

ASSESSMENT REPORT

Bay Street, Tweed Heads
DA 43-3-2005 MOD 6

1. INTRODUCTION

This report is an assessment of an application seeking to modify the development consent (DA 43-3-2005) for a mixed-use multi-storey development located at Bay Street, Tweed Heads in the Tweed local government areas. The application has been lodged by Pacific Outlook Pty Ltd (the Applicant) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to divide Stages 2 and 3 into two sub-stages to separate the below ground works from the above ground works.

2. SUBJECT SITE

The subject site is known as 2 – 6 Bay Street, Tweed Heads. The site is located in the Tweed Heads Central Business District (CBD) and has frontages to Bay Street, Thomson Street and Enid Street. The site is irregularly shaped and has a total area of 5,472 sqm (see **Figure 1**).



Figure 1: Subject site and surrounding context (Source - Sixmaps)

3. APPROVAL HISTORY

On 9 December 2006, the then Minister for Planning granted Development Consent for a mixed use residential and commercial development comprising two 16 storey towers and one 10 storey tower consisting of 183 residential apartments, 10 ground floor commercial tenancies, two restaurants and three commercial offices. The project approval has been modified on five occasions as outlined in **Table 1** below.

Table 1: Modifications to original project approval

Modification number	Modification scope	Approval
1	Redesign the external facade treatment, provide an additional 19 units, additional basement parking, modifications to landscaping and change the ground floor uses to retail uses	17 November 2009
2	Stage the construction of the development and stage payment of Section 94 Contributions	2 August 2011
3	Design amendments, including reconfiguration and redesign of the residential towers, provision of additional floor space, changes to unit and floor space mix, and deletion of some basement car parking.	20 January 2016
4	Minor changes to the configuration of the internal parking and servicing layout in the lower levels of the development, and revised construction staging arrangement by dividing Stage 1 into two sub-stages.	2 December 2016
5	Design amendments, including reconfiguration and redesign of the towers, changes to the unit mix and floor space mix, expansion of the basement footprint and redesign of the parking levels.	28 February 2018

4. PROPOSED MODIFICATION

On 13 June 2018, the Applicant lodged a modification application (DA 43-3-2005 MOD 6) seeking approval to split Stages 2 and 3 into two substages as outlined in **Table 2** below.

The revised staging would allow the below ground works to be undertaken separately from the above ground works. It would also provide flexibility for the respective above and below ground stages to be undertaken concurrently. The proposal also seeks to change the timing of the payment of the contributions from prior to commencement of the below ground works to prior to commencement of above ground works.

Table 1: Approved and proposed stages

Approved		Proposed	
Stage Number	Works	Stage Number	Works
1A	Construction of the Enid Street tower including 47 units over 8 levels, car parking for 99 vehicles and infrastructure and landscape works	1A	No change to approved works
1B	Construction of 4 units over 2 levels, podium landscaping, lobby works, car parking for 6 vehicles, streetscape works to the Enid Street frontage and site landscaping.	1B	No change to approved works
2	Construction of the Bay Street tower comprising three commercial tenancies at ground level, 74 units over 14 levels, car parking for 137 vehicles, landscaping and streetscaping works.	2A	Construction of the basement, ground and Level 1 area of the Bay Street towers including car parking for 137 vehicles and pedestrian entry.
		2B	Construction of the Bay Street tower comprising three commercial tenancies at ground level, 74 units over 14 levels and landscaping and streetscaping works.
3	Construction of the Thompson Street tower comprising 76 units over 15 levels,	3A	Construction of the basement, ground and Level 1 area of the Thompson Street

	ground floor commercial tenancy and car parking for 110 vehicles.		towers including car parking for 110 vehicles.
		3B	Construction of the Thompson Street tower comprising 76 units over 15 levels, ground floor commercial tenancy and car parking for 110 vehicles.

5. STATUTORY CONSIDERATION

5.1 Modification of approval

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 2: Matters for consideration

Section 4.55(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact	Section 7 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.
That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	The proposed modification seeks approval for minor changes and does not result in any additional adverse impacts on the surrounding area. On this basis, the proposal would result in development that is substantially the same as the originally approved development.
The application has been notified in accordance with the regulations	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
Any submission made concerning the proposed modification has been considered.	The Department received one submission from Tweed Shire Council. No other submissions were received.

5.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development
- Tweed Local Environmental Plan 2014

The Department undertook a comprehensive assessment of the redevelopment against the above-mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.

5.3 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Director, Regional Assessments, may determine the request under delegation as:

- the relevant local Council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

6. CONSULTATION

The application was made publicly available on the Department's website and referred to Tweed Shire Council (Council) for comment. Due to the minor nature of the proposed modification, it was not exhibited by any other means.

Council did not object to the application and indicated they are supportive of the application including the proposed changes to the conditions. Council noted that conditions B22 and C6, related to waste management, and condition B46, related to detwatering, have been satisfied as the required reports have been submitted to and approved by Council.

No public submissions were received.

7. ASSESSMENT

The application seeks approval to divide Stages 2 and 3 into two substages for above and below ground works. The modification would allow the below ground works to be undertaken separately from the above ground works and the respective above and below ground stages to be constructed concurrently.

The Department considers the revised staging is acceptable as:

- the development would still be undertaken in an orderly and sequential manner, minimising impacts on the surrounding area
- the proposal would not result in any physical changes to the approved development
- construction impacts would continue to be appropriately managed by the existing conditions of approval.

The Department also considers the revised timing for the payment of Section 7.11 and Section 64 contributions is acceptable as it would be consistent with Council's requirements.

The Department's assessment therefore concludes the application is acceptable, subject to conditions, as it would not result in any adverse impacts beyond those already assessed and approved.

8. RECOMMENDATION

It is recommended that the Director, Regional Assessments, as delegate for the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application DA 43-3-2005 MOD 6 falls within the scope of section 4.55(1A) of the EP&A Act
- **approves** the modification application DA 43-3-2005 MOD 6 subject to the modified terms of approval
- **signs** the attached approval of the modification (Appendix A).

Recommended by:

Michelle Niles
Senior Planner
Regional Assessments

DECISION

The recommendation is: Approved by:

 17/8/18

Anthony Witherdin
Director
Regional Assessments
as delegate of the Minister for Planning

APPENDIX A: MODIFICATION CONSENT

A copy of the modified consent can be found on the Departments website at:

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9396

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification application

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9396