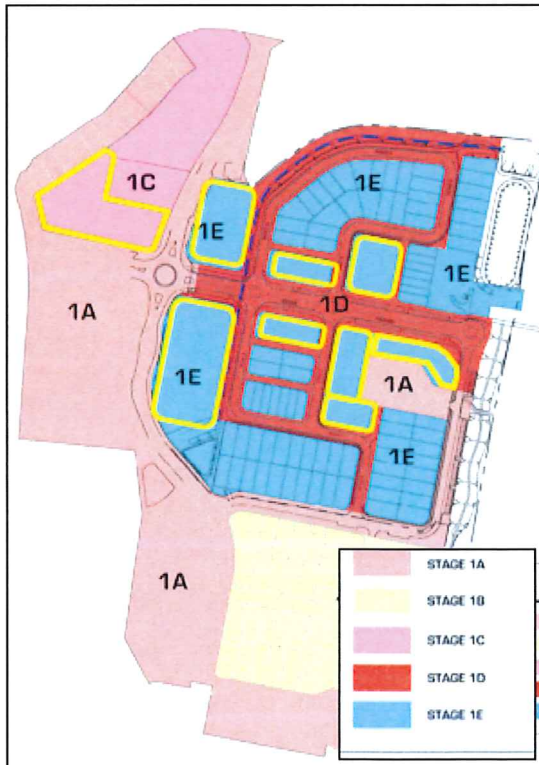


Figure 6: Proposed staging (lots to be developed in Stage 2 outlined in yellow)



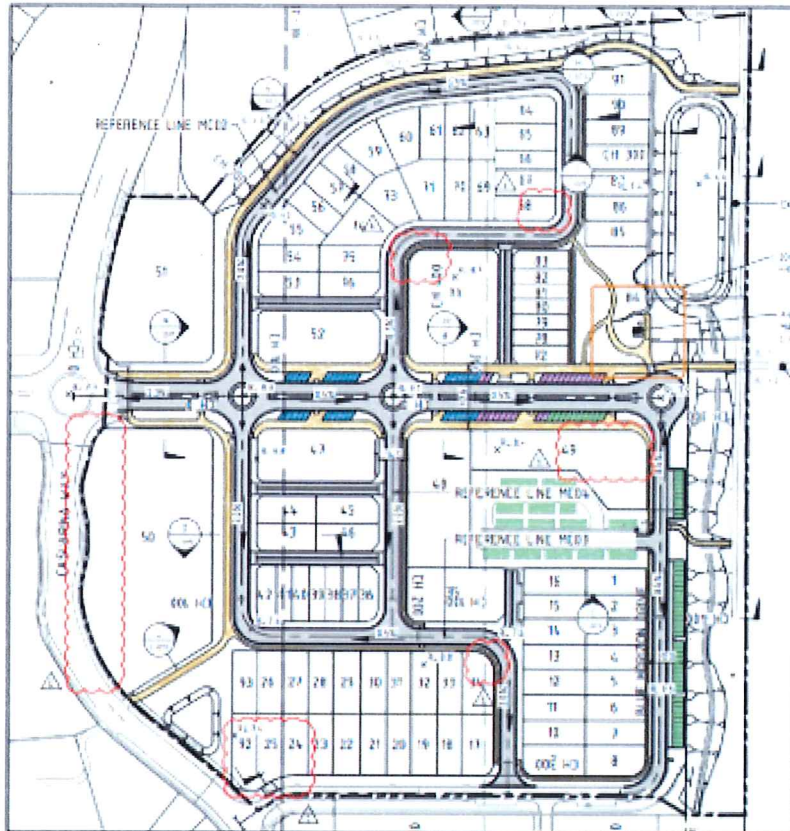


Figure 7: Proposed Subdivision Layout, showing proposed allotment layout, roads, parking and shared path layouts (source: application)



Figure 8: Proposed land use and building heights (source: application documents)



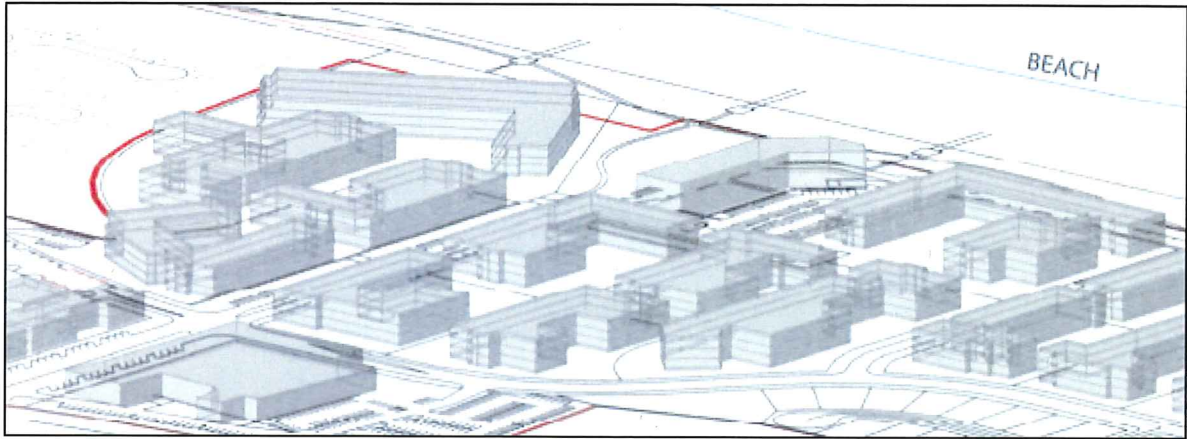


Figure 9: Perspective view showing likely future built forms under the original approval



Figure 10: Perspective view showing likely future built forms under proposed modification

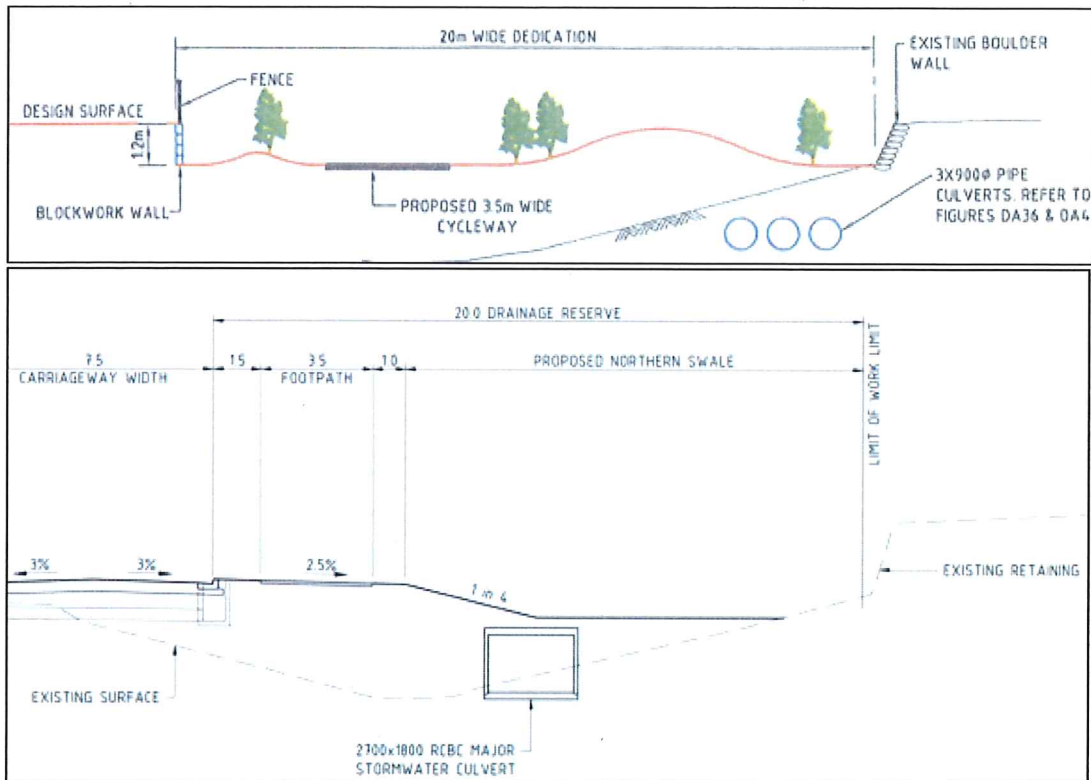


Figure 11: Approved (top) and proposed (bottom) section through green buffer / drainage reserve



## 3. Statutory Context

### 3.1 Scope of Modifications

The Concept Plan and Project Approval were originally approved under Part 3A of the EP&A Act. The projects are transitional Part 3A projects under Schedule 2 to the EP&A (Savings, Transitional and Other Provisions) Regulation 2017. The power to modify transitional Part 3A projects under section 75W of the Act as in force immediately before its repeal on 1 October 2011 is being wound up – but as the request for this modification was made before the ‘cut-off date’ of 1 March 2018, the provisions of Schedule 2 (clause 3) continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification under section 75W of the EP&A Act. The Department is satisfied that the proposed changes are within the scope of Section 75W of the EP&A Act.

### 3.2 Consent Authority

#### The Commission as consent authority

The Minister for Planning is the approval authority for the request. However, the Independent Planning Commission may determine the request under delegation as more than 25 public submissions in the nature of objections have been made.



# 4. Engagement

## 4.1 Department's Engagement

### Modification Request

The Department placed the modification request on public exhibition for 35 days, between 24 February and 29 March 2016. The request was made publicly available on the Department's website and exhibited it at the Department's offices in Sydney and Grafton and at Tweed Shire Council's offices in Murwillumbah and Tweed Heads. The Department also placed a public exhibition notices in the Tweed Link, Tweed Daily News and Tweed Sun on 23, 24 and 25 February respectively and notified adjoining landholders and relevant State and local government authorities in writing.

The Department received a total of 116 submissions, comprising five from public authorities and 111 (105 objections) from the general public.

### Response to Submissions

The Department made the Response to Submissions (RTS) publically available on its website and notified public authorities and members of the public who made submissions for 14 days between 17 November and 30 November 2017. The Department received a total of 58 submissions, comprising four from public authorities and 54 (15 objections) from the general public.

A summary of issues raised in the submissions is provided below and a link to all submissions is provided at **Appendix B**.

## 4.2 Public Authority Submissions

The issues raised by public authorities are summarised in **Table 2** below.

**Table 2** | Summary of public authority submissions

<b>Tweed Shire Council (Council)</b>	
<i>Modification Request</i>	<p>Council does not object to the modification, but initially raised concerns with various aspects of the proposal, including:</p> <ul style="list-style-type: none"><li>• stormwater drainage to the north boundary</li><li>• reduction of the 'green buffer' between the site and residents to the north</li><li>• the extent and location of proposed retaining walls</li><li>• useability of public land</li><li>• road layout</li><li>• parking</li><li>• cycleway design</li><li>• water and sewer infrastructure</li><li>• owners consent for development on Council owned community land.</li></ul>
<i>RTS</i>	<p>Council advises extensive consultation has occurred with the proponent to overcome the previously identified areas of concern. As such, Council now advises:</p> <ul style="list-style-type: none"><li>• All previous concerns with earthworks, retaining walls, drainage infrastructure and intersection design have been resolved</li><li>• Council is supportive of the proposal, subject to some minor amendments or clarification including:</li></ul>



- additional information and minor changes to road design including an extension of a median on Grand Parade and confirmation new laneways will be designed to Council standards
- additional information to demonstrate the proposed new sewer pumping station and water supply infrastructure meet Council requirements
- confirmation of the areas of open space to be dedicated to Council
- clarification of aspects of the cycleway design and connections
- recommends the Department assess changes to density and landuse and confirm the status of a Plan of Management for works on Council land.

#### Department of Primary Industries (DPI)

*Modification Request* DPI does not object to the proposal but requested clarification on whether groundwater will be intercepted as a result of the stormwater works and whether there is potential for groundwater contamination, if Acid Sulfate Soils are disturbed by the works.

*RTS* The Proponent has adequately addressed the matters raised by DPI and notes that in the event groundwater is intercepted during construction activities, DPI Water should be contacted to determine licensing requirements.

#### Rural Fire Service (RFS)

*Modification Request* RFS does not object to the proposal but requested additional information including a bushfire assessment in accordance with 'Planning for Bushfire Protection 2006', details of the proposed management of the park and adjoining lands, and confirmation as to how the modification would meet existing Statement of Commitments with respect to bushfire protection.

*RTS* RFS notes it has a different calculation from the Proponent for the required size of the APZ's, but does not raise any objection to the proposed modification, subject to subject to conditions relating to APZs, access, water and utilities.

#### Office of Environment and Heritage (OEH)

*Modification Request* OEH does not object to the modification. It recommends the Department consider impacts on intangible Aboriginal cultural heritage from increased building heights, in consultation with local Aboriginal knowledge holders, and whether impacts on biodiversity and Aboriginal cultural heritage would be adequately assessed as part of future beach access options and design.

*RTS* OEH advises the above issues were not addressed in the RTS and should be considered by the Department in its assessment.

#### Roads and Maritime Services (RMS)

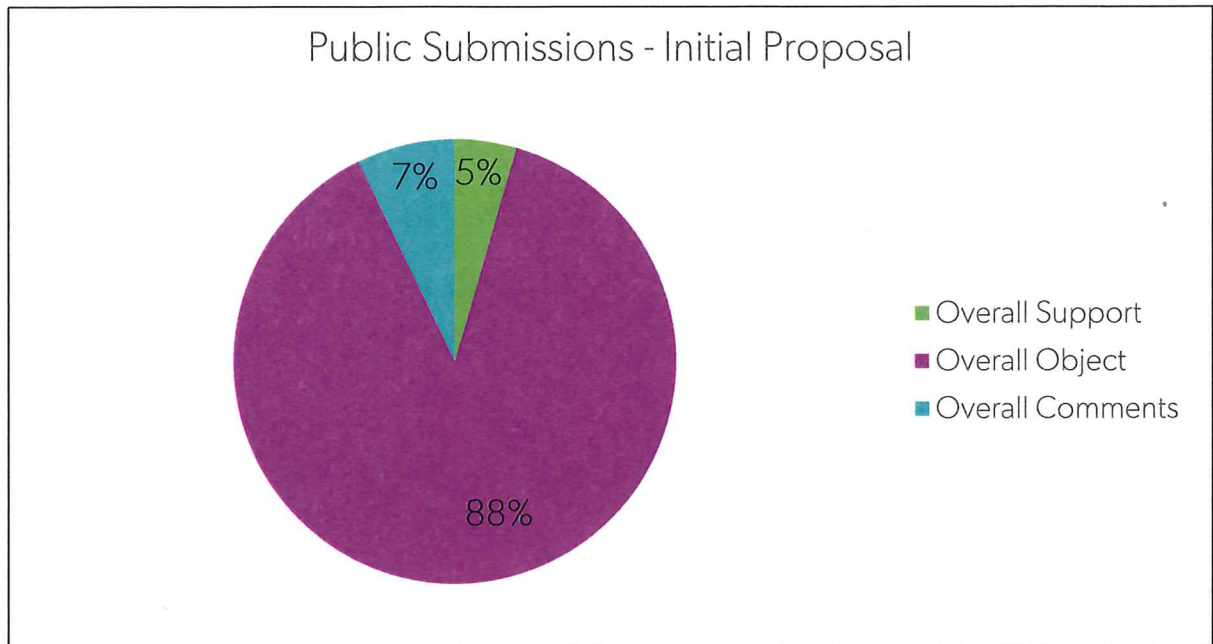
*Modification Request* RMS does not object to the proposal given the it results in reduced density and reduced traffic demand. It also raised no issues in terms of traffic efficiency or road safety.

*RTS* N/A

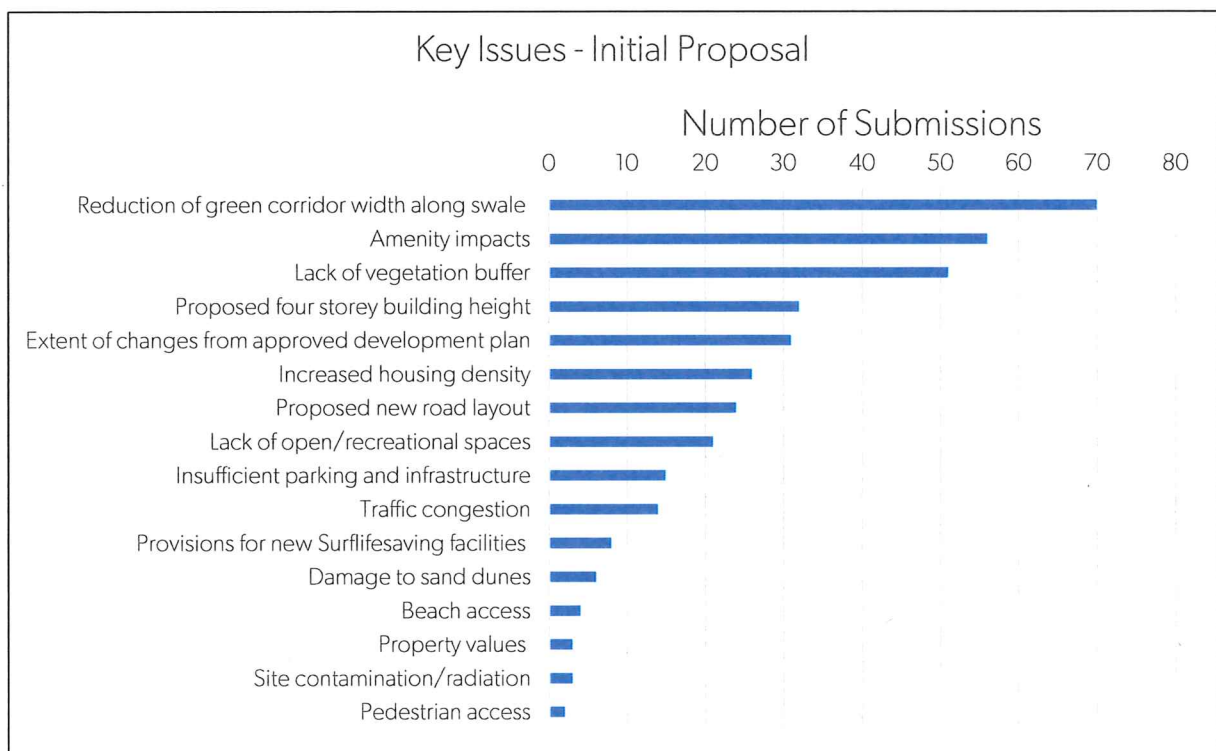
### 4.3 Public Submissions

The Department received 111 public submissions in response to exhibition of the modification request including submissions from the Casuarina and South Kingscliff Residents Association, and Kingscliff Ratepayers and Progress Association. 97 of the submissions (88%) were in the nature of objection, including 29 pro-forma letters, and eight provided comments. Six submissions (5%) were in support of the modification.

**Figure 12** illustrates the nature of the submissions received during the original exhibition period and **Figure 13** summarises the issues raised in objections, presented in the order of frequency that they were raised (most to least).



**Figure 12:** Nature of public submissions on the initial proposal



**Figure 13:** Public objections by issue and number of submissions that raised each issue

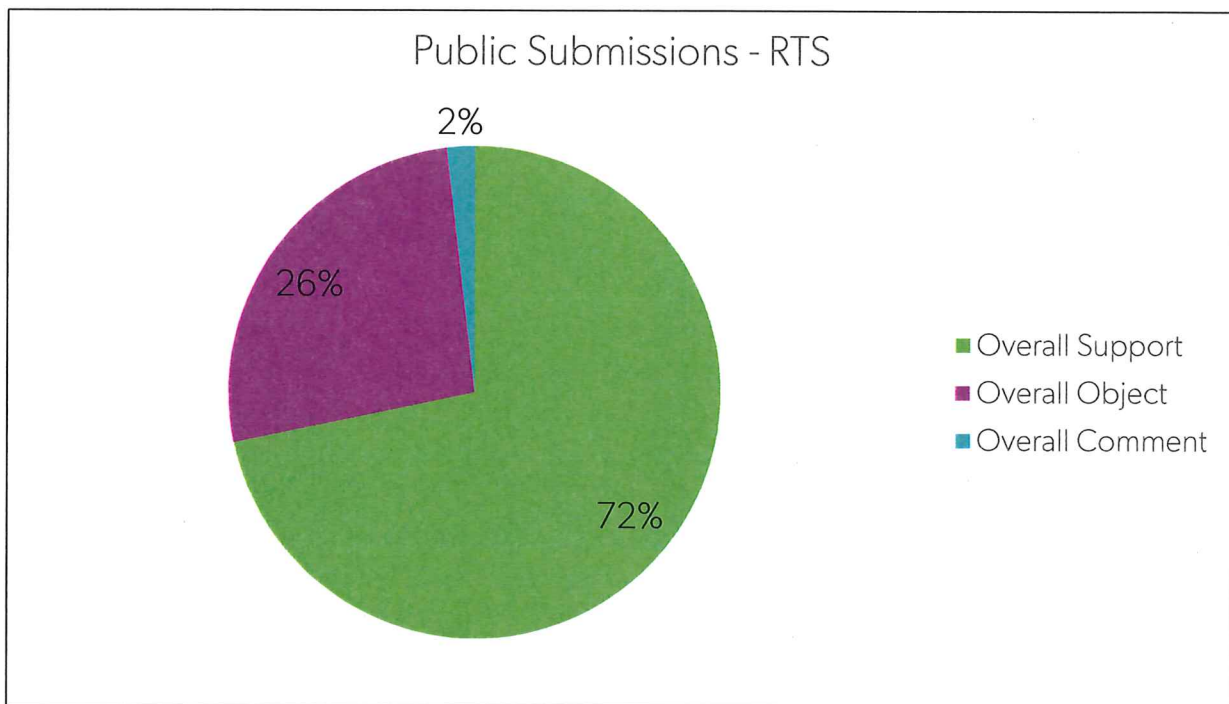


In response to the issues raised during the exhibition period, the Proponent submitted its RTS and made the following changes to the proposal addressing the communities concerns:

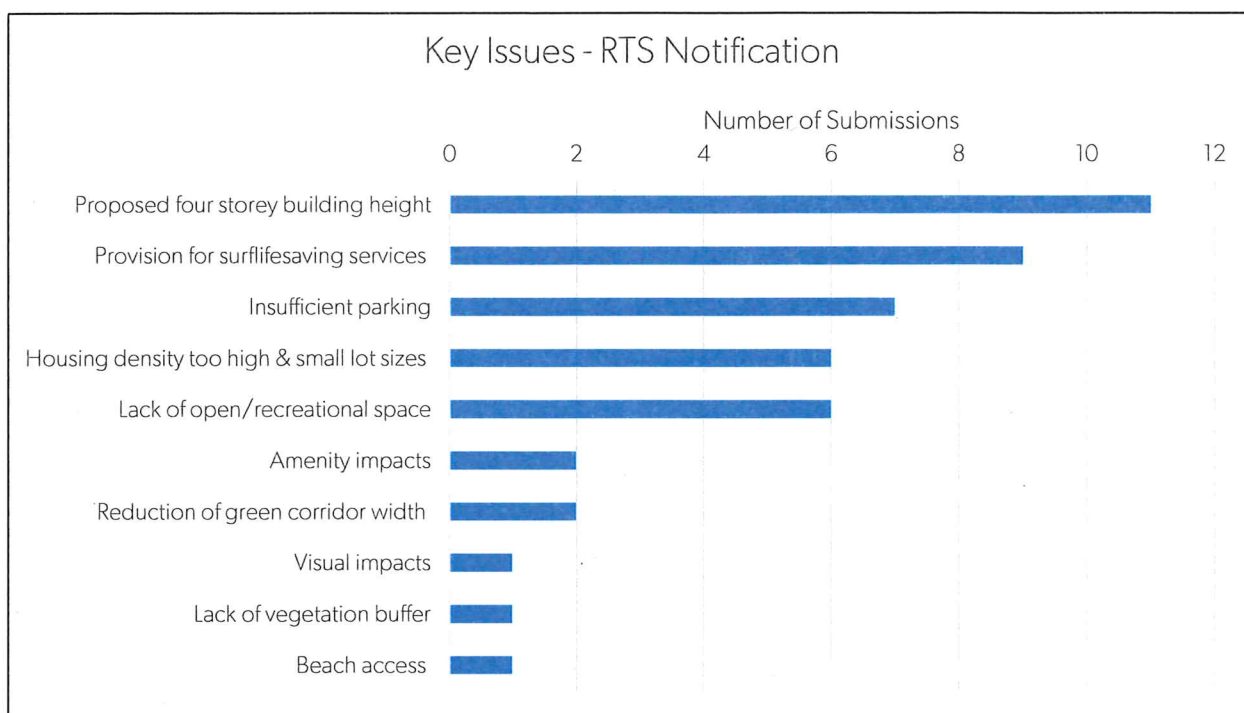
- clarified the overall density of the development would reduce by 47% compared to the original Concept Plan approval
- reinstated the approved 20 m wide green buffer along the northern boundary,
- increased on-street car parking.

The Department received 54 submissions in response to notification of the RTS including one from the Casuarina and South Kingscliff Residents Association. Of the 54 submissions, 72% were in support of the proposal and 26% were in the nature of objections.

**Figure 14** illustrates the nature of the submissions received during the original exhibition period and **Figure 15** summarises the issues raised in objections, presented in the order of frequency that they were raised (most to least).



**Figure 14:** Nature of public submissions on the RTS revised proposal



**Figure 15:** Public objections by issue and number of submissions that raised each issue



## 5. Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original project
- all submission received on the proposal and the Proponent's response to the submissions
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key issues associated with the proposal are:

- density and land use
- urban design and character
- road design
- open space provision
- cycleway layout
- staging.

All other issues are discussed at **Section 5.7**.

### 5.1 Residential Density and Land Use

The proposed modification seeks to reduce the overall density of the development by replacing the medium density residential development with single dwelling lots. This would reduce the overall number of dwellings on the site from 663 to 437 (-226 dwellings) and increase the overall number of single dwelling lots from 97 to 178 (+81 lots). A similar modification (MOD 6) approved a reduction in density by converting medium density



development into single dwellings in Precinct A in the southern part of the site. In that case, the Proponent advised the change was sought due to limited market demand for multi dwelling housing, with current market demand being predominantly for low density (single dwelling) lots.

As a result of MOD 6 and proposed MOD 10, the overall number of dwellings would reduce by 47% compared to the original Concept Plan approval. The change in density is set out in **Table 3**.

**Table 3** | Changes to lot and dwelling yield

	<b>Original Approval</b>	<b>Approved Mod 6</b>	<b>Proposed Mod 10</b>
<b>Lots</b>			
Medium Density (including mixed use)	14	9	8
Low Density	38	78	162
Other (commercial, open space etc)	9	10	8
<b>Total Lots</b>	<b>61</b>	<b>97</b>	<b>178</b>
<b>Dwellings</b>			
Medium Density	794	585	275
Low Density	38	78	162
<b>Total Dwellings</b>	<b>832</b>	<b>663 (- 20%)</b>	<b>437 (-47%)</b>

Council raised concern about the proposed reduction in density, noting the site has been designed as a town centre, where higher residential densities would normally be developed in proximity to retail and other services. Council also noted that under Tweed Local Environmental Plan 2014 (LEP 2014), a large portion of land to which the modification relates, is zoned B2 Local Centre and R3 Medium Density Residential uses, which permits higher residential densities. Council requested the Department to consider the suitability of the proposed density and the potential impacts on the Casuarina Town Centre. Council also requested the Department to consider the merits of deleting the approved hotel use.

The Proponent submitted an Economic Impact Assessment (EIA) (**Appendix B**) to support the proposal. The EIA assessed the potential impacts of reducing the residential density on the viability of the town centre. The EIA estimates that, after accounting for population growth within the trade area, the proposal would result in a total reduction of 225 persons, which is less than 1.5 % of the population of the primary trade area by the year, 2021. The EIA concludes the proposal would therefore have a negligible impact on the economic viability of the town centre, given it would draw most of its business from a broader catchment area than the subject site itself.

The Proponent also advised it was seeking to delete the approved hotel from the development as it would not be economically feasible to operate, given the number of other tourist developments in the area.

#### Department's Consideration

The Department notes increased density was a key issue raised in public submissions. The Proponent has since clarified the proposal would reduce the overall density of the development by 47%, compared to the original approval. The Department is therefore satisfied the proposal would not result in any additional environmental, traffic or parking impacts, given the proposed reduction in density.

With regard to the potential economic impacts on the town centre, the Department accepts the findings of the EIA and considers the reduced density would have a negligible impact on the viability of the town centre. The Department acknowledges the site's trade area covers a broad region extending from Kingscliff in the north, to Pottsville in the south. It also includes the nearby Kings Forest residential development which has concept approval for 4,500 dwellings lots. The Department therefore considers, the existing and future population growth within the trade area would ensure the town centre remains viable, despite the reduced density on site.

The Department has also considered the proposal against the underlying zoning of the site and is satisfied the proposal is acceptable, as:

- the proposed low density lots in the southern part of the site would be consistent with development typically expected in the R1 General Residential zone
- medium density and mixed-use development would be generally retained through the central part of the site, adjacent to Grand Parade, consistent with development normally expected within the B2 Local Centre zone
- the proposed lower density housing within the R3 Medium Density Residential zone and is permissible and consistent with the housing immediately adjoining the northern boundary of the site, which is also within the R3 zone
- while a hotel was consistent with the objectives of the 'Residential Tourist zone' which applied at the time of the original Concept Plan approval, the proposed low-density housing would be more consistent with the objectives of the current R3 Medium Density Residential zone, which no longer encourages hotel or tourism related uses.

The Department's assessment therefore concludes the proposal would not result in any additional environmental, amenity or traffic impacts given the proposed reduction in density. Further, the Department is satisfied the town centre would remain viable despite the reduced density and the proposal would still be compatible with the underlying zoning of the site. As such, the Department is satisfied the reduced density and changes to the housing type and land use are acceptable.

## **5.2 Urban Design**

Key urban design issues relate to building height, bulk and scale and street activation. These issues are discussed below.

### **Building Height, Bulk and Scale**

The original Concept Plan set a three-storey height limit for all mixed use, medium density and hotel development. The proposal seeks to modify the approved building envelopes and increase the

height of some buildings from three stories to four storeys, as depicted in **Figure 12**. All low density residential dwellings would retain a two-storey height limit.

Public submissions raised concerns about the proposed four storey building height, as it would change the intended beachside village character of the area and be inconsistent with other development in Casuarina. Concerns were also raised about additional overshadowing impacts and the development becoming more visible



from the beach. Council did not object to the proposed building heights, noting that the current Council controls under LEP 2014 allow a building height of 13.6 m, which would support 4 storeys.

The Proponent advises the proposal has been designed to create a gradual increase in density and height from the surrounding residential uses to the town centre and to be consistent with the 13.6 m building height limit prescribed by the LEP 2014.

#### Department's Consideration

The Department considers the proposed building heights are appropriate, as they would align with Council's current planning controls, which permit buildings up to four storeys in height. The proposed four storey buildings would also be set back from the beach, and located behind three storey buildings, so they would not look visually dominant or significantly impact on views from the beach. Further, the Department notes that the overall extent of three storey buildings across the site would be reduced in favour of one-two storey dwelling houses, so the overall height of the development would be reduced when viewed from the beach.

While the Department considers the proposed building heights are acceptable, it raises concern about the bulk and scale of the three and four storey building envelopes on the site as they have been designed with minimal building separation and setbacks. The Department also notes the four-storey building envelope in the north-west corner of the site has been designed as one continuous building, occupying most of the site (see **Figure 12**).

The Department considers the three and four storey building envelopes should therefore be further refined, to appropriately break down their scale and ensure they achieve appropriate levels of residential amenity for future residents. In the case of the four-storey building envelope in the north-west corner of the site, it should be split up into separate building envelopes to achieve a more appropriate scale.

To address this issue, the Department recommends a modification to the Concept Plan Approval clarifying that:

- the future built forms shown in the concept plans 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 shown in the plans is not approved as the buildings will be subject to further design refinement as part of the assessment of future development applications.

In addition, the Department recommends new Future Environmental Assessment Requirement, requiring the design of the buildings to be considered against the relevant requirements of the Apartment Design Guide and the built form controls of Tweed LEP 2014.

Subject to refinement of the three and four storey building envelopes at the Development Application stage, the Department considers the proposal is acceptable.



**Figure 12:** Proposed mixed use and medium density residential built forms and heights with four storey buildings outlined in red and three storey buildings outlined in yellow (source: Proponent’s Town Centre Vision and Landscape Document)

### Street Activation

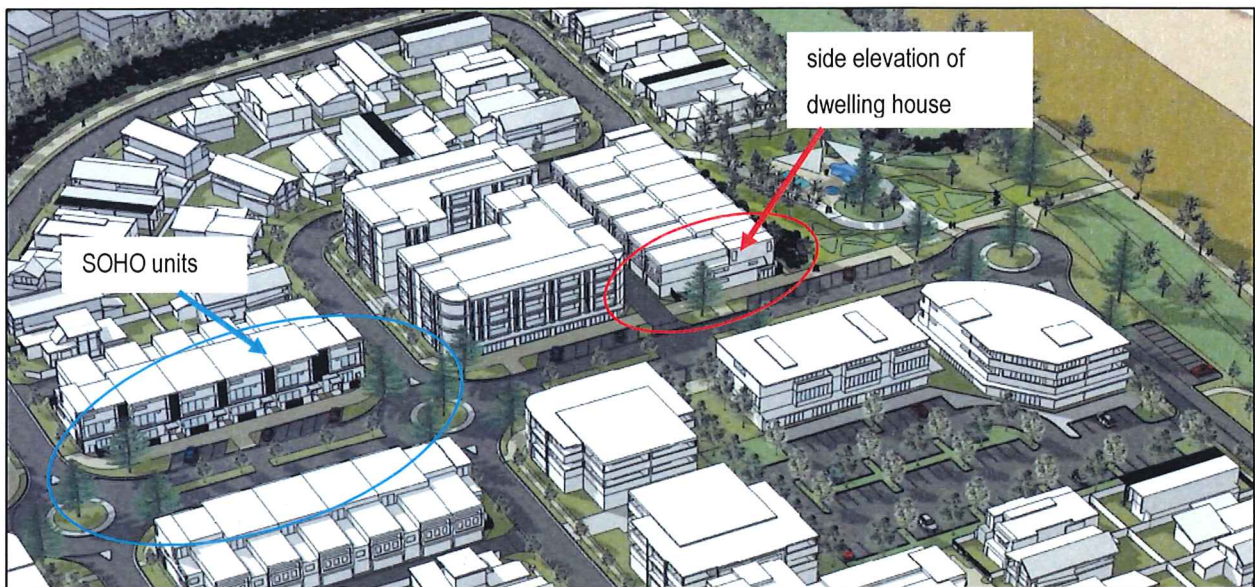
The approved Concept Plan incorporates land uses with active street frontages along the entire length of the main retail street (Grand Parade) to the park and foreshore area. While the modification provides active retail frontages for most of the length of the Grand Parade, one section would have a residential street frontage (see **Figure 13**). The Department considers this would result in an adverse urban design outcome as it would:

- be inconsistent with the intended village feel of Grand Parade
- discontinue the strip of retail uses connecting the Grand Parade to the park/foreshore area
- present a lack of visual interest to the street.

An active retail frontage in this section of Grand Parade would result in a better urban design outcome for the main street. A modification has therefore been recommended to convert this block to a mixed-use development incorporating retail frontages. This may result in a minor inconsistency with the current zoning of the site, as this part of the street is zoned R3 Medium Density Residential, and commercial or retail developments are not permitted in the zone. However, land uses approved under the Concept Plan would prevail over the LEP 2014 and the provision of additional retail uses at this location would result in a better outcome for the town centre.

Council noted the modification would provide mixed use development at the ground floor such as shop top housing and SOHO (‘small office home office’) units at the western end of the street (shown in blue in **Figure 13**). Council requested a definition of SOHO units be provided to determine whether this would include a commercial or a home office use, which would be ancillary to a residential unit on site.





**Figure 13:** Extract from Proponent’s Town Centre Vision and Landscape Document.

The Department notes both commercial uses and home offices are permissible on the site, and therefore, it is not necessary to define the future land uses. However, the Department considers it is important that any future development, whether shop top housing, SOHO or other form of mixed use development, presents an active commercial or retail frontage to Grande Parade to contribute to the character of the village centre. The Department has therefore recommended a future assessment requirement requiring active frontages to be provided for the length of Grand Parade from Road B to the foreshore.

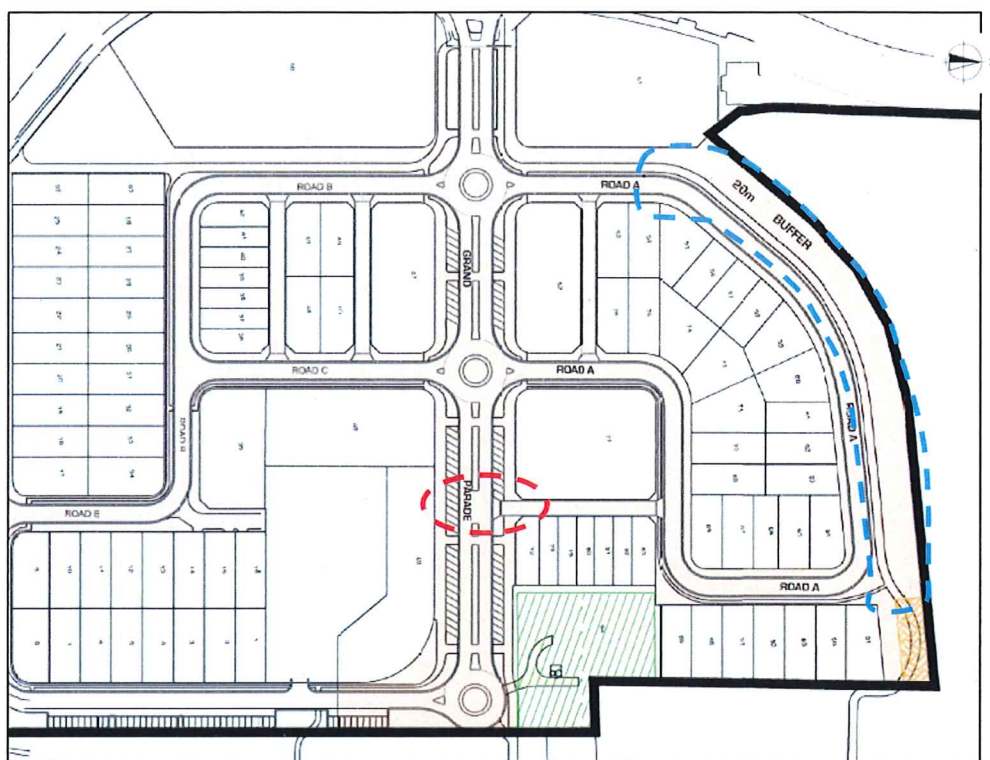
Subject to the recommended conditions, the Department considers the proposed modification would result in a positive urban design outcome for the town centre.

### 5.3 Road Design and Layout

The modification seeks approval for a new road layout to service the proposed allotments. Key changes include a new roadway adjacent to the northern green corridor and more through roads within the site, including some rear laneways. To provide the additional through roads within the site, the approved north-south green cycleway corridor has been deleted and converted into a combined road and cycleway. The road layout was modified in the RtS to move the northern road out of the 20 m green corridor, and to provide roundabouts at main intersections to address Council’s concerns.

Public submissions raised concerns about the new northern road in proximity to adjoining dwellings to the north of the site and the potential for the road to cause adverse noise and light spill impacts. Public submissions also suggested the main street should include an open area or pedestrian plaza to improve the amenity and character of the area.

Council advises its initial concerns with the road layout have largely been resolved in the RTS, but suggested minor modifications, including an extension of a median on Grand Parade to prevent right-hand and u-turns (shown in **Figure 14**) and confirmation that new laneways will be designed to Council’s standards.



**Figure 14:** Proposed Road Layout. New northern road shown in blue and location of median extension to prevent right and u turns shown in red (source: Proponent's RTS)

#### Department's Consideration

The Department considers the amended road layout is acceptable as it would result in an improved outcome for access and permeability through the site.

In response to concerns raised about potential amenity impacts associated with the alignment of the northern road, the Proponent submitted an acoustic report which demonstrates traffic noise from the road would be well within accepted criteria. The Department also notes Condition B35 of the Project Approval requires lighting to be approved by Council and designed so it would not adversely impact on the surrounding residential development. In addition, the 20 m road corridor would provide adequate separation between the local road and adjoining residents to appropriately minimise noise and light spill impacts. The Department is therefore satisfied the alignment of the new northern road would not result in any significant amenity impacts on nearby residents.

The Department agrees with Council, that extending the median along Grand Parade would result in safer traffic environment, and less potential for vehicle and pedestrian conflicts in this section of the street. A condition has therefore been recommended to extend the median. A condition is also recommended requiring the laneways to be designed to Council's standards, with detailed plans of all roads to be approved by Council prior to the relevant construction certificate.

In relation to the design of Grand Parade, the Department notes the existing approval does not include a pedestrian plaza, and the proposed modifications do not generate the need for a pedestrian only plaza. However, the Department notes the revised plans include a different road surface treatment at the interface of Grande Parade and the foreshore (**Figure 15**), to distinguish it as a high pedestrian zone. The Department considers this would improve pedestrian safety and the village character of the street.

Subject to conditions requiring the traffic median to be extended and the design of the laneways to comply with Council's requirements, the Department is satisfied the proposal results in an acceptable road layout and design.





**Figure 15:** Extract from Landscape Masterplan (source: Proponent's RTS)

## 5.4 Open Space Provision

The proposal seeks to make a number of changes to open space on the site, including:

- an additional area of open space/stormwater infiltration site in the south-west corner of the site (2,071 m<sup>2</sup>)
- a reduction in the size of the Civic Park and adjoining foreshore land (from 6,563 m<sup>2</sup> to 3,500 m<sup>2</sup>)
- deletion of the southern neighbourhood park (a small 454 m<sup>2</sup> pocket park) and adjoining foreshore open space area.

The proposed changes would result in a reduction in the total amount of open space to be dedicated to Council from 16,450 m<sup>2</sup> to 13,805 m<sup>2</sup>.

Concerns were raised in public submissions about the size and quality of public open space on the site. It is noted that many of these concerns specifically related to reducing the width of the northern green corridor, which is no longer sought. Other concerns related to the size and quality of the main Civic Park.

The Department notes Council did not object to the proposed reduction in open space. Council noted there would be less demand for open spaces given the proposed reduction in density. Council also advised the design of the Civic Park could be improved to minimise the impacts of the proposed infrastructure, and to maximise connections to the adjoining public land and foreshore. To resolve this issue, Council suggested a new condition be imposed requiring detailed landscape plans to be submitted to and approved by Council.



The Proponent advises the design of the Civic Park will be further developed during the Construction Certificate stage and will incorporate Council's requirements such as appropriate furniture, pathways, picnic shelters, play equipment, equitable access, tree planting and landscaped mounding.

#### Department's Consideration

The Department notes the proposal would reduce the amount of open space to be dedicated to Council by 16%. However, the proposal would reduce dwelling numbers by 47% compared to the original approval, thereby reducing the demand for open space. In this context, the Department considers the reduction in open space is reasonable.

The Department also considers future residents would still have good access to open space, noting:

- the proposal incorporates a high quality and accessible local park with structured play equipment and recreation facilities, in addition to other informal open space areas
- the development adjoins the coastal reserve and the beachfront immediately to the east of the site and playing fields immediately to the west of the site, providing additional casual and structured open space for residents
- the approval requires the payment of developer contributions towards regional open space, enabling the provision of further open space in the region to serve future residents and the wider community
- the modification results in an increased amount of private open space, with more dwelling houses and backyards.

The Department has also included Council's suggested conditions requiring further detailed design refinement of the Civic Park.

Subject to the recommended conditions, the Department considers, the proposed Civic Park would provide a high-quality space which will appropriately integrate with the adjoining coastal reserve, meeting the needs of residents and visitors.

### **5.5 Cycleway Layout**

The modification results in some minor changes to the approved shared pedestrian /cycleway routes. The routes will generally remain as approved, although the north-south link would now form part of the road reserve, rather than a separate easement. In addition, a connecting path to Casuarina Way has been deleted. The approximate location of the previous connection is shown in pink in **Figure 16**.

Council also requested the Department to consider whether:

- it is appropriate to delete the northern link to Casuarina Way
- the cycle path should be extended to connect to the existing shopping centre
- the safety of the route at the southwest corner of the site which includes a very sharp turn.

The Proponent amended the route at the south-west corner to address Council concerns. It also advises the northern link has been deleted as it does not provide any increased efficiency for pedestrian movements and it has the potential for concealment and therefore reduced safety.



**Figure 16:** Extract from Landscape Masterplan indicating locations of main shared path /cycleway (red) and previous connection now deleted (pink) (base image source: Proponent’s Landscape Masterplan)

Department’s Consideration

The Department considers the northern link (shown in pink in **Figure 16**) does not provide any significant benefits for pedestrians or cyclists approaching the town centre from the north, compared to the proposed routes. The previous access path does not provide a significantly shorter route to the town centre or public park compared to using the existing footpath on Casuarina Way to connect to Grand Parade. Further, pedestrians from the north wanting to connect to the beach are more likely to use other existing connections to the north of the site. The Department therefore considers the deletion of the northern access route would not result in any unacceptable changes to pedestrian and cyclist connectivity.

The Department notes Council’s comment that the cycle path should be extended to connect to the existing shopping centre. The proposed 3.5 m wide cycle path extends to Casuarina Way, where it connects to existing narrower footpaths which provide access to the shopping centre. Those footpaths have been constructed and approved as part of earlier sub-stages and the Department considers the modification does not generate the need to rebuild the previously approved paths. The Department considers the proposed path and cycleway layout provide adequate access for pedestrians and cyclists to the shopping centre.



## 5.6 Staging

The modification seeks to alter the staging of the Concept Plan and Project Approval by:

- removing the hotel and a number of medium density development sites (lots, 11, 10, 16, 18 and part of lots 12 and 13) from Stages 2 to 4 and replacing with 84 new dwelling house lots to be incorporated into the Stage 1 Project Approval
- dividing the final sub-stage of the Stage 1 works into two sub-stages:
  - Stage 1D: the provision of all remaining civil infrastructure works (roads, water, sewer, drainage, services), embellishment of the green corridor including cycle paths above the swale along the northern boundary, subdivision of a residue parcel at Casuarina Beach and dedication of infrastructure and green corridor to Council
  - Stage 1E: the release of lots including the 84 dwelling lots and two public reserves
- consolidating remaining Stages 2 – 4 under the Concept Plan into a single stage Stage 2.
- delaying the timing for approval and provision of a beach accessway from Stage 1 to Stage 2 (to be provided in association with the development of the Icon Building and associated surf lifesaving facilities).

The revised staging plan for the Stage 1 Project Approval is shown in **Figure 6**.

The Proponent advises the beach access is currently the subject of consultation with key stakeholders. The Proponent seeks to delay the timing of its provision to allow the consultation to be completed. It notes there are two alternative access points that residents can use in the interim.

Council has advised it does not object to the proposed sub-staging of Stage 1 provided the provision of infrastructure (Stage 1D) occurs prior to the release of allotments (Stage 1E). DPI also advised it has no objection to the proposed modifications.

### Department's Consideration

The Department agrees with Council that all infrastructure works should be provided prior to the release of the residential allotments. However, the staging plans indicate the construction, embellishment and dedication of the two public reserves would be undertaken in the same sub-stage as the release of the residential lots, rather than prior to their release. This differs from the current approved staging which requires delivery of the parks prior to any residential development in this part of the site.

The Department considers the parks and open space provide valuable amenity for future residents. As such, the parks and open space should be provided prior to the release of the residential lots. A condition has therefore been recommended requiring all infrastructure, including the public reserves to be provided prior to the release of any lots in Stage 1E.

The Department also notes the proposed staging would affect the timing for the delivery of other community infrastructure, including the Surf Lifesaving Australia facilities and the provision of the third beach access which is tied to the delivery of the Icon Building.

Under the current approval, the delivery of the Icon Building is to occur in Stage 2. However, Stage 2 has now been expanded, bringing forward much of the development on the site. This would allow 84 new lots able to be developed prior to the provision of the Icon Building. The revised staging would also allow the Icon Building (and associated lifesaving facilities and beach access) to be delivered after all other remaining development on the site.

The Department previously considered the timing for the delivery of the beach access as part of MOD 4. In that case, the Department did not support the Proponent's request to delay the timing of the beach access and considered it should be provided as part of the Stage 1 Project Approval.

The Department acknowledges there are alternative beach access paths that can be used by future residents until the new access point is constructed. However, the Department considers the central beach access path is required



to support the development of the Casuarina Town Centre as it provides an important link between Grande Parade, the community park and the beach. The Department also notes public submissions emphasised the importance of the surf lifesaving facilities and the beach access to the community.

Therefore, to ensure the delivery of the surf lifesaving facilities and central beach access are not delayed, the Department recommends the staging be modified, requiring the construction of the Icon Building, including lifesaving facilities and the beach access path prior, to the occupation of the other medium density, mixed use and commercial development on the site.

Subject to the revised timing outlined above, the Department considers the revised staging is acceptable.

## 5.7 Other Issues

**Table 2** | Summary of other issues raised

Issue	Findings	Recommended Condition
<i>Lot layout and sizes</i>	<ul style="list-style-type: none"> <li>The proposal results in the creation of additional Torrens title residential lots (in place of medium density development) ranging in size from 229m<sup>2</sup> to 649m<sup>2</sup>, with typical lot sizes around 380m<sup>2</sup>.</li> <li>Concerns were raised in public submissions that the proposed lot sizes are too small, resulting in overcrowding, and reduced amenity due to overshadowing and lack of green space. Council raised no concerns with the proposed lot sizes, noting the site is not subject to a minimum lot size under LEP 2014.</li> <li>The Department notes the proposed lots would be smaller than lots to the north and south of the site where a minimum lot size of 450m<sup>2</sup> applies. However, the site is well located for smaller lots, being within a town centre location. The Department is satisfied that the lots all have appropriate area and dimensions for siting a dwelling and the provision of private outdoor space.</li> <li>The Department also notes the proposed change from medium density to lower density allotments would result in a reduction in the number and of dwellings and the size of buildings on the site. This would reduce the overall potential for amenity impacts on adjoining properties. All future dwelling houses on the site would be subject to future DA assessment against Tweed Shire Council's planning controls or relevant complying development controls, which include requirements to ensure appropriate amenity outcomes are achieved.</li> <li>The Department has also considered the subdivision layout, including the lot dimensions and orientation. The Department is satisfied all lots have appropriate dimensions, street frontages and are predominantly oriented east-west and north-south in accordance with the Tweed Development Control Plan 2008 (DCP) recommendations.</li> <li>The Department is therefore satisfied the proposed lot sizes and layout are appropriate in this location.</li> </ul>	No additional conditions or amendments necessary.
<i>Public Parking</i>	<ul style="list-style-type: none"> <li>Public submissions raised concerns with a lack of public car parking provided on the site.</li> <li>The Project Approval incorporated 170 public car parking spaces within the area subject of this modification, including on-street parking and a carpark on Blue Horizon Drive. The approved 170 spaces exceed Council's requirement for 300 public spaces per kilometre of beach frontage, to satisfy the demand of beachgoers in the area.</li> <li>The proposal seeks approval to revise the provision of on-street parking, due to the revised road layout. This would result in a total of 182 parking spaces. The proposal therefore results in additional public parking spaces and it continues to satisfy Council's requirements.</li> <li>The Department also notes that each future development within the Casuarina Town Centre will be required to provide off street car parking in accordance with Council's DCP. Therefore, appropriate parking for customers and visitors will be provided in addition to the on-street parking.</li> <li>The Department is therefore satisfied the modified proposal incorporates sufficient public car parking.</li> </ul>	No additional conditions or amendments necessary.

Design of Green Buffer	<ul style="list-style-type: none"> <li>The approved development includes piping of an existing drainage swale along the northern boundary and the creation of a 20 m wide landscaped corridor (including a 3.5 m wide cycleway) over the piped infrastructure for the length of the drainage reserve. The approved landscape plans (under MOD 1) incorporates dense shade tree planting for the length of the corridor, providing privacy and visual screening for neighbours to the north.</li> <li>The modification initially sought to incorporate a roadway into the corridor, resulting in a reduced 8 m wide landscaped buffer and cycleway. However, following a large number of submissions objecting to the reduced buffer, the 20 m wide buffer with cycle path was reinstated in the RTS.</li> <li>The Department notes, the proposed landscape plans only indicate shrub and groundcover plantings within the corridor, and do not indicate the dense shade tree planting currently approved.</li> <li>The Department considers the corridor should be planted with shade trees consistent with the existing approval to provide privacy and visual screening for adjoining dwellings and to provide shade and amenity along the shared path. It is therefore recommended that a condition be included accordingly.</li> </ul>	A condition is recommended to be updated to require tree planting along the northern green buffer consistent with the exiting approval.
Stormwater infrastructure	<ul style="list-style-type: none"> <li>The proposal seeks to modify the design of the of the approved piped drainage system along the northern boundary and modify the design of the stormwater infiltration basin within the Council reserve. Changes to the landform associated with the drainage system are also proposed.</li> <li>Public submissions objected to removing the swale in favour of a piped system, with many residents preferring the existing swale to remain in place. Concerns were also raised in public submissions and by Council about the revised drainage system being significantly smaller than the approved system as it may not cope with large rainfall events. Council also raised concern with the extent of earthworks and retaining walls necessary to provide the basin and stormwater system.</li> <li>The Proponent notes the piping and filling of the swale was already approved under MOD 1, and this modification merely seeks to change the size of the pipe and landform design. To address concerns with the design of the system, the Proponent liaised with Council to revise the design, and now proposes a 2.7 m x 1.8 m stormwater culvert to replace the approved 3 x 900 mm diameter pipes, as well as a modified basin and landform design (<b>Figure 11</b>).</li> <li>Council has subsequently advised the revised stormwater design is acceptable and has addressed all of its previous concerns.</li> <li>The Department is therefore satisfied the stormwater management design is appropriate to manage stormwater flows in large rainfall events.</li> <li>Under the <i>Local Government Act 1993</i>, a Plan of Management is required to be adopted for the parcel of community land before the new stormwater works can be carried out. On 15 February 2018, Council adopted a Plan of Management (POM) and confirmed the proposed works in this modification request are consistent with the POM.</li> </ul>	No additional conditions or amendments necessary.
Water and wastewater infrastructure	<ul style="list-style-type: none"> <li>The proposed changes to the subdivision design require amendments to the design of the water and sewerage system. This includes the provision of a sewer pumping station (SPS) within the proposed park area and changes to the water supply layout.</li> <li>Council advised the water supply design generally appears to meet its requirements with respect to layout, but requires further information to demonstrate compliance with its standards, including a water supply study and detailed plans.</li> <li>Council also requires additional information about the design of the sewer and the sewer pumping station, including provision of a 30 m buffer around the pumping station, appropriate depth of the pump well, and detailed designs of the sewerage system, to Council's standards.</li> <li>Council also recommends demolition of the existing trunk sewer and bulk earthworks within 10 m of the existing sewer not commence until the provision of the new sewer pumping station and trunk sewer main has been completed and commissioned.</li> </ul>	Conditions are recommended requiring detailed designs to be approved by Council and restrictions on works related to existing trunk sewer until the new sewerage system is complete.

<i>Bushfire</i>	<ul style="list-style-type: none"> <li>• The Department has confirmed that a 30 m buffer is able to be provided from the pumping station to the nearest residential premises.</li> <li>• To address Council's other concerns, the Department recommends conditions requiring detailed designs of the water and wastewater management systems to be approved by Council prior to the issue of a construction certificate for Stage 1D and restrictions on earthworks and decommissioning of the existing trunk sewer.</li> <li>• Subject to these conditions, the Department is satisfied the proposal is capable of providing appropriate water and wastewater infrastructure to service the development.</li> <li>• RFS initially advised that as the site is mapped as bushfire prone land, an updated assessment against 'Planning for Bushfire Protection 2006' is required as well as details of the management of the park and foreshore lands.</li> <li>• The Proponent prepared a preliminary assessment and provided additional details to address RFS concerns, noting that the only vegetation near the site is on the sand dunes and the adjoining Council reserve along the eastern boundary of the site.</li> <li>• The Proponent subsequently provided a detailed bushfire assessment, demonstrating it is possible to meet the requirements of 'Planning for Bushfire Protection 2006'. It notes one solution would be to incorporate APZs on the proposed lots adjoining the reserve, in conjunction with a 2 m tall rear boundary fence, but there may be other possible solutions put forward at the time of establishing the individual dwellings on each site.</li> <li>• RFS reviewed the Proponent's response, and recommended conditions in relation to APZs, access, water and utilities.</li> <li>• The Department has included RFS's conditions in the approval. Subject to these conditions, the Department is satisfied the proposed development would not result in unacceptable bushfire risks to the new lots.</li> </ul>	<p>RFS recommended conditions have been incorporated in the approval.</p>
<i>Surf lifesaving facilities</i>	<ul style="list-style-type: none"> <li>• Future Assessment Requirement C5 of the Concept Plan requires surf lifesaving facilities to be provided in the 'Icon Building', with the proposed facilities to be agreed with Surf Lifesaving Australia. Final details will be determined as part of a future DA, however the original Concept Plan application indicated facilities will be limited to an office, first aid room, toilets and storage facilities.</li> <li>• Concerns were raised in public submissions about the size and nature of the facilities as they would not be sufficient to accommodate the future growth of the community and increased used of the beach.</li> <li>• The Department notes the modification request does not seek to modify Future Assessment Requirement C5. In addition, the overall size of the Icon Building is not proposed to change, and the overall demand for services would decrease given the reduction in population density. The Department therefore considers the matter is outside the scope of the current proposal and the final size and nature of the facilities is a matter which can appropriately be determined as part of the assessment of a future DA, in consultation with Surf Lifesaving Australia.</li> </ul>	<p>No additional conditions or amendments necessary.</p>
<i>Aboriginal heritage</i>	<ul style="list-style-type: none"> <li>• OEH recommended the Department consider impacts on intangible Aboriginal cultural heritage arising from the increased building heights in consultation with local Aboriginal knowledge holders.</li> <li>• The Department notes the original Concept Plan application was accompanied by an Aboriginal Cultural Heritage assessment carried out in consultation with local Aboriginal knowledge holders. The assessment found there was no knowledge of past Aboriginal sites or cultural material on the land, and any evidence that may have been there in the past would have been removed by previous sand mining activities. Although it does form part of the wider Aboriginal cultural landscape, there are also no known specific associations to the site. Future building forms regardless of height, did not arise as a matter which would impact on Aboriginal cultural heritage.</li> <li>• The Department is therefore satisfied the original application appropriately assessed Aboriginal cultural heritage impacts and the proposed modification would not result in any additional impacts beyond those already assessed and approved. Further, the existing Project Approval includes a safeguard (Condition D20) to ensure Aboriginal cultural materials are protected, should they be</li> </ul>	<p>No additional conditions or amendments necessary.</p>



encountered as part of the development works.

<p><i>Biodiversity</i></p>	<ul style="list-style-type: none"> <li>Public submissions raised concerns about potential impacts on vegetation and fauna as a result of filling the swale along the northern boundary of the site and creation of the new beach access. OEH also questioned whether impacts on biodiversity would be adequately assessed as part of future beach access options and design.</li> <li>The Department notes previous assessments have found the site has low biodiversity value, having been previously cleared and mined.</li> <li>The Department also notes no changes are proposed which would impact on the beach access options and design, as it is only sought to change the timing for delivery of the access. Further, filling of the swale, and associated clearing of existing vegetation, has already been approved on the site.</li> <li>As discussed above, the Department has recommended a condition to ensure planting of the green corridor consistent with planting required under the existing approval.</li> <li>The Department is therefore satisfied the proposed modification would not result in any additional biodiversity impacts beyond those previously assessed and approved.</li> </ul>	<p>No additional conditions or amendments necessary.</p>
<p><i>Land contamination</i></p>	<ul style="list-style-type: none"> <li>Public submissions raised concerns about contamination of the land from previous sand mining activity, noting previous studies demonstrated high radiation levels on the site. Concerns were raised about potential exposure to radioactive material due to high levels of silica dust blown across the community during development works.</li> <li>The Department notes land contamination was considered in the assessment of the original application and conditions were included in the Project Approval requiring: <ul style="list-style-type: none"> <li>surface and full depth radiation investigations,</li> <li>approval by Council of a Remedial Action Plan prior to the issue of a construction certificate for Stage 1 works,</li> <li>remediation and submission of a Site Audit Statement by an accredited auditor prior to the issue of a subdivision certificate for Stage 1</li> <li>dust control measures and dust and wind monitoring to prevent dust from affecting the neighbourhood.</li> </ul> </li> <li>The Department is satisfied the existing conditions of approval contain adequate safeguards to protect the amenity and health of nearby residents but recommends any existing investigations or remedial action plans be updated to take into account the revised works under this modification.</li> </ul>	<p>Conditions are recommended to ensure existing investigations or remedial action plans be updated</p>
<p><i>Coastal SEPP</i></p>	<ul style="list-style-type: none"> <li>The Department has assessed the proposal against State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP) which commenced on 3 April 2018. The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).</li> <li>The Coastal SEPP identifies the site as located within the Coastal Environment Area and Coastal Use Area and therefore clauses 13 and 14 apply.</li> <li>Clauses 13 and 14 of the Coastal SEPP require the consent authority to be satisfied the following matters (see <b>Appendix E</b>) are addressed in respect of all applications. Based on the assessment at <b>Appendix E</b>, the Department is satisfied the modification is consistent with requirements of the Coastal SEPP and it would not result in any unreasonable impacts on the Coastal Environment or Use area.</li> </ul>	
<p><i>Developer contributions</i></p>	<ul style="list-style-type: none"> <li>The proposed changes to the staging and the number of Torrens Title lots to be included in Stage 1 require payment of developer contributions to be updated. Conditions E21 and E22 are recommended to be updated accordingly.</li> </ul>	<p>Conditions E21 and E22 are recommended to be updated</p>



## 6. Conclusion

The Department has assessed the modification request and supporting documentation in accordance with the relevant requirements of the EP&A Act. The assessment concludes the proposed modification is appropriate on the basis that:

- it would continue to provide a range of housing choices, with high-density units close to the town centre which will add to the vitality and viability of the centre
- the deletion of the hotel in favour of housing would be consistent with the current strategic planning objectives which no longer promote tourism related uses on the site
- the proposed four storey height along the main street would be consistent with the LEP 2014 height controls and would distinguish the town centre from surrounding development
- subject to modifications, the proposal would provide an active main street with good connections to the civic park and beach
- the amended road layout would improve access and permeability through the site and subject to conditions would not result in adverse safety or amenity impacts
- the proposal would still deliver high quality open space areas, which would adequately meet the needs of future residents and contribute to the amenity of the town centre
- the approved width of the northern green corridor has been retained and subject to conditions to incorporate tree planting, will provide an appropriate buffer and amenity for adjoining development to the north
- the proposed changes to the stormwater design meet Council requirements and would not result in adverse stormwater management or flooding impacts
- subject to conditions the proposed changes to the staging would not adversely affect the delivery of infrastructure and services.

The Department is therefore satisfied the proposal would not result in any significant impacts beyond those already assessed and approved. The Department considers the proposal is approvable subject to the conditions of approval outlined within this report. The assessment report is hereby presented to the Commission for determination.

Recommended by:

**Anthony Witherdin**

Director

Regional Assessments

Recommended by:

**Anthea Sargeant**

Executive Director

Key Sites and Industry Assessments

14/9/18