

ASSESSMENT REPORT

Section 75W Modification Vincentia District Town Centre (MP06_0025 MOD 6)

1. BACKGROUND

This report is an assessment of a request to modify the Project Approval for the Vincentia District Town Centre (MP06_0025 MOD 6) under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The request has been lodged by the Planning Group NSW Pty Ltd on behalf of Woolworths Ltd (the Proponent). It seeks to split Stage 1 of the project into two stages (Stage 1a and Stage 1b), amend the approved stormwater management measures, reconfigure the internal layout of the shopping centre and loading dock area, and amend an external pedestrian pathway.

2. SUBJECT SITE

The Vincentia District Town Centre is a 12.24 hectare (ha) site located on the northern corner of the intersection of Naval College (Jervis Bay) Road and The Wool Road, Vincentia in the Shoalhaven local government area.

The site is bounded by Jervis Bay National Park and the Bayside residential development to the north, the Bay and Basin Leisure Centre and wetlands to the east, The Wool Road and the balance of the Jervis Bay National Park to the south, Vincentia High School to the south-east and Naval College Road to the west. The Vincentia township is located two kilometres (km) east of the site. The site has been cleared for development. A Location Plan is provided at **Figure 1**.

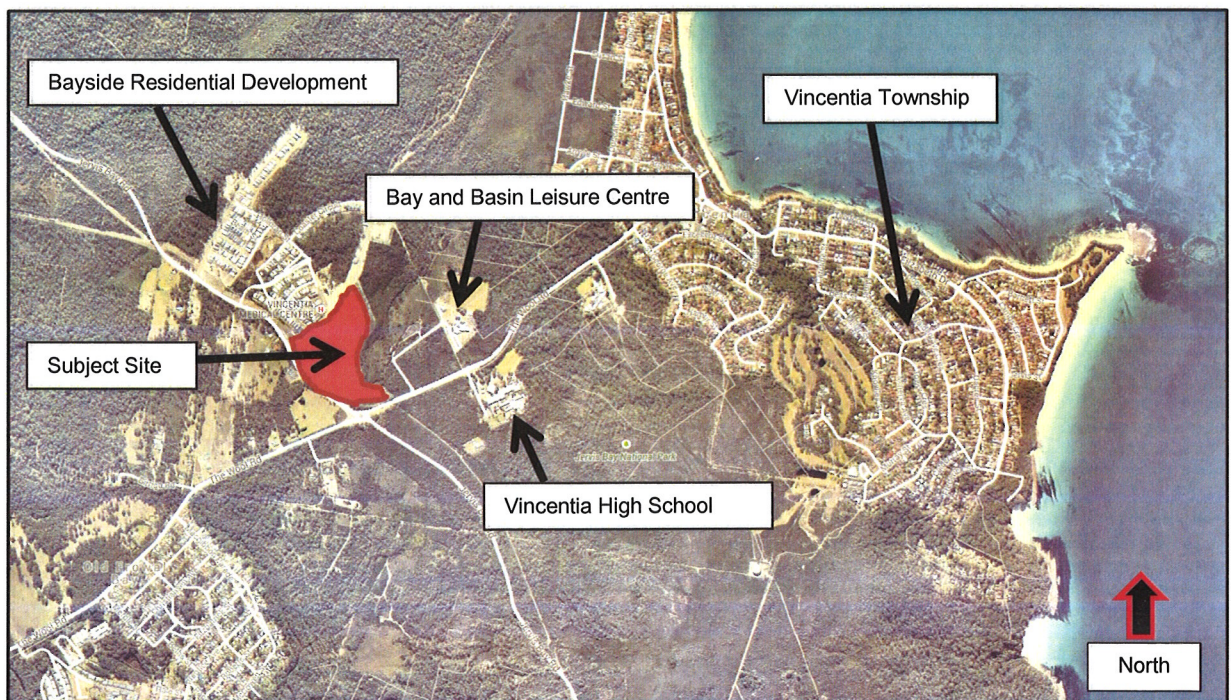


Figure 1: Location Plan

3. SITE HISTORY

3.1.1 Concept Plan Approval

On 25 January 2007, the then Minister for Planning approved a Concept Plan for a district town centre to be developed in three stages, a 604 lot residential subdivision, and adaptable housing known as the Vincentia Coastal Village (MP06_0060). The district centre portion of the Concept Plan is comprised of 32,000 m² of gross floor area (GFA) and was the subject of a Design Excellence Competition, with Rice Daubney announced as the winning entrant.

3.1.2 Project Approval

On 7 January 2009, the then Minister for Planning granted Project Approval (MP06_0025) for the construction of a 14,000 m² district town centre comprised of 10,000 m² of retail floor space and 4,000 m² of commercial/community uses GFA.

The project approval has been modified on five occasions to:

- delete the construction of the pedestrian underpass beneath Naval College Road;
- increase the GFA of the district town centre from 32,000 m² to 37,000 m²;
- permit the construction of the district town centre in three stages comprised of:
 - Stage 1 (construction of two supermarkets and associated retail tenancies)
 - Stage 2 (construction Big W discount department store)
 - Stage 3 (construction of the bulky goods retail precinct and library).
- reconfigure the layout of the car park, increase the Moona Creek Road setback, and bring forward the road upgrades along Moona Creek Road and The Wool Road;
- relocate the bus stop from Moona Creek Road to within the car park;
- enclose the walkways within the centre (except for the Arbour Walk);
- amend the external materials and finishes and the approved landscape strategy;
- reinstate the retail uses to Moona Creek Road;
- reduce retail tenancy sizes, mall widths and building footprint, and reconfigure the loading dock; and
- increase the finished floor levels of the buildings to RL13.0 m.

The Project Approval, as modified, currently permits the following development:

- construction of the Vincentia District Centre in three stages, identified as stage 1, 2 and 3, with the release of stages 2 and 3 subject to market demand;
- construction of both supermarkets and associated retail in Stage 1 and construction of the discount department store and other specialty retail uses in Stage 2;
- construction of the bulky goods retail precinct and library in Stage 3;
- construction of car parking associated with each stage;
- provision of infrastructure for water, sewerage, electricity and telecommunications;
- road works and access/public domain works within the Vincentia District Centre (including Moona Creek Road, The Wool Road, external road works, footpath and open space areas); and
- landscaping works.

The approved project (as modified) is shown in **Figure 2**.

4. PROPOSED MODIFICATION

- The proposed modification, as amended by the Proponent's Response to Submissions (RTS) dated 24 October 2014, seeks approval to:
- split the construction of Stage 1 into two stages (Stage 1a and Stage 1b) to create a total of four stages (stages 1a, 1b, 2 and 3);
 - defer the construction of the two retail tenancies (T.31 and T.32) and the angled parking on the Moona Creek Road frontage to Stage 1b;
 - defer the construction of the southern section of Arbor Way not required for Stage 1a site access to Stage 2;
 - combine the western car parking areas into a consolidated car park within Stage 1a, and reduce the number of car parking spaces from 274 to 218 spaces;
 - reconfigure the pedestrian pathways, including the deletion of the pathway from Moona Creek Road to the north-eastern corner of the western car park;
 - relocate the bus stop on Skiff Way to the area adjacent to retail tenancy 4;
 - delete the bioswales located in the car park and replace them with a piped system that directs stormwater run-off to either the new bioswale proposed on the south-eastern side of the car park, or the constructed wetland located within proposed Stage 1a;
 - provide additional landscape planting on the Moona Creek Road frontage; and
 - minor changes to the internal layout of the centre and the loading dock.

The proposed modifications are depicted in **Figure 3**.

Figure 2: Approved Project (as modified)



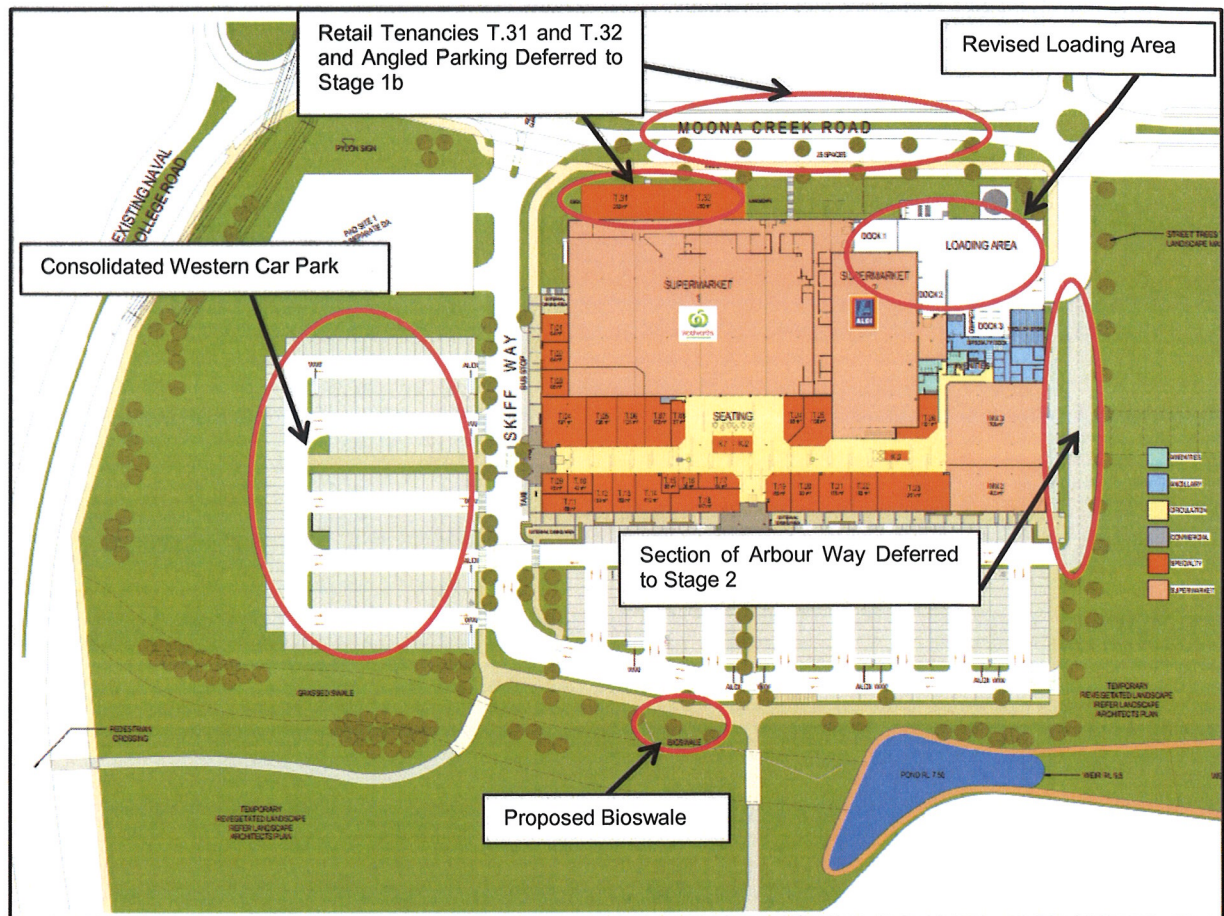


Figure 3: Proposed Stage 1a and 1b

5. PROJECT NEED AND JUSTIFICATION

The Proponent has advised that the modifications are required on the basis that:

- population growth has not reached the levels predicted to be achieved prior to the opening of the centre. Accordingly, Woolworths is seeking to stage the construction of the centre to provide floor space commensurate with the demands of the existing residential population. This will assist in maintaining the viability of the centre whilst it is in the establishment phase, as it will eliminate the risk of failure associated with vacant retail tenancies; and
- the modifications to the car park layout and stormwater management system are necessary to provide a level car park surface to minimise the risk of property damage and accidents associated with trolley 'roll', and to reduce system failure associated with garbage being deposited in the bioswales in the car park area.

6. STATUTORY CONSIDERATION

6.1 Section 75W

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A to the EP&A Act, continues to apply to Section 75W modification applications to Part 3A projects.

The modification request has been lodged with the Secretary pursuant to section 75W of the EP&A Act. The Minister's approval is not required if the project, as modified, remains consistent with the original approval. As the application seeks to modify the staging arrangements, the approved site layout, and the conditions of approval, the Minister's approval is required.

The proposed changes constitute a modification, are within the scope of section 75W of the EP&A Act, and do not constitute a new application. Therefore, the Minister (or her delegate) has the ability to determine the modification application.

Consequently, this report has been prepared in accordance with the requirements of Part 3A of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg). The Minister (or her delegate) may approve or disapprove of the modification of the project under section 75W of the EP&A Act.

6.2 Approval Authority

The on 10 November 2014, the Minister for Planning delegated responsibility for the determination of section 75W modification applications to Directors and Managers who report to the Executive Director, Infrastructure and Industry Assessments where:

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

The proposal complies with the terms of the delegation as Shoalhaven City Council (Council) did not object to the proposal, a political disclosure has not been made in relation to the application, and no public submissions were received in the nature of objections. Accordingly, the Manager, Industry Assessments may determine the application in accordance with the Minister's delegation.

6.3 Consultation

Under section 75X(2)(f) of the EP&A Act, the Secretary is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the EP&A Regulation, the modification request was made publicly available on the Department's website on 2 September 2014, and referred the application to Shoalhaven City Council (Council), Roads and Maritime Services (RMS), the Office of Environment and Heritage (OEH), the Department of Primary Industries NSW Office of Water, and the Vincentia Ratepayers and Residents Association (Residents Association) for comment. Given the minor nature of the modification request, it was not publicly exhibited or notified.

The Department received submissions from Council, OEH, RMS and NOW. In addition, one public submission was received from the Residents Association which raised concerns with the revised centre design. These submissions are summarised below.

Council

The Council advised that it supports deferring the construction of retail tenancies T.31 and T.32, subject to the installation of temporary architectural treatments and landscaping to improve the presentation of the site from Moona Creek Road. However, the Council also advised that it has the following concerns with the application:

- there are a number of inconsistencies within the modification report, technical appendices and architectural plans. These documents should be revised to clarify the scope of the proposed modification;
- the plans do not identify which grass swales will be replaced with grass pollutant traps (GPTs), and no justification has been provided to demonstrate that GPTs will provide an equivalent solution for the treatment of suspended solids/sediments and the treatment/capture of nutrients; and
- it is unclear whether pedestrian access through the site to The Wool Road will be completed as part of the Stage 1a works. The construction of this link should be required as part of the Stage 1a works to ensure appropriate access is provided through the site to the Vincentia High School and the Bay and Basin Leisure Centre.

The Department has reviewed the Council's comments and agrees that there are inconsistencies within the Proponent's application, and that insufficient information was

provided to justify the proposed changes to the approved stormwater management system. The Department requested that the Proponent address these issues via the provision of an RTS.

The Office of Environment and Heritage (OEH)

The OEH objected to the Proponent's request to delete the landscape swales within the car park and replace them with GPTs on the basis that the absorption and filtration rates of GPTs provide an inferior water quality outcome in comparison to landscaped swales. In addition, the OEH advised that it is concerned that the revised stormwater management measures may adversely affect sensitive downstream waters.

The OEH also requested that the Department reconsider the revisions to the stormwater management measures approved under MP06_0025 MOD 5, as these works may cause potential flooding issues.

The Department has reviewed the OEH's comments in relation to the changes proposed to the approved stormwater management measures and has required the Proponent to quantify the water quality impacts associated with removing the landscape swales and replacing them with GPTs as part of its RTS.

In addition, the Department has reviewed the OEH's comments provided in relation to the stormwater management measures approved under MP06_0025 MOD 5, and has concluded that stormwater management issues were considered as part of the Department's assessment of the previous modification application.

Roads and Maritime Services (RMS)

The RMS raised no objection to the proposed modification.

The Department of Primary Industries, NSW Office of Water (NOW)

NOW did not object to the application, however it requested the Department consider requiring the Proponent to:

- construct the Boardwalk Creek overland flow path as an open channel that mimics a stable natural creek system instead of a piped option; and
- use native plants in the creek system, settlement basin, wetland and temporary landscaped area to improve water quality outcomes.

The Department has reviewed NOW's comments and has concluded that:

- the Phasing Plan for stages 2 and 3 (Drawing No.DA0103 Rev BB) approved under MP06_0025 MOD 5 confirms that the bulky goods retail precinct and library will be constructed over a portion of the overland flow path, necessitating a piped section. As such, the Department considers the construction of Boardwalk Creek as an overland flow path is outside the scope of this application; and
- Boardwalk Creek is proposed to be constructed as a grassed swale designed to convey overland stormwater flows. It would not be possible or necessary for the approved grass swale to mimic a stable natural creek system.

Vincentia Ratepayers and Residents Association (Ratepayers Association)

The Ratepayers Association did not object to the application, however it raised concerns in relation to:

- the streetscape appearance and activation of Moona Creek Road;
- the adequacy of the proposed landscape treatment to screen the development from Naval College and Moona Creek Road;
- whilst not part of the application, the proposed plans do not show a connection between the shared pathway on the southern side of The Wool Road and the subject site. The lack of connection is a safety issue for school children and pedestrians seeking to access the district centre from The Wool Road;

- the possibility of the Proponent never constructing Stage 1b and therefore reducing the design quality of the building when viewed from Moona Creek Road; and
- the impacts associated with previous clearing on-site (in the bulky goods precinct, which will not be constructed in the near term).

The Department has reviewed the comments provided by the Ratepayers Association and considers that:

- the application does not identify interim architectural or landscape treatments to ensure an appropriate level of activation and pedestrian amenity along Moona Creek Road. The Department has requested that the Proponent address these issues in its RTS;
- a condition should be imposed to ensure that the retail tenancies fronting Moona Creek Road are constructed prior to the commencement of construction works with Stage 2. A condition requiring the above has been included in the Instrument of Modification; and
- the existing conditions of approval permit clearing works within the bulky goods precinct. In addition, appropriate plans of management have been required to ensure the construction impacts are managed over the life of the project; and
- a condition should be imposed to ensure pedestrian access is provided through the site to The Wool Road as part of the Stage 1a works. A condition requiring the above has been included in the Instrument of Modification.

6.4 Response to Submissions

On 21 October 2014, the Proponent lodged a RTS to address the agency and public submissions. The RTS included supplementary plans and information that:

- clarified the extent of the proposed modification;
- identified the works proposed in stages 1a and 1b;
- identified the temporary architectural and landscape treatments along the Moona Road frontage of the site; and
- confirms that the bioswales within the car park areas will not be replaced by GPTs. Rather, the Proponent is seeking approval to replace the bioswales in the southern car park area with a piped system which will capture stormwater from the roof areas of the proposed centre, and the southern car parking area and convey the stormwater to either a new large bioswale adjacent to the southern car parking area, or the approved constructed wetland.

In addition, the RTS provides an assessment of compliance with the design excellence and water sensitive urban design requirements of the Concept Plan.

The Department has reviewed the RTS and PPR and is satisfied that it addresses the issues raised in the agency and public submissions. An assessment of the modification, as amended by the Proponent's RTS and PPR is provided in **Section 7** below.

7. ASSESSMENT

In its assessment of the modification application, the Department has considered the following:

- the EA, RTS and PPR provided to support the proposed modification (see **Appendix A**);
- all submissions received by the Department (see **Appendix C**); and
- the Director-General's assessment reports for the original project application and earlier modification approvals.

The Department considers the request to split Stage 1 into two stages acceptable on the basis that:

- the application will not alter the external design of the building as approved under MP06_0025 MOD 5;
- the reduced floor space will be commensurate with the amount of retail floor space required to service the existing community; and

- the proposed reduction in floor space will ensure the success of the centre by avoiding the creation of vacant retail tenancies in the start-up phase of the project.

As such, the Department considers that the key issues associated with the modification application include:

- compliance with the Concept Plan;
- the implications of the proposed staging arrangement on the streetscape appearance and activation of Moona Creek Road;
- the adequacy of proposed landscaping to screen/filter the development from Naval College Road; and
- the changes to the approved stormwater management system.

7.1 Compliance with the Vincentia Coastal Village Concept Plan

Condition B2 of the Concept Plan requires all future applications to provide a report demonstrating that the application is consistent with the design excellence principles approved under Modification A4 of the Concept Plan. The Proponent's RTS included an assessment of the application against the design excellence provisions of the Concept Plan, and concluded that the proposed development exhibits design excellence.

The Department has reviewed the application against the design excellence provisions of the Concept Plan and is satisfied that following the completion of the Stage 1b works, the application will provide the same design outcome as approved under MP06_0025 MOD 5. Notwithstanding, the Department notes that the application includes temporary architectural and landscape treatments to ensure an appropriate design outcome is provided until the Stage 1b works are complete. It should be noted that the Council's submission supports the Department's view that the proposed development will continue to exhibit design excellence, subject to the installation of temporary architectural and landscape treatments, and the imposition of a condition requiring the Proponent to construct the Stage 1b works.

In order to ensure the application continues to achieve design excellence, the Department has recommended conditions to ensure that:

- the temporary architectural and landscape treatments are installed and maintained until the Stage 1b works commence; and
- the retail tenancies in Stage 1b are constructed prior to the issue of a Construction Certificate for the Stage 2 works.

7.2 Moona Creek Road Streetscape and Activation

The submissions from the Council and the Ratepayers Association raised concern with the level of activation and streetscape appearance of the Moona Creek Road facade.

The two retail tenancies on the Moona Creek Road frontage that would be deferred to Stage 1b provide activation and visual interest to the Moona Creek Road streetscape and assist in ensuring compliance with the design excellence provisions of the Concept Plan. However, in the absence of these retail tenancies, it is necessary to ensure that the streetscape appearance of Stage 1a as viewed from Moona Creek Road is acceptable.

In order to ensure design excellence is provided up until the Stage 1b works are commenced, the Proponent has amended the application to provide temporary architectural treatments including textured and painted concrete panels, corrugated metal cladding, and weathered timber planks and battens.

In addition, the RTS includes revised landscape drawings which demonstrate that the appearance of the centre as viewed from Moona Creek Road will be softened through temporary landscaping up until the Stage 1b works commence.

Given the above, the Department is satisfied that the application includes suitable measures to demonstrate that the temporary works proposed in Stage 1a are capable of exhibiting design excellence until such time at the Stage 1B works are implemented. Notwithstanding, as previously outlined, the Department has recommended the imposition of a condition requiring the construction of the Stage 1b works prior to the issue of a Construction Certificate for the Stage 2 works, to ensure that the design treatments required to activate the Moonah Creek Road frontage under MP 06_0025 MOD 5 will be constructed.

7.3 Naval College Road Landscape Treatment

The submission from the Ratepayers Association raised concern over the ability of the proposed grass batter and landscaping to adequately screen the development from Naval College Road. The Landscape Design Summary which accompanied the RTS (Drawing DA001 D) provides for native buffer planting and overland swale buffer planting on the western boundary of the site and in the vicinity of the intersection of Naval College Road and Moona Creek Road. Additional planting is also proposed around the perimeter and within the consolidated western car park. The Department is satisfied that the proposed landscaping is adequate to screen and filter the appearance of the built form of the centre from Naval College Road.

7.4 Stormwater Treatment and Water Sensitive Urban Design (WSUD)

The application originally sought approval to remove the landscaped swales within the car park and replace them with GPTs. This modification was requested to provide a level car park surface to minimise the risk of property damage and accidents associated with trolley 'roll', and to reduce system failure associated with garbage being deposited in the bioswales in the car park area.

Both Council and the OEH raised concerns with this aspect of the modification on the basis that the absorption and filtration rates of GPTs provide an inferior water quality outcome in comparison to landscaped swales. In addition, both agencies were concerned that the modifications to the approved stormwater management strategy would be inconsistent with the water sensitive urban design principles approved under the Concept Plan.

In response to the concerns raised by the Council, OEH and the Department, the Proponent's RTS clarified that the application is seeking approval to remove the landscape swales within the car park and divert these water flows to a 75 m³ biofiltration area adjacent to the car park and the approved stormwater pond and wetland (see **Figure 4** below). In addition, the RTS noted that following initial treatment in the bioswale, stormwater would be transferred to the approved settlement pond prior to release further downstream as anticipated under the approved stormwater management strategy

The Department has reviewed the RTS and has concluded that:

- whilst the application removes the bioswales located within the car park, stormwater flows will be diverted to a 75 m³ bioswale immediately south of the car park thereby ensuring the treatment of water in accordance with the water sensitive urban design principles approved under the Concept Plan;
- whilst the design excellence provisions identified in Condition A4 of the Concept Plan require the incorporation of impervious surfaces within the car park to enable water infiltration, the Department is satisfied that the proposed modification provides an equivalent water treatment solution, and therefore the development will continue to exhibit design excellence; and
- there will be no unreasonable impact to sensitive downstream receiving waters resulting from the removal of the car park bioswales.

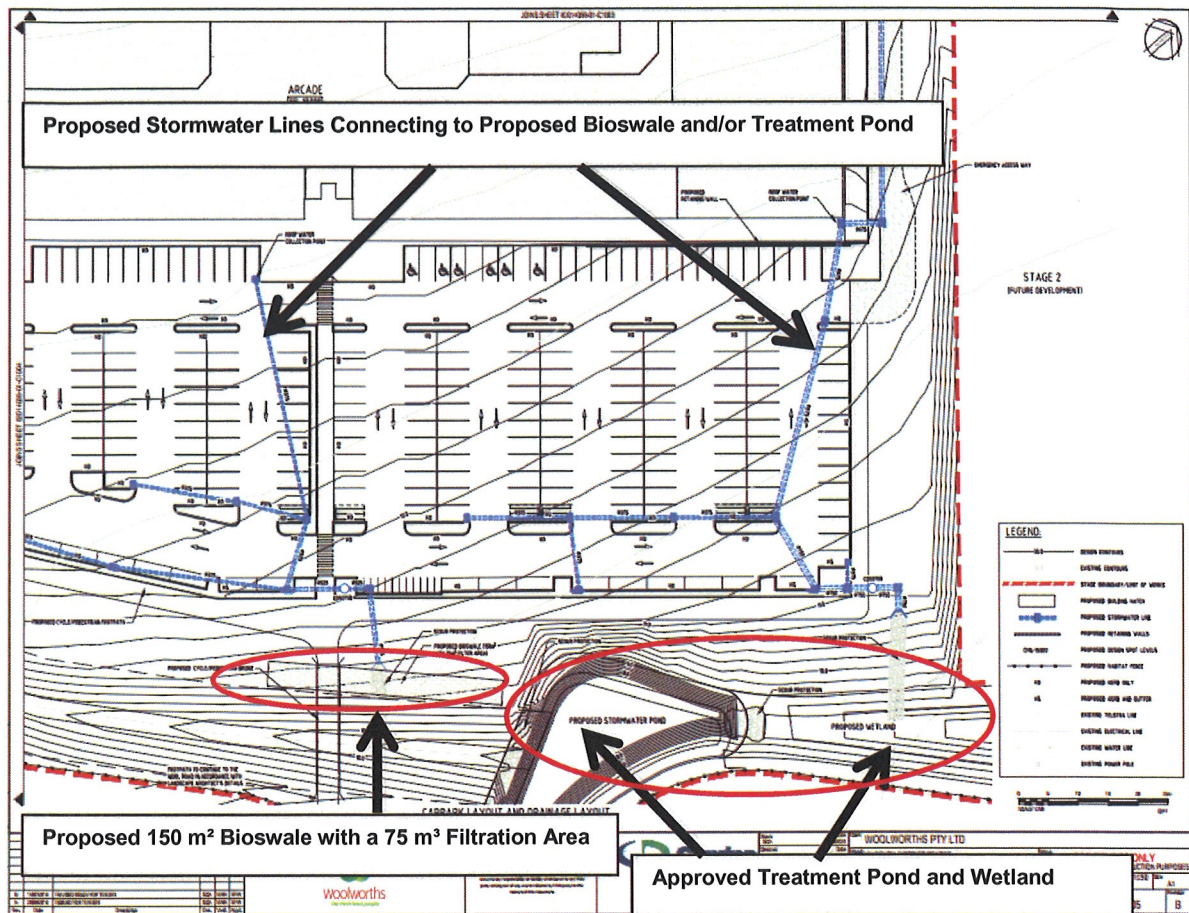


Figure 4: Proposed Stage Piped Drainage System and Bioswale

8. CONCLUSION


The Department considers the proposed modification is consistent with the terms of the Concept Plan and Project Approval, and will not result in any environmental impacts beyond those previously assessed. Further, the Department considers that the Council's concerns and the concerns of the OEH and the Ratepayer Association have been resolved by the information provided in the Proponent's RTS and PPR.


The Department is satisfied that the streetscape appearance of the centre as viewed from Moona Creek Road would be acceptable until such time as the retail tenancies within Stage 1b are constructed. Further, the Department is satisfied that following the implementation of Stage 1b and the construction of the two deferred retail tenancies that the level of activation and appearance afforded to the Moona Creek Road facade of the centre would be consistent with winning Rice Daubney design for the centre. It is therefore recommended that the modification request be approved subject to the conditions recommended in the Instrument of Modification.

9. RECOMMENDATION

It is recommended that the Manager, Industry Assessments, as the delegate of the Minister for Planning, under section 75W of the EP&A Act, approve the MP06_0025 MOD 6, as set out in the recommended Instrument of Modification (**Appendix C**).

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