



Planning

Mixed Use Development

***Lots 184-187 & 191-194 DP 259164 and
Lots 20-23 DP 31208***

***TWEED COAST ROAD AND HASTINGS
ROAD, CABARITA BEACH/BOGANGAR***

Proposed by WA Stockwell Pty Ltd

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

November 2009



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EXECUTIVE SUMMARY

This is a report on a project application by WA Stockwell Pty Ltd to carry out a Mixed Use Development at Lots 184-187 & 191-194 DP 259164 and Lots 20-23 DP 31208 at Tweed Coast Road and Hastings Road Cabarita Beach/Bogangar ("the proposal").

The proposal comprises of a 3-4 storey mixed use development with a ground level retail centre and 40 upper level residential units. The retail component is on-grade with Tweed Coast Road and consists of 3416m² of floorspace comprising of one tenancy for a major supermarket and 11 premises for speciality retail. The proposal makes provision for on-site carparking for 204 vehicles and utilises Hastings Road for vehicle access.

The estimated project cost of the development is \$14 million. The proposal will create 120 full time equivalent construction jobs and 30 full time equivalent operational jobs.

During the exhibition period, the Department received a total of five submissions from public authorities and 17 submissions from the public. Key issues considered in the Department's assessment included:

- Retail impact
- Interface with rear of adjoining properties
- Height
- Overdevelopment of the site
- Landscaping
- Safety and security
- Amenity impacts
- Stormwater and water quality
- Flooding
- Traffic and access

The Department has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the proponent's Statement of Commitments and the Department's recommended conditions of approval, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, the Department is satisfied that the site is suitable for the proposed development and that the project will provide social and economic benefits to the region. All statutory requirements have been met.

The project makes provision for an integrated commercial and residential development within the centre of Cabarita Beach/Bogangar without adversely affecting its surrounding context. The proposed retail component provides residents of the local area with greater consumer choice and competition in price, while the proposed architectural design sets a benchmark for future development in a commercial precinct currently undergoing gradual transformation.

The Department recommends that the project be **approved** subject to conditions.

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1.1 THE SITE

The site is centrally located between Tweed Coast Road and Hastings Road incorporating Lots 184-187 & 191-194 DP 259164 and Lots 20-23 DP 31208 at Cabarita Beach/Bogangar in the Tweed local government area. The site is approximately 5,485m² in size and owned by WA Stockwell Pty Ltd (**Figure 1**).

Cabarita Beach/Bogangar is a coastal village approximately 12km south of New South Wales/Queensland state border. The subject site is centrally located within the Cabarita/Bogangar business area and approximately 200m from Cabarita Beach. Tweed Coast Road is the main arterial road serving coastal settlements from the Tweed Heads district to the north. The eastern side of the site has a 67m frontage to Tweed Coast Road with a combined western frontage to Hastings Road of 70m.

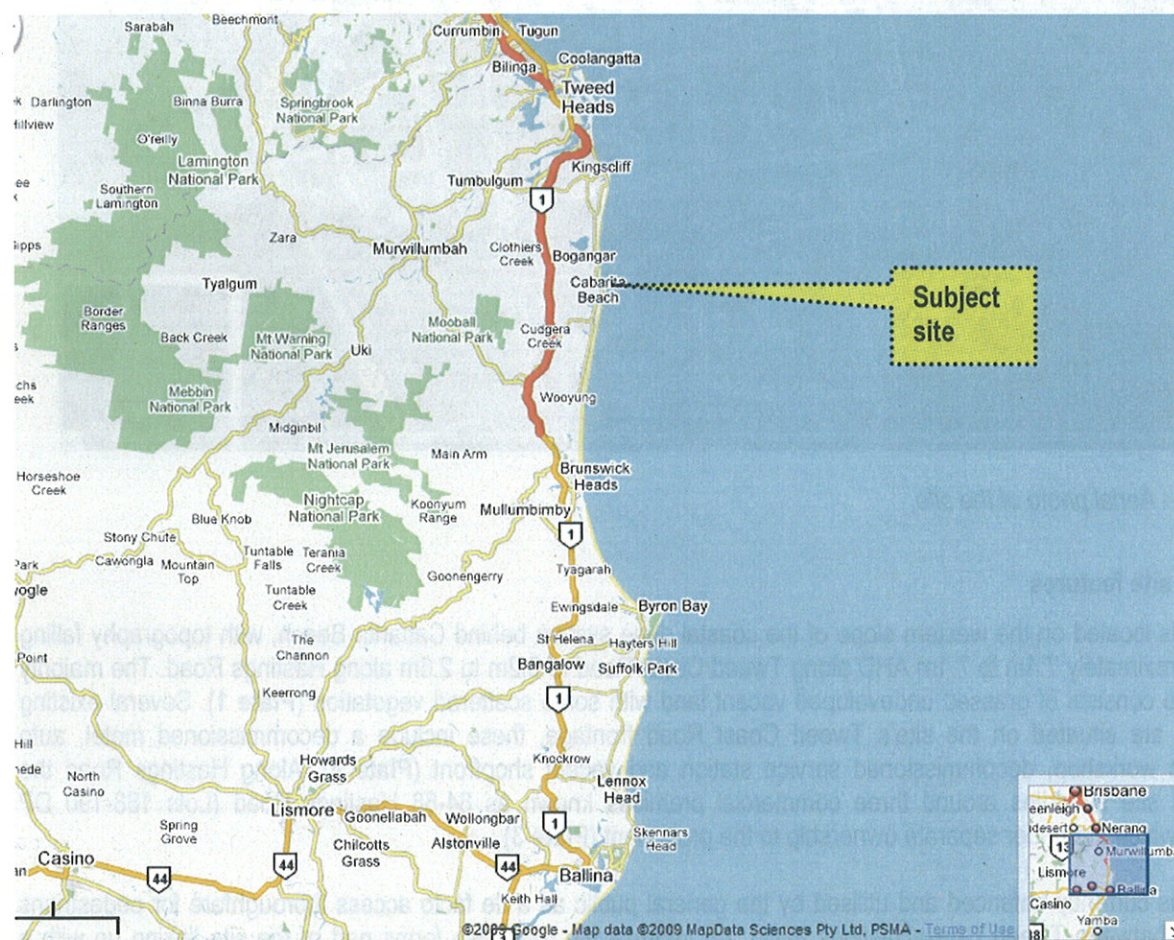


Figure 1 – Site location.



Figure 2 – Aerial photo of the site.

Existing site features

The site is located on the western slope of the coastal dune system behind Cabarita Beach, with topography falling from approximately 7.4m to 7.1m AHD along Tweed Coast Road to 3.2m to 2.6m along Hastings Road. The majority of the site consists of grassed undeveloped vacant land with some scattered vegetation (**Plate 1**). Several existing buildings are situated on the site's Tweed Coast Road frontage, these include a decommissioned motel, auto mechanic workshop, decommissioned service station and vacant shopfront (**Plate 4**). Along Hastings Road the proposed site straddles around three commercial premises known as 84-88 Hastings Road (Lots 188-190 DP 259164) which are under separate ownership to the proponent (**Plate 3**).

The site is currently unfenced and utilised by the general public as a de facto access thoroughfare for pedestrians travelling between Tweed Coast/Hastings Road. An informal dirt road also forms part of the site linking up with a private laneway following the rear of adjoining properties north and south of the site. The dirt road has access to Hastings Road via a built crossover on Lot 194 DP 259164 (**Plate 2**). Vehicular access from Tweed Coast Road is currently via three built crossovers accessing the service station/workshop (Lot 21-22 DP 31208) and motel (Lot 20 DP 31208).

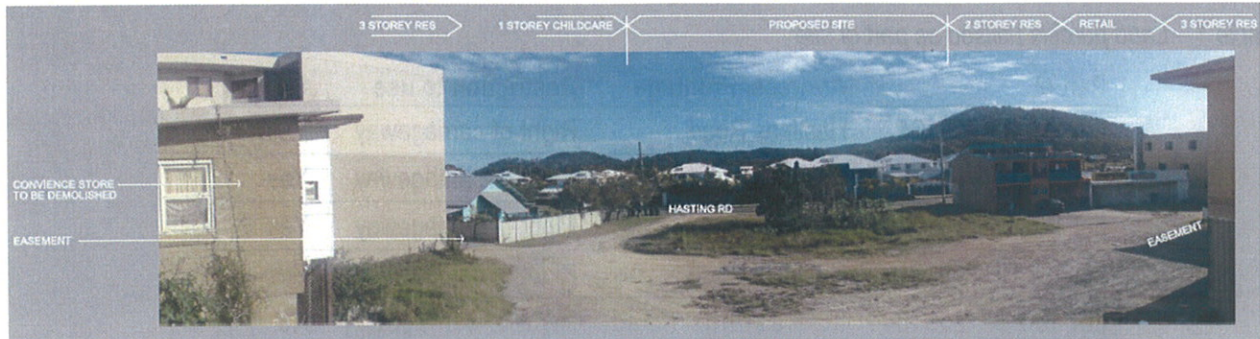


Plate 1 – View looking west of subject site from Tweed Coast Road (Source: Environmental Assessment).



Plate 2 – View looking east of subject site with existing access from Hastings Road (Source: Environmental Assessment).



Plate 3 – Subject site with direct view of rear 84-88 Hastings Road (Source: Preferred Project Report).

The subject site incorporates a number of separate land parcels proposed to be consolidated as part of the proposal. **Table 1** provides clarification with regards to relevant land parcels utilised as part of the site. It should be noted that a right of carriageway dissects the site's centre traversing from north to south between two vacant land parcels owned by council. The purpose of this carriageway is understood to be for facilitating service vehicle access to the rear of properties fronting Tweed Coast and Hastings Roads (**Figure 5**).

Table 1 – Land parcels utilised as part of site

Parcel	Address/ Frontage	Restriction to use	Site
Lot 184 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 185 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 186 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 187 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 188 DP 259164	88 Hastings Road	Right-of-carriageway	No
Lot 189 DP 259164	86 Hastings Road	Right-of-carriageway	No
Lot 190 DP 259164	84 Hastings Road	Right-of-carriageway	No
Lot 191 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 192 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 193 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 194 DP 259164	Hastings Road	Right-of-carriageway	Yes
Lot 20 DP 31208	Tweed Coast Road		Yes
Lot 21 DP 31208	Tweed Coast Road		Yes
Lot 22 DP 31208	Tweed Coast Road		Yes
Lot 23 DP 31208	Tweed Coast Road		Yes
Lot 5 DP 1102016	47 Tweed Coast Road		No

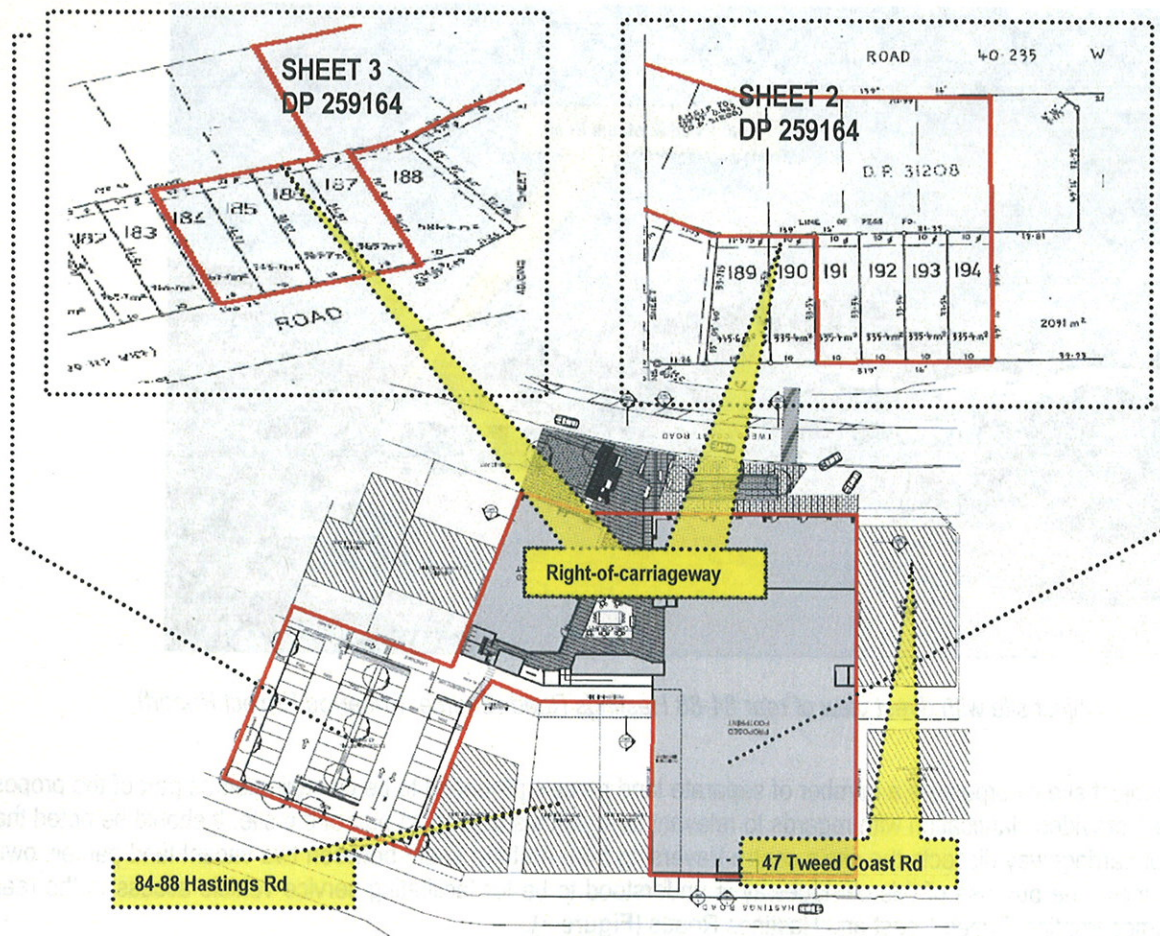


Figure 3 – Land title plan corresponding with site plan.

Surrounding development

The coastal village of Cabarita/Bogangar is in a state of gradual transformation with recent developments including The Beach Resort, Cabarita Surf Life saving Club and a new mixed use development adjoining the site (47 Tweed Coast Road). Existing businesses within the locality consist of a variety of commercial and retail uses including cafés, specialty retail, tourist accommodation, fresh food produce, convenience outlets and professional services. Current built form is characterised by a range of building types from 1-4 storeys in height with taller buildings situated in the vicinity of Tweed Coast Road.

Directly adjoining the site's southern boundary is the 3-4 storey 47 Tweed Coast Road, with further development south stepping down to 2 storeys. Development east of the site consists of a combination of 1-3 storey commercial/mixed use developments, while built form further north along Tweed Coast Road comprises several commercial and tourist establishments 1-2 storeys in height. Adjacent to the site's southern boundary at Hastings Road is a 1 storey child care centre, with properties further south consisting of vacant land and 1-2 storey housing. The existing shop fronts at 84-88 Hastings Road are 1-3 storeys in height, while land further north consists of vacant land and an isolated 1 storey building. Opposite the site along Hastings Road are the 'Reef Villas' consisting of 2 storey medium density residential villas (**Figure 4**).

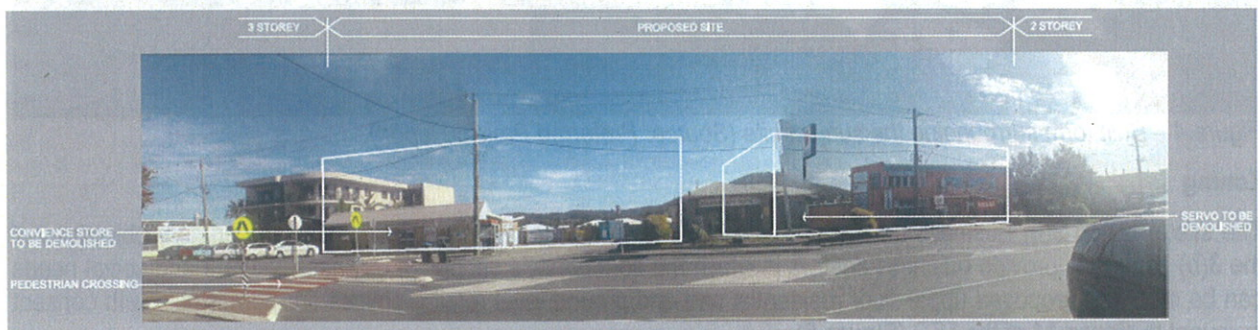


Plate 4 – View looking west of subject site from Tweed Coast Road (Source: Environmental Assessment).



Plate 5 – View of Tweed Coast Road from site's eastern frontage (Source: Environmental Assessment).

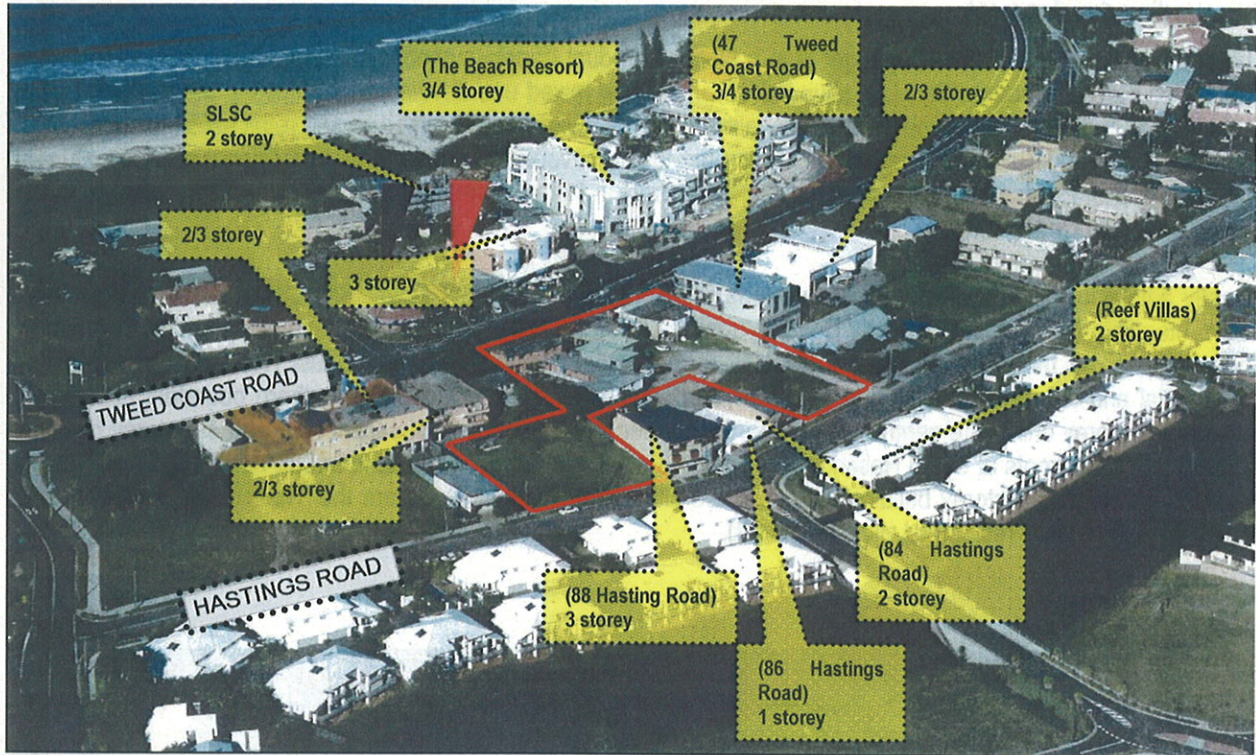


Figure 4 – Built form surrounding the subject site (Source: Preferred Project Report).

Zoning

The site is zoned 3(b) Business under the *Tweed Local Environmental Plan 2000* (LEP). The primary objectives of the 3(b) zone is to provide business centres in which the community's shopping, business, welfare and social needs can be met. The proposed upper floor residential use and ground level retail premises are permissible with consent pursuant to clause 11 of the LEP (Figure 5).

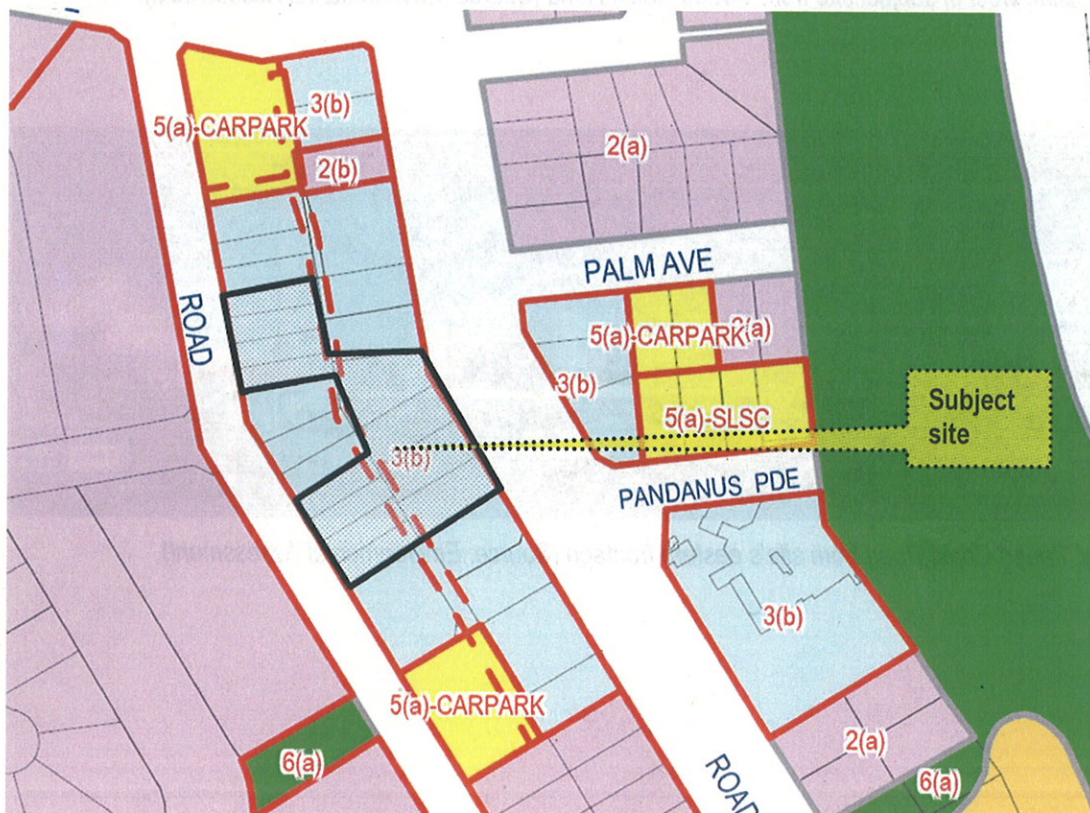


Figure 5 – Zoning plan with future road corridor traversing the site.

1.2 SITE HISTORY

No previous applications have been lodged with the Department.

2. THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

The proposal is a project application seeking approval to carry out a 3-4 storey mixed use development entailing:

- ground level retail component encompassing a 2110m² supermarket (with 200m² office mezzanine), and retail speciality shops (1111m²);
- 40 upper level residential units comprising 16 x 2 bedroom units and 24 x 1 bedroom units (3595m²);
- ground level public forecourt;
- upper level landscaped podium;
- pedestrian access thoroughfare;
- site landscaping including public reserve streetscaping;
- basement and surface car parking for 204 vehicles;
- loading bay;
- three access points from Hastings Road;
- excavation works including dewatering; and
- signage.

The estimated project cost of the development is \$14 million. The proposal will create 120 full time equivalent construction jobs and 30 full time equivalent operational jobs.

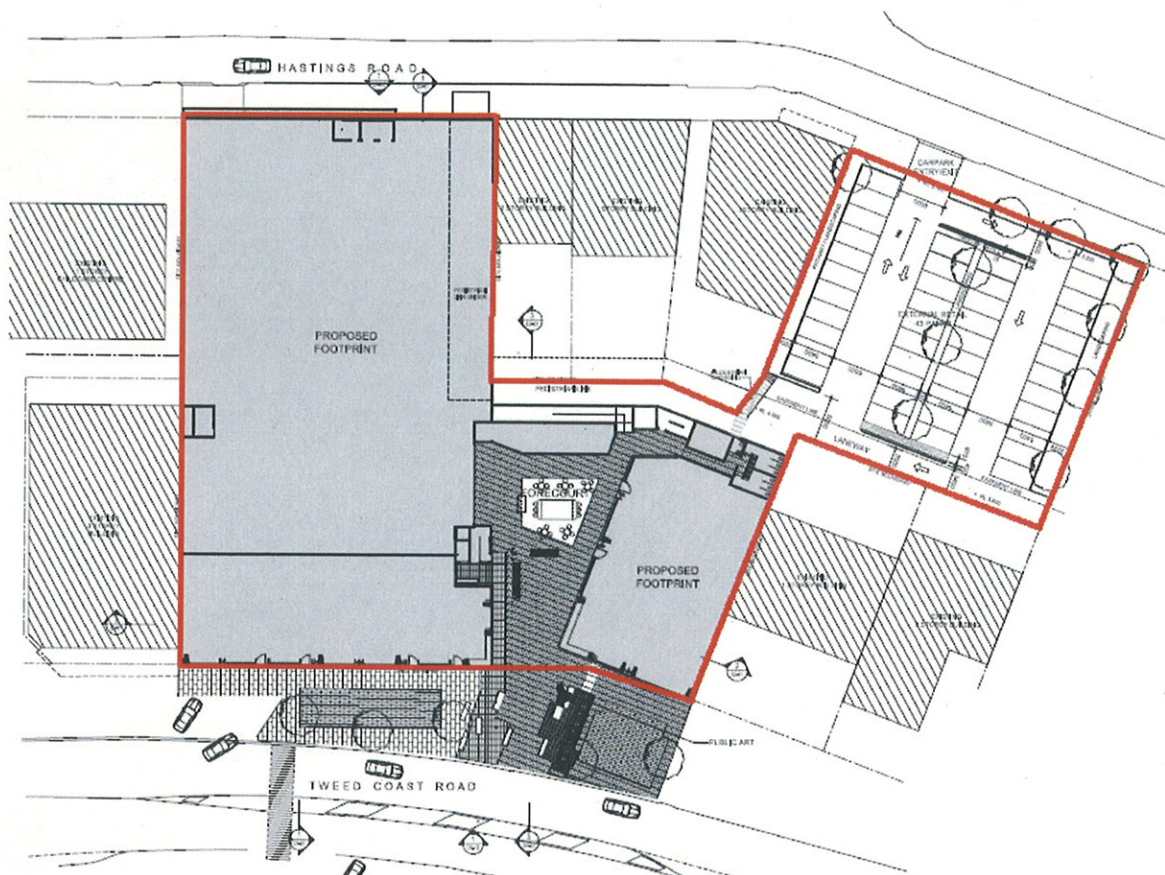


Figure 6: Site plan (Source: Environmental Assessment).



Figure -7: Photomontage of the project along Tweed Coast Road (Source: Environmental Assessment).



Figure 8 – Perspective of ground floor commercial premises and upper level units from Tweed Coast Road (Source: Environmental Assessment).



Figure 9: Photomontage of Hastings Road with pedestrian thoroughfare adjacent to existing shopfront, proposed residential carpark entry and loading bay (Source: Environmental Assessment).

Key development data for the exhibited and preferred project proposals are outlined in **Table 2** below.

Table 2 – Development Data

	Standard	Exhibited	PPR	Planning Control (SEPP, REP, LEP, DCP)	Compliance
Height	3 storeys	3/4 storeys	3/4 storeys	LEP	No
Carparking	206	204	204	DCP	No (Minor)
Separation distances	12m	4-6m	4-6m	SEPP 65	No
Landscaping	25-30%	19%	19%	SEPP 65	No
Building depths	10-18m	10-19m	10-19m	SEPP 65	No (Minor)
Balcony depth	2m	4m	4m	SEPP 65	Yes
Storage	6-8m ³	6-8m ³	6-8m ³	SEPP 65	Yes
Solar access (3hrs June 22)	70%	60%	60%	SEPP 65	No

Non-compliances listed above are addressed in **Section 5**.

2.3 PROJECT AMENDMENTS

A preferred project report was accepted on 28 October 2009 incorporating the following amendments:

- Inclusion of right-of-way/carriageway to rear of 84-88 Hastings Road and through site.
- Amended design of loading bay to include turning area for service vehicles accessing the future road reserve traversing the site to the rear of 47 Tweed Coast Road.
- Reduction in specialty retail from 1110m² to 1106m².
- Re-configuration of capark plans to improve compliance with parking requirements.
- Increased landscape screening to on-grade carpark area.
- Increased landscaping to level 2 roof areas facing Hastings Road.

- Introduction of vertical screening devices to upper podium area.
- Commitment to water recycling measures on-site.
- Commitment to \$20,000 bond payable to Council in the event of vehicle access issues related to the site becoming problematic post-occupation of the development.
- Commitment to pedestrian access management measures along Hastings Road.
- Commitment to streetscape upgrade program in partnership with Council.

As the changes to the nature of the project were not significant, it was not re-exhibited but was placed on the Department's website.

3. STATUTORY CONTEXT

3.1 PART 3A DECLARATION

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005* being a building greater than 13m in height outside the metropolitan coastal zone and not complying with the height limit set by the local environmental plan that applies to the land on which the building is located. The opinion was formed by the Director-General as delegate on 18 February 2008.

3.2 PERMISSIBILITY

Under the *Tweed Local Environmental Plan 2000* the site is zoned 3(b) General Business. The proposal is consistent with the objectives of the 3(b) zone and is listed as a permissible use with consent and is therefore permissible subject to the Minister's approval.

3.3 EXHIBITION AND NOTIFICATION

The Department exhibited the EA in accordance with section 75H (3) of the Act. The EA was placed on public exhibition from May 14 2009 until June 16 2009 and submissions were invited in accordance with section 75(H) of the Act.

3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75J of the Act. Section 75I(2) and Clause 8B of the Regulation set out the scope of the Director-General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

Table 3 – Compliance with Section 75I(2) and Clause 8B Criteria

Section 75I(2) Criteria	Response
A copy of the proponent's environmental assessment and any preferred project report	The proponent's EA is included at Appendix G whilst the preferred project report is set out for the Ministers consideration at Appendix F .
Any advice provided by public authorities on the project; and	All advice provided by public authorities on the project for the Minister's consideration is discussed in detail in Section 4 below.
A copy of any report of the Planning Assessment Commission in respect of the project, and	The Planning Assessment Commission was not involved in the assessment of this project.
A copy of or reference to the provisions of any state environmental planning policy (SEPP) that substantially govern the carrying out of the project	An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set in Appendix C .
A copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of the development relative to the prevailing EPIs is provided in Appendix C .
Any environmental assessment undertaken by the Director-General or other matter the Director-General considers appropriate.	The environmental assessment of the project is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this	The environmental assessment requirements under this Division, issued on 28 March 2008 are in

Division with respect to the project.

Appendix B. The Department is satisfied that the EA submitted in support of the project application complies with these requirements. A detailed assessment of how the proponent has addressed these issues is provided in **Section 5** of this report.

Clause 8B Criteria	Response
An assessment of the environmental impact of the project.	All environmental impacts associated with the development are discussed in Section 5 of this Report. ESD is discussed in Section 3.7 of this Report.
Any aspect of the public interest that the Director-General considers relevant to the project.	The public interest is discussed in Section 5 of this Report.
The suitability of the site for the project.	The site is identified in the Tweed LEP 2000 as part of the Commercial zone which permits a range of uses including ground floor commercial tenancies and upper level residential units.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	All submissions provided by agencies are summarised at Section 4.3 and a summary of public submissions is attached at Appendix E .

The Department has met its legal obligations and the Minister has the power to determine this project.

3.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

3.5.1 Application of EPIs to Part 3A of the Act

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that substantially govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment. In summary, the relevant EPIs for this project include:

- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings
- State Environmental Planning Policy No. 71 – Coastal Protection
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy (Infrastructure) 2007
- North Coast Regional Environmental Plan
- Tweed Local Environmental Plan 2000

A detailed assessment of compliance with the relevant EPIs is in **Appendix C**. The proposal is generally consistent with the objectives of these controls.

3.6 OTHER PLANS AND POLICIES

The proposal has been considered against the following non-statutory documents:

- 1) Department of Planning Draft Centres Policy – Planning for Retail and Commercial Development 2009;
- 2) Tweed Development Control Plan 2007;
- 3) Far North Coast Regional Strategy;
- 4) NSW Coastal Policy 1997;
- 5) NSW Coastal Design Guidelines; and
- 6) North Coast Design Guidelines.

A detailed assessment against these controls can be found in **Appendix D**. The proposal is generally consistent with the objectives of these controls.

3.7 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms. The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

Integration Principle

The project will provide economic benefits to Cabarita Beach and Bogangar via increased employment opportunities and tourism trade. The proposal will serve as an attraction for both local residents and visitors to the area and assist in improving facilities for social interaction within the community. The proposal will be conditioned to ensure protection of the environment in the short term (particularly during construction) and continued protection during operation.

Precautionary Principle

The subject site is vacant cleared land within an existing urban context and poses limited threats to flora and fauna. Part of the site is located in a flood prone area and the proposal adopts measures to mitigate against potential inundation of building access points and carparking areas. The proponent has demonstrated that the building design and appropriate mitigation measures will be implemented to prevent any potential environmental impacts on Cudgen Creek, Cudgen Lake and the ocean. Mitigation measures are outlined in the proponent's Statement of Commitments and/or the recommended conditions of approval.

Inter-Generational Principle

It is considered that the proposal represents a sustainable use of a site which is in an established urban centre, and is a logical use of the site. Measures are proposed to ensure the environment is protected during the life of the proposal through adequate stormwater, erosion and sediment control, treatment and collection of waste. The design of the proposed unit layouts maximise opportunities for external shading and cross ventilation, reducing demand for energy intensive air conditioning systems. Water recycling measures have also been introduced by the proponent.

Biodiversity Principle

Given the limited flora and fauna values currently present on the site, the proposal does not reduce the diversity of the environment. The proposed landscaping plan includes local endemic plant species which are not likely to spread as weeds. Conditions are imposed to ensure that the project will not affect the ecology of Cudgen Creek, Cudgen Lake and the ocean.

Valuation Principle

The approach taken for this project has been to assess the environmental impacts of the proposal and identify appropriate safeguards to mitigate adverse environmental effects. The mitigation measures include the cost of implementing these safeguards in the total project cost.

3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act in section 5 are as follows:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
 - (iii) the protection, provision and co-ordination of communication and utility services,
 - (iv) the provision of land for public purposes,
 - (v) the provision and co-ordination of community services and facilities, and
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
 - (vii) ecologically sustainable development, and
 - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii) and (vii) are significant factors informing the determination of the application. The project does not raise significant issues with regards to (iii), (iv), (vi) and (viii).

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the project application.

4. CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The EA was exhibited for 30 days from 14 May 2009 to 16 June 2009. Notification of the exhibition was given in the following local papers:

- Tweed Daily News
- Tweed Sun
- Tweed Border Mail

Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney;
- Tweed Shire Council, Civic & Cultural Centre, Murwillumbah; and
- Tweed Shire Council, Tweed Heads Branch

The EA was also provided for download on the Department's website.

Letters were sent to adjoining landowners and relevant government agencies, including Council, notifying of the exhibition and inviting a submission. A total of 23 submissions were received, comprising 18 submissions from the public and five submissions from public authorities being:

1. Tweed Shire Council
2. Department of Water and Energy
3. Northern Rivers Catchment Management Authority
4. Roads and Traffic Authority
5. NSW Police

The 18 submissions from the public included 14 letters of objection and four letters of support. It should also be noted that an additional five public objections were received outside the official exhibition period including a petition with 523 signatories and one form letter entailing a further eight signatures. A summary of the public submissions is included at **Appendix E**. Of the public authority submissions, all issues raised have been summarised in **Section 4.3**.

A PPR was lodged on 31 July 2009, however, several issues relating to the existing right-of-carriageway/future road corridor were not adequately addressed and the Department requested the PPR be amended. The final PPR was accepted on 28 October 2009. As the changes to the nature of the project were not significant, it was not re-exhibited but was placed on the Department's website.

4.2 SUBMISSIONS FROM THE PUBLIC

Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Traffic impacts
- Noise and amenity impacts
- Rear future road corridor/right-of-carriageway
- Safety and security
- Height
- Stormwater impacts
- Flooding
- Construction works
- Overdevelopment of site
- Retail
- Compliance with Council's development control plan
- Heritage Assessment

An assessment of the key issues from the above list can be found in **Section 5** of this report.

A summary of all public submissions received can be found in **Appendix E**. The proponent responded to these submissions on 31 July 2009 and the proponent's Response to Submissions is in **Appendix F**.

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

Tweed Council

Tweed Shire Council made comments on the following matters:

- Existing service vehicle function of laneway/future corridor not satisfactorily incorporated into proposal.
- The disbandment of the central laneway/future corridor reduces the development potential of adjoining properties.
- Ability of proposed streetscaping and landscaping works to integrate with the Streetscape Masterplan for Cabarita currently being formulated by Council.
- Residential amenity of proposed units could be improved.
- Heavy vehicle access to the site.
- Safe vehicle manoeuvrability within the proposed carparking areas.
- Proposal does not fully comply with Council's Development Control Plan - Section A2 – Site Access and Parking Code.
- Impact of the proposed two access points to carparking areas on Hastings Road and Reef Water Circuit.
- Vehicular-pedestrian conflict along Hastings Road.
- The proposed stormwater concept plan does not adequately consider the capacity of the existing street drainage system.
- Concerns are raised with some access areas of the project as they appear to be flood prone.
- The proposal does not make adequate consideration for relocating existing infrastructure on-site.

Department of Water and Energy

The DWE made comments on the following matters:

- Increased ground water levels affecting the basement carpark during major flood events.
- Dewatering – if dewatering is required, the proponent should be made aware that dewatering is a licensable activity under water legislation and DWE should be contacted;
- DWE emphasises the importance of the proposed monitoring program for erosion and sediment control procedures and stormwater management.
- Inadequate information in the EA relating to borehole log data and AHD terms.
- No identification of final stormwater discharge point.
- Need for a monitoring program for stormwater discharge during construction.

Roads and Traffic Authority

The RTA made comments on the following matters:

- Increased on-street parking in locality including along Tweed Coast Road and Hastings Road.
- Provision needs to be made for safe pedestrian crossing of Hastings Road
- Heavy vehicle access to the site and along Hastings Road.
- Emergency vehicle access to carpark areas of the project.

Northern Rivers Catchment Management Authority

The NRCMA made comments on the following matters:

- Adequate provision to the protection of water quality to Cudgen Creek, Cudgen Lake and the ocean.

NSW Police (Crime Prevention Unit)

The NSW Police made comments on the following matters:

- Ensure adequate security lighting post-development.
- Safety issues associated with pedestrian-vehicle conflict.
- Safety issues associated with the use of public areas at night including landscaped forecourt, carpark and pedestrian thoroughfare.
- Recommendation for rapid graffiti removal policy to be adopted by the centre.
- Recommendation for use of security patrols on Thursday, Friday and Saturday nights as a minimum.

5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the Environmental Assessment and the Preferred Project Report and consideration of the proponent's draft Statement of Commitments include the following:

- Retail impact
- Interface with rear of adjoining properties
- Height
- Overdevelopment of the site
- Landscaping
- Safety and security
- Amenity impacts
- Stormwater and water quality
- Flooding
- Traffic and access

Some of these issues were resolved following consultation with the proponent, or were directly addressed via the proponent's Statement of Commitments or the Department's recommended conditions of approval. Significant issues are discussed in detail, below.

5.1 RETAIL IMPACT

The proponent's Socio-Economic Report (Economic Report) prepared by Foresight Partners Pty Ltd submitted with the EA identifies a trade area for the proposed retail centre consisting of a primary area comprising the Cabarita/Bogangar community; a secondary north area including the developments of Salt and Casuarina Beach, and the proposed developments of Seaside City, Kings Forest and Cudgen; and a secondary south area including the Pottsville and Hastings Point areas, and the developing areas of Koala Beach, Seabreeze and Black Rocks. The Economic Report estimates a very high market penetration from within the primary (33.3%) and secondary south (46.5%) trade areas as these areas are currently not serviced by a full-line supermarket. The approved supermarket at Casuarina Beach will be trading by 2011 hence limiting the market penetration of the secondary north area to 8.6% (Figure 10).

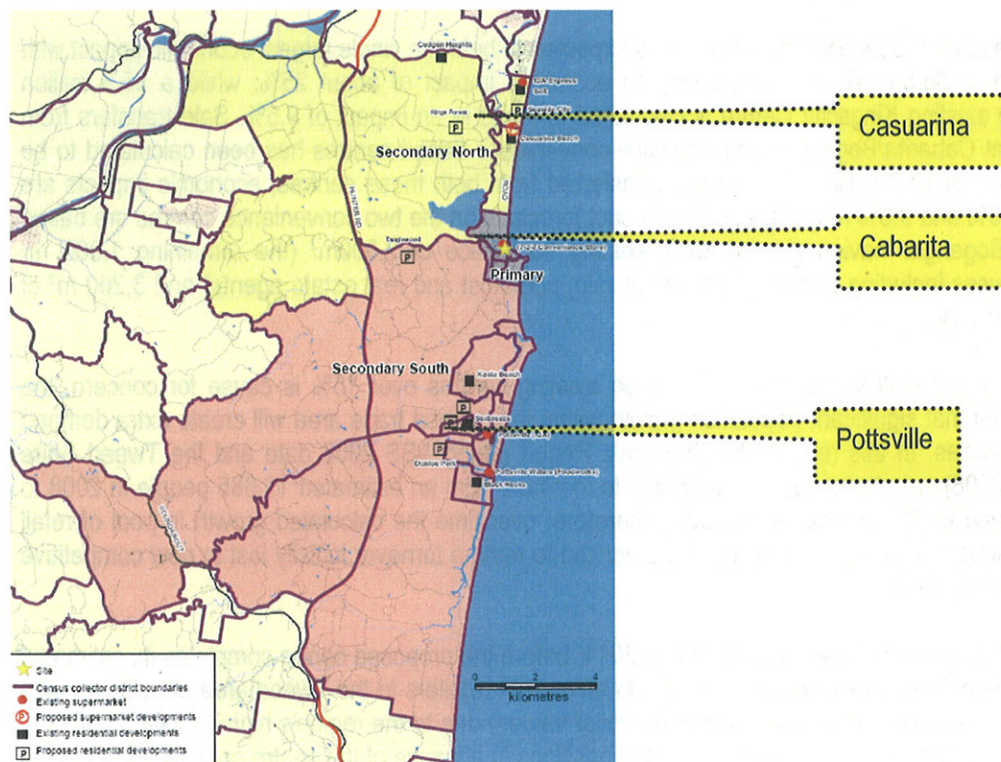


Figure 10 – Cabarita trade area (Source: Environmental Assessment).

At its meeting of 16 November 2005, Tweed Council adopted a policy position on its Draft Retail Strategy which aims to sustain and reinforce the nature of towns and villages in the Tweed Shire and to cater for growing retail needs of its communities. At this meeting Council resolved to "support the incremental expansion of existing centres in such a way as not to threaten or fracture those existing centres, rather than building new ones". In its submission to the Department responding to exhibition of the EA, Council acknowledged that the proposal is not an expanse of the Cabarita/Bogangar village and will not threaten or fracture other surrounding centres. Subsequently, Council has conveyed that the proposal is consistent with its retail policy position.

A number of public submissions received raised concerns with regards to the economic impact of the proposed centre on retail in the surrounding population centres of Pottsville and Casuarina and the existing Cabarita/Bogangar centre. The retail component of the exhibited proposal encompassed a 2110m² full-line supermarket and 11 speciality shops comprising 1,110m² of retail floorspace.

According to the proponent's Economic Report, the proposed centre is forecast to achieve sales of \$21.86 million at June 2011 (the assumed first full year of operation). Consequently, \$21.86 million in sales transfers (in 2011) are expected to come from the nearest centres offering supermarkets currently meeting the chore retail (the regular weekly or fortnightly trip to a major supermarket) shopping needs of trade area households, and other nearby smaller format convenience (impulse retail shopping) centres (Table 4).

Table 4 – Transfer of sales, proposed Cabarita Centre, June 2011 (Source: Environmental Assessment).

Major supermarkets and centre	Sales Transfers	
	(\$ Million)	(%)
Kingscliff Village (Woolworths)	5.47	25.0
Casuarina Beach (Coles)	6.56	30.0
Tweed Heads area (2 x Coles, 2 x Woolworths, Action, Aldi, Bi-Lo)	4.37	20.0
Other convenience centres within trade area (7-2-7 Cabarita, IGA Pottsville and Foodworks Pottsville)	3.28	15.0
Other centres outside trade area	2.19	10.0
Total distribution	\$21.86	100.0

The recently approved Casuarina Beach shopping centre is expected to bear the single largest economic impact with sales transfers estimated at \$6.56 million representing an economic impact of about 25%; while a \$5.5 million transfer in sales from the existing Kingscliff Centre is calculated to result in an impact of 9.5%. Sale transfers from the existing smaller format Cabarita/Bogangar and Pottsville convenience based centres has been calculated to be \$3.3 million; assuming that all \$3.3 million in sales are transferred from both these centres, economic impacts are forecast to be around 13.6% and 9.5% respectively. The impact forecasts on the two convenience centres are based on the Cabarita Beach/Bogangar having a total retail existing floorspace of 2,000m² (the remaining 1,000 m² occupied by commercial uses including a medical centre, physio, podiatrist and real estate agents) and 3,200 m² of occupied floorspace in Pottsville.

Although the Economic Report states that retail impacts on existing centres over 15% is cause for concern, the Economic Report points out that significant population growth within the defined trade area will create extra demand for further future retail facilities. In this regard, the Economic Report (using ABS 2006 date and the Tweed Shire Urban Release Strategy 2008) calculates population growth to increase from an estimated 12,685 people in 2008 to 16,185 people by 2011, and to 25,165 people by 2021. Therefore, over time the calculated growth in pool of retail expenditure available to support existing retail centres is predicted to restore turnover initially lost to new competitive centres such as the proposed centre.

The Economic Report further notes that between 2008 and 2011, before the proposed centre completes its estimated first year of trading, household retail expenditure available to all current retailers in the Tweed area should increase by about \$39.0 million to \$156 million (constant June 2007 dollar values) due to the region's high population growth. This increase allows existing retailers to improve their market positions in advance of the centre opening. Further, the Economic Report calculates that between the proposed centre's first and fifth year of trading (2011-2015) household retail expenditure available to all retailers should increase by another \$52.5 million to \$208.5 million, therefore

allowing affected retail centres to recoup most of the impacts attributable to the Cabarita centre within two years. The likely exception is the previously mentioned Casuarina Beach centre with which the Economic Report identifies impacts to be ameliorated over time via its competitive response to the Cabarita Centre and also as the growth areas forming part of Casuarina's primary catchment become populated as surrounding land release areas become established.

In its *Report of the ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries (2008)* the Australian Competition and Consumer Commission (ACCC) recommended that appropriate levels of government consider ways in which planning decisions in respect of individual planning applications where additional retail space for the purpose of operating a supermarket is contemplated, should have specific regard to the likely impact of the proposal on competition between supermarkets in the area. In particular, the ACCC's Report recommended that consideration should be given to whether a proposal will facilitate the entry of a supermarket operator not currently trading in the area. The proposed full-line supermarket centre is considered to be consistent with this recommendation.

The proposal is also consistent with the Department's *Draft Centres Policy – Planning for Retail and Commercial Development 2009* which identifies key planning principles to guide future retail and commercial development. In particular, the Centres Policy notes that the planning system should ensure the supply of available floor space always accommodates the market demand with which the proponent's Economic Report has demonstrated. The Centres Policy also notes that the planning system should help assist new entrants into a market allowing for a wide range of retail and commercial premises in all centres ensuring a competitive market. In this regard, the proposed centre is expected to facilitate the entry of a new supermarket and associated retail seeking a new premise in the area to locate within the proposed centre. In addition, the design of the proposal is consistent with the design objectives of the Centres Policy relating to amenity, accessibility, urban context and sustainability, which is further discussed in **Appendix D**.

The proposed centre with its main street location along Tweed Coast Road and high exposure to passing traffic will provide trade area residents with improved choice, competition and variety of retail goods not currently available. As previously stated, population growth within the trade area of the proposed Cabarita centre is forecast to be significant with the population expected to have more than doubled by 2021. Accordingly, trade area retail expenditure is also forecast to increase significantly. This increase in household retail spending would help ameliorate any economic impacts on existing retail centres over time including the existing smaller format Cabarita and Pottsville convenience based centres. The type and size of the proposed retail centre is permissible in the 3(b) zone under the Tweed LEP and consistent with the objectives of this zoning. In conclusion, the Department considers that there is sufficient need and demand to warrant the proposed retail centre to serve the retail needs of residents in Cabarita/Bogangar and the surrounding area.

5.2 INTERFACE WITH REAR OF ADJOINING PROPERTIES

In order to incorporate the retail floorplate of the proposed supermarket, the project's footprint seeks to encroach over an existing right-of-carriageway traversing the site and adjoining properties. This right-of-carriageway is also identified as part of a future road corridor pursuant to clause 38 of the Tweed LEP. The future road corridor forms part of the right-of-carriageway previously shown on title in **Figure 3** and runs parallel with Tweed Coast Road through the site from north to south between two vacant land parcels owned by Council (**Figure 11**).

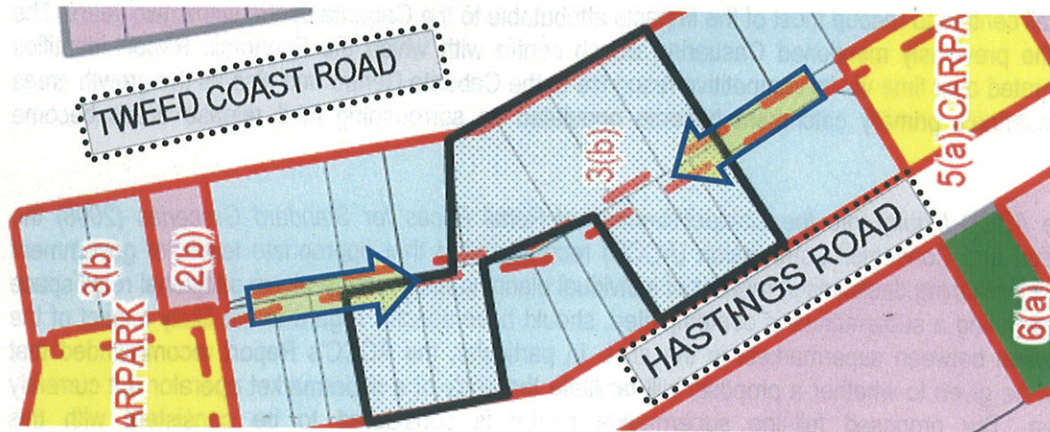


Figure 11 – Subject site with future road corridor pursuant to clause 38 of the LEP.

Clause 38 of the LEP caters for the alignment of, and development in proximity to future roads. In particular, clause 38 states that the consent authority must not grant consent unless it has considered the effect of that development on the future alignment of the road corridor. In its response to exhibition of the EA, Council raised concerns with the proposal's previous footprint as it essentially restricted the continuation of the future road corridor. In its submission to the Department, Council confirmed that the intended function of the proposed future road corridor was to develop a service laneway providing access for car parking facilities and service vehicles to the rear of properties fronting Tweed Coast Road/Hastings Road and discouraging direct access from these roads. Complete termination of the future road corridor as originally proposed would result in service vehicle access implications to the adjoining southern property (47 Tweed Coast Road) and properties north of the site (84-86 Hastings Road). Council's submission also requested the proponent to investigate how trucks servicing these adjoining properties could enter and exit the site in a forward direction (Figure 12).

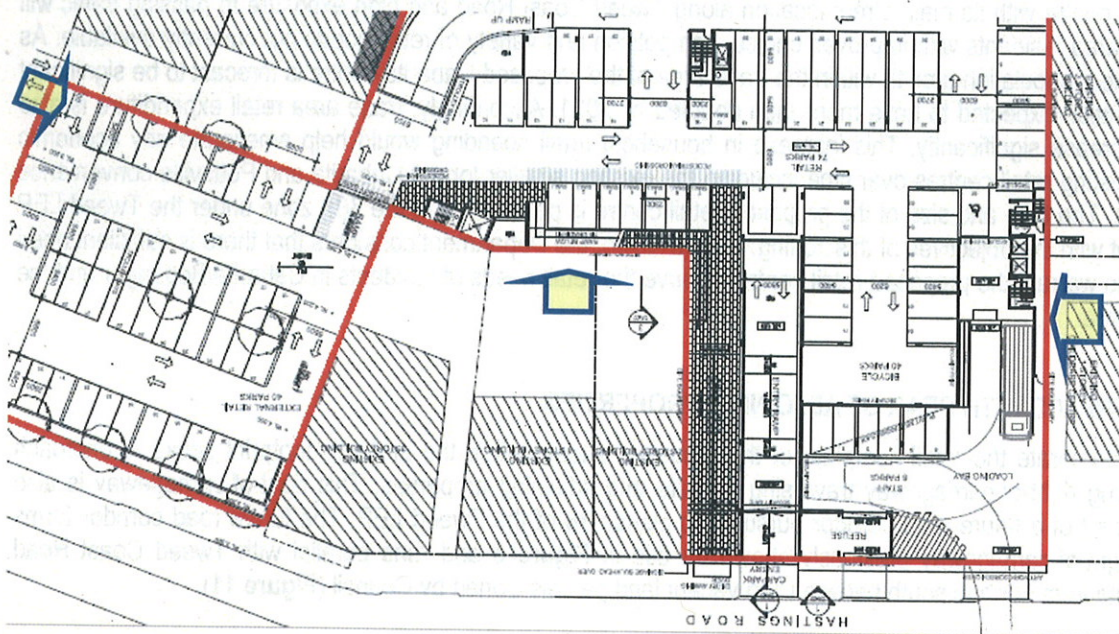


Figure 12 – Exhibited proposal with floorplate encroaching over future road corridor with service vehicle access being diverted around the development via Hastings Road (Source: Environmental Assessment).

The proponent responded to this issue by reconfiguring the proposal's basement carpark layout to allow continuation of the right-of-carriageway along Lots 188-190 DP259164 (84-86 Hastings Road) through the site and via a constructed tunnel passing under the supermarket floorplate (Figure 13). The amended scheme also incorporates a redesign of the proposed loading bay to permit a truck turning area (within the site) for service vehicles utilising the southern road corridor adjacent to 47 Tweed Coast Road. The proponent has also committed to permitting access to service vehicles utilising the road corridor outside centre hours to guarantee a manageable long term solution to this issue. Council and the proponent have agreed to conditions of approval being recommended with regards to dedicating the northern road corridor to Council.

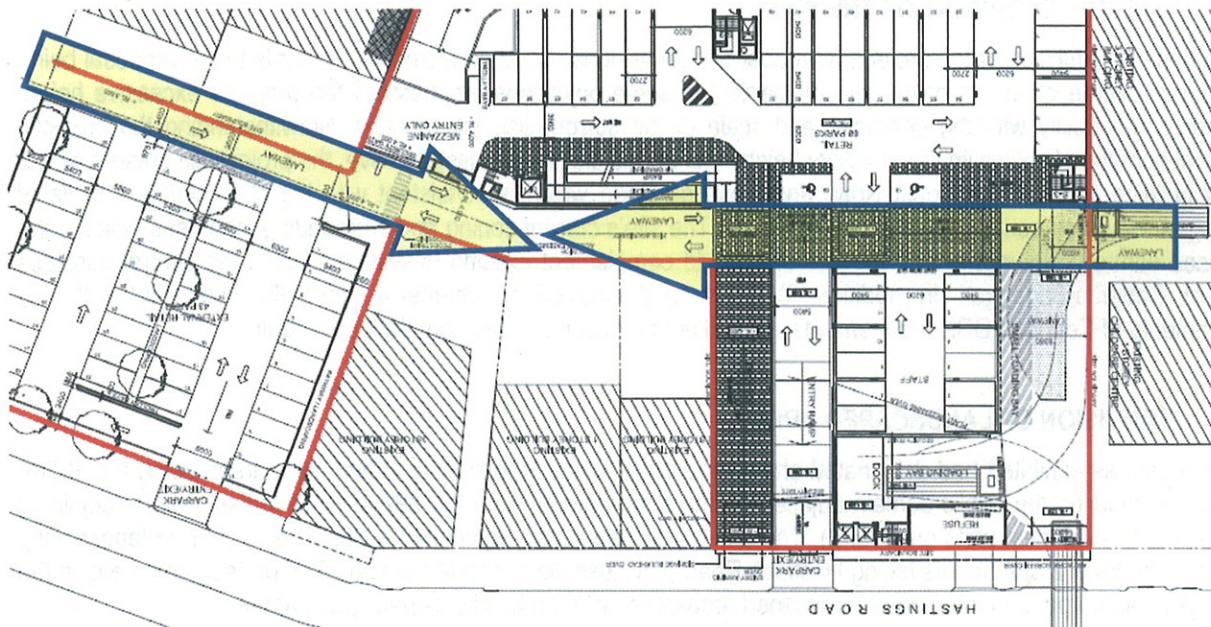


Figure 13 – Amended proposal (DA-13H) showing passage for service vehicle to access through the site (Source: Preferred Project Report).

5.3 HEIGHT

A number of objections to the proposal raised concerns regarding the height of the project. Clause 16 of the Tweed LEP states that consent must not be granted to the erection of a building that exceeds the maximum number of storeys indicated on the Height of Buildings map which identifies a 3 storey height limited for the subject site. The proposed height can be statutorily depicted as 4 storeys due to upper residential components situated within the building's central section above retail and basement carparking (Figure 14).

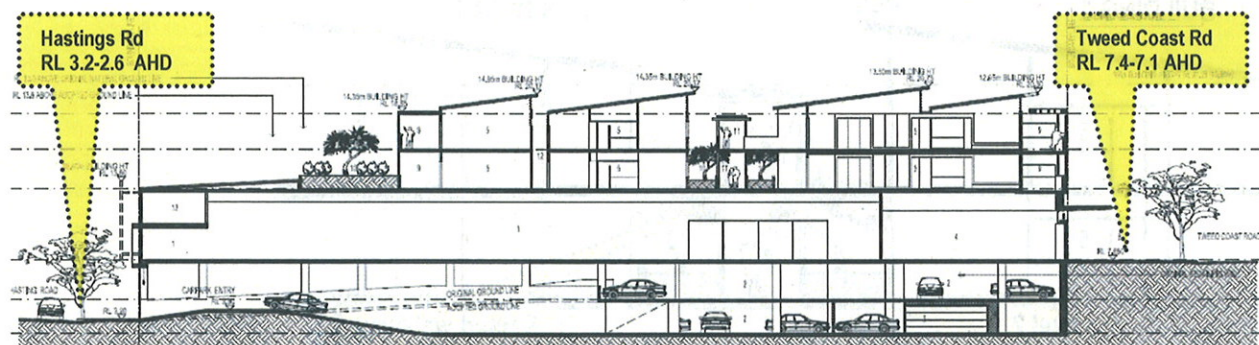


Figure 14 – Section of site displaying relevant RLs.

As demonstrated in Figure 14, the non-compliance with the 3 storey height limit is largely due to the site's significant topographic descent from approximately 7.4m to 7.1m AHD along Tweed Coast Road to 3.2m to 2.6m along Hastings Road. The height proposed presents as a 3 storey building when viewed from both Tweed Coast Road and Hastings Road. It should be noted that the building's 4th storey components are positioned in the centre of the site approximately 29m from Hastings Road. Further, the project is consistent with existing development surrounding the site which present as 2-3 storey buildings with upper level setback components. The non-complying built form elements will for the most part be invisible when viewed from the main public domain. The proposal is considered to meet the objective of clause 16 which aims to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. Conclusively, the proposal's non-compliance with the statutory height limit set by the Tweed LEP is considered to be acceptable in this instance.

5.4 OVERDEVELOPMENT OF THE SITE

In response to exhibition of the project, a number of submissions raised concerns with regards to the proposal being considered overdevelopment of the site. In particular, some objections emphasised the project's excessive height and non-compatibility with the character and scale of the surrounding site context. Notwithstanding the project's technical non-compliance with the statutory height limit for the site as discussed above, the project will present as a 3 storey building from Tweed Coast Road and Hastings Road which is consistent with the character and scale of existing buildings on both of these street frontages. The site's current zoning and surrounding land uses indicate the proposed centre is appropriate for the site and would complement existing businesses within the central business area of Cabarita/Bogangar. In addition, the proposed carparking scheme is generally consistent with the requirements of Council's DCP requirements and will not be directly visible from the public realm.

5.5 PROVISION OF LANDSCAPED AREAS

The proposal as exhibited had designated share area open space landscaping in two main areas being the 402m² central forecourt (in the public domain adjacent to the supermarket), and the 397m² landscaped podium (adjoining the entries to residential units on level 2). The exhibited project also nominated a 265m² band of roof landscaping screening for level 2 apartments facing Hastings Road (inaccessible to residents) and 57m² of deep soil areas in the Hastings Road carpark. In total these landscaped areas form 19% of the site's open space areas.

Following exhibition of the EA, the Department raised with the proponent the project's non-compliance with SEPP 65 requirements for open space landscaping and residential amenity. In particular, the proponent was asked to reconsider the design of the podium landscaped area as it presented a number of issues with regards to achieving sufficient levels of solar access and residential amenity.

The main podium area represents a shared open space area which separates the dwelling entries of Building 1 (units 1-8, 21-28) from Building 2 (units 13-20, 33-40). This main podium area consists of a combination of planter boxes and residential walkways (Figure 15).

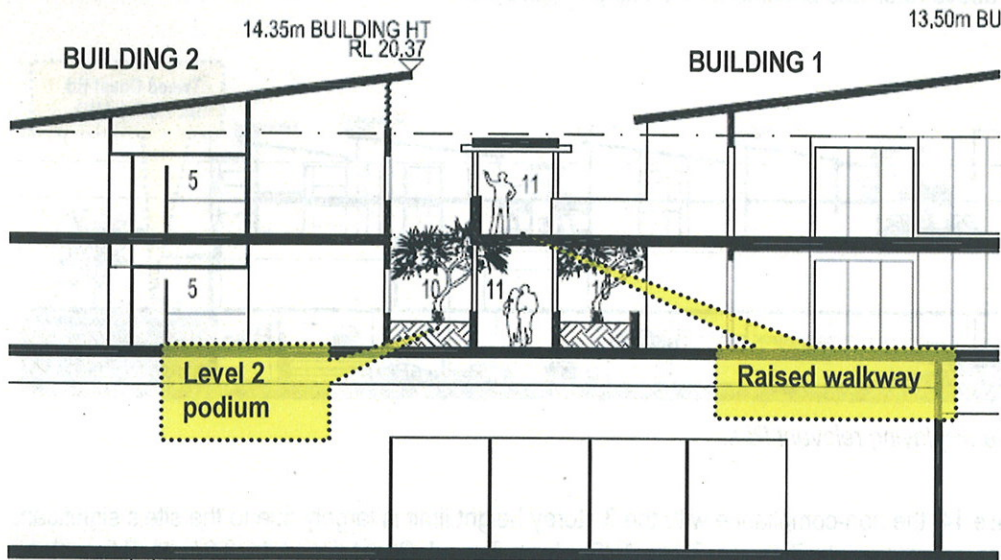


Figure 15 – Cross section of landscaped podium (Source: Environmental Assessment).

Above the level 2 communal area is a raised walkway servicing the entries to level 3 dwellings. The Department's concerns regarding the amenity problems associated with the landscape podium primarily relate to the proposed minimal separation distances between Building 1 from Building 2, and the overall length of these apartments. In particular, the lack of sunlight penetration to the level 2 area is considered poor design as it will prevent habitable rooms facing the podium from receiving natural sunlight. Further, the minimal solar access to the lower podium raises questions regarding the viability of plant growth in the absence of sufficient sunlight penetration.

The proponent responded to the issues raised by introducing visual screening devices to assist with separating the dwelling entries within the podium area. The proponent's PPR outlined that the inclusion of the screening provided both visual and acoustic privacy along with a further level of separation between habitable rooms. The PPR also noted that a further 192m² of landscaping has been added to inaccessible roof areas of level 2. These introduced screening devices and the additional landscaping appears to be an attempt by the proponent to address the guidelines set by the Residential Flat Design Code (the Code) which recommends building separation distances of 12m, and open space landscape areas (for mixed use developments) of between 25-30% (**Table 2**). The additional landscaping to the roof areas of the amended proposal is considered to be an improved outcome as it will allow for better vegetation screening to properties west of the site. However, the amendments have not increased the overall size of open space share areas accessible to occupants of the apartments. While the introduced screening attempts to improve the general amenity of the podium area, the minimal size of this shared common area and its lack of solar access remains of concern. Therefore, in order to achieve an acceptable level of residential amenity for future residents of the development and enlarge the landscaped podium, a condition of approval requiring the overall length of some apartments to be reduced has been recommended.

5.6 SAFETY AND SECURITY

Pedestrian safety

The proposal incorporates a central pedestrian focus with all vehicle access to the site confined to Hastings Road enabling the Tweed Coast Road frontage to become more pedestrian oriented. The proposed pedestrian thoroughfare will link the western Hastings Road precinct to active shopfronts along Tweed Coast Road, with further linkage towards Pandanus Parade and down to Cabarita Beach. The location of the Hastings Street pedestrian entry in conjunction with increased vehicular traffic along Hastings Road is likely to increase opportunities for pedestrian/vehicle conflict along Hastings Road. Council's submission to the Department advised of a requirement for improved treatment along Hastings Road to be to a pedestrian scale. The Police and RTA also raised safety issues associated with pedestrian-vehicle conflict and asked for further consideration to be made for pedestrians. In response to exhibition of the EA, the Department asked the proponent to provide pedestrian access management measures along Hastings Road to prevent opportunities for pedestrian/vehicle conflict.

The proponent responded to pedestrian/vehicle conflicts issues raised by committing to upgrading the general level of pedestrian safety along the Hastings Road interface. In particular, the proponent's PPR indicates its support for the provision of an appropriate condition of approval requiring the provision of a suitable pedestrian crossing along Hastings Road, safety lighting and necessary tactile surface treatment for vehicle crossover and entry areas.

Public space management

The proposed pedestrian thoroughfare between Hastings Road and Tweed Coast Road and central forecourt are considered to be important elements of the project's interface with the public domain. In accordance with Crime Through Prevention Principles, public domain areas need to incorporate adequate public space management measures to prevent opportunities for crime and anti-social behaviour. Documentation submitted with the EA indicates that some public areas of the proposal will be closed off at certain times for safety and security reasons. However, the exhibited proposal did not specify detailed measures for appropriate safe management of public/private areas within the proposal.

Several of the public submissions received by the Department objected to opportunities for crime created post-development including youth congregation in carparks, graffiti, vandalism and theft. A submission from the NSW Police also advised of a need for the project to make adequate provision for security lighting and consideration also be given to safety issues associated with the use of the landscaped forecourt, carpark and pedestrian thoroughfare at night. In response to exhibition of the EA, the Department asked the proponent to formulate a public space management plan for public domain areas of the site including the pedestrian thoroughfare, central forecourt, carpark areas, security lighting and separation from residential areas.

The proponent responded to this issue by indicating its support for the inclusion of a condition of approval requiring the formulation of a public/private open space management plan prior to operation of the shopping centre. The plan would need to ensure the provision of adequate security outdoor lighting along Tweed Coast Road, Hastings Road and the northern carpark areas; provide measures to secure the pedestrian thoroughfare and landscaped forecourt area after trading hours/ and or night time; provide measures to ensure rapid graffiti removal to the shopping centre; investigate use of CCTV security cameras; and use of security patrols on Thursday, Friday and Saturday nights as a minimum.

5.7 NOISE IMPACTS

The proposal entails the operation of a loading bay which will be accessible by trucks from Hastings Road. A number of residents of Hastings Road raised concerns in their submissions with regards to noise impacts on the surrounding locality resulting from heavy vehicle usage of the loading bay, in particular, residents objected to the loading bay's use outside business hours. In response to exhibition of the EA the Department asked the proponent to further investigate noise impacts on the amenity of the residential area.

The proponent responded to this issue by agreeing to the imposition of a condition of approval restricting the hours of operation for deliveries to the loading bay. The proponent's PPR notes that use of the loading bay will be restricted to the proposed centre's hours of operation only, with the loading bay secured outside business hours. In addition, amended plans submitted with the PPR include detail of acoustic attenuation measures aimed at reducing noise output from the loading bay. The Department has therefore recommended relevant conditions of approval relating to noise.

5.8 STORMWATER AND WATER QUALITY

Stormwater Quantity

The Stormwater Concept Plan exhibited with the EA indicates that all site drainage will be directed towards the existing street system that flows to Hastings Road. The proposal will result in an increase in impervious areas on the site and therefore, without adequate management, the stormwater runoff following development of the site will increase from the existing situation. Council's submission in response to exhibition identified a need for the proponent to undertake a detailed engineering assessment of the capacity of the downstream drainage network to accept post-development flows from the site.

Notwithstanding, Council's submission did acknowledge that in lieu of an amended stormwater assessment being provided by the proponent, it would support the inclusion of relevant conditions of approval requiring the provision of an on-site detention system prior to the release of any Construction Certificate. Subsequently, appropriate conditions of approval have been recommended in this regard.

Water Sensitive Urban Design (WSUD)

The exhibited proposal makes limited provision for WSUD including increased measures to improve the site's general permeability. In particular, no detail with regards to proposed stormwater treatment devices to minimise the impact on Council's existing system have been provided. Due to the substantial increase in hardstand areas on site post-development, post exhibition of the EA, the Department asked the proponent to investigate stormwater absorption measures for areas of the site including the outdoor carpark area.

In response the PPR amended the design of the proposed surface on-grade carpark area along Hastings Road to include 245m² of permeable deep landscaping. The proposed landscaping will also assist with screening the carpark from Hastings Road. In addition, the proponent has also agreed on the imposition of a condition of approval requiring the use of WSUD measures including permeable paving for pedestrian treatment to the satisfaction of Council prior to release of relevant Construction Certificates.

Water quality and on-going management

The project has the potential to impact on the quality of stormwater runoff through such means as litter, oils and greases from car parking areas. The EA as exhibited made no provision for the protection of water quality to Cudgen Creek, Cudgen Lake and the ocean with regards to stormwater runoff. In response to exhibition of the EA, DWE and the NRCMA recommended that a monitoring program be implemented to identify pollutant loads discharged from the site during construction and post-development. In response the proponent indicated its support for the imposition of appropriate conditions of approval stipulating water quality management measures to be carried out during the construction and operational phases of the project.

Water re-use

In response to exhibition of the project, the Department sought clarification from the proponent in relation to water re-use and storage on-site. The proposal will result in increased levels of water runoff post-development of the site as discussed previously in this Assessment Report. Subsequently, in the interest of ecologically sustainable development that reduces consumption of mains-supplied potable water, the proponent was asked to investigate measures to incorporate water re-use on the site. In particular, given that the site will be completely redeveloped, the Department suggested the proponent consider measures for recycled water use on-site including the potential for use of recycled water for rainwater tanks, toilet flushing and landscape watering. The Department therefore has recommended a condition of approval stipulating set requirements for the project relating to construction design detail for water recycling prior to release of a Construction Certificate.

5.9 FLOODING AND CLIMATE CHANGE

Part of the subject site along Hastings Road is subject to local flooding impacts including the 1:100 year flood event. Several public submissions received raised concerns regarding flood impacts associated with the current flood regime of Hastings Road including increased flooding impacts on adjoining properties as a result of the site's redevelopment.

Climate change is expected to have adverse impacts upon sea levels and rainfall intensities, both of which may have significant influence on flood behaviour in coastal areas. The latest modelling estimates from the *Fourth Assessment Report by the Intergovernmental Panel on Climate Change* (IPCC 2007) identifies increased risk to coastal areas from sea level rise. Further, the NSW Government document *Floodplain Risk Management Guideline – Practical Consideration of Climate Change* and recent CSIRO modelling indicate that mean sea level change along the NSW coast is expected to be in the range of 0.18 to 0.91m by between 2090 and 2100. This Guideline also identifies climate change impacts on flood producing rainfall events, showing a trend for larger scale storms to increase by 2030 and 2070.

Site survey detail included with the EA indicates that the topography of the site along Hastings Road varies from RL 2.71m to 3.18m AHD. Under Section A3 – Flood Liable Land of the Tweed DCP, Bogangar, is identified as containing a design flood level of RL 3.4m AHD with a minimum finished floor level of 3.7m AHD for residential development (**Appendix D**) The proposal's residential components are situated at RL 13m AHD, (with commercial components is set at approximately RL 7.65m AHD) and no site filling or substantial variation to site contours below RL 3.4m is proposed other than the entry ramp to the residential carparking area. Subsequently, the project's impact on the locality's flood regime is expected to be minimal or nil. The proposal represents infill development within an existing urban centre and the proposed residential uses are positioned well above predicted flood levels inclusive of the high range 0.91m sea level rise. It is recommended the proponent be required to incorporate a flood evacuation plan as part of the on-going management for the site. This requirement has been included as a condition of approval.

5.10 TRAFFIC AND ACCESS

Vehicle access to site

In its response to exhibition of the EA, Council showed support for the proposed loading bay area off Hastings Road provided that access to the loading bay be made inaccessible to semi trailer trucks, unless the loading bay is upgraded to cater for such vehicles. Council also raised concerns with semi trailers manoeuvring on nearby public road and reversing onto the site. As a result, recommendations were made that 'physical barrier' options such as balustrades and mature landscaping be provided along the Hastings Road frontage to prevent such heavy vehicle access to the site.

The proponent's PPR responded to this issue by redesigning the proposed loading bay to make provision for heavy vehicle turning areas within the site as demonstrated by the turning circle templates shown in the amended plans. In addition, the access point for the proposed on-grade carpark along Hastings Road was relocated 8m further north from the intersection with Reef Water Circuit to reduce conflict with this junction. The proponent has advised that heavy vehicle access to the site will be restricted to 12.5m trucks and is supportive of a condition of approval requiring payment of a \$20,000 bond payable to Council in the event that heavy vehicle access to the site for trucks larger than 12.5m in length cannot be restricted.

Provision of carparking

In accordance with the requirements of section A2 of the Tweed DCP 2008: Car Parking and Access, the proposal requires 206 car spaces. The proponent is currently short 2 car parking spaces (this includes the 20% reduction for the commercial component as specified in the DCP section A2). Council raised concern with the proposal's non-compliance with the DCP. **Table 5** sets out the parking requirements for the proposal.

Table 5 – Compliance with A2: Carparking and Access of Tweed DCP

Component	Standard	Provided
Residential Units	48 spaces	48 spaces
Visitor	10 spaces	8 spaces
Retail	120 spaces	120 spaces
Staff	28 spaces	28 spaces
Total	206 spaces	204 spaces

As displayed in **Table 5**, the proposal does not meet the minimum DCP requirement for parking. The proponent's justification for the non-compliance with the parking standard is based on the shortfall relating only to visitor car parks for the residential units which if appropriately managed could overlap within the retail component of the centre. The proponent has also noted that there is abundant street parking in the site's locality which should also be considered in justifying the shortfall. The proposed parking scheme makes provision for quality urban design principles by confining carpark areas from the street via a basement facility and a screened on-grade area. The proposed parking arrangement has addressed the overall intention of the parking standard and it is considered that the proponent's non-compliance with the requirements is minor and acceptable in this instance.

5.11 SECTION 94 AND OTHER CONTRIBUTIONS

The proponent is to contribute \$578,467.00 in developer contributions to Council pursuant to section 94 of the Act as detailed below (**Table 6**).

Table 6 – Section 94 Contributions

Name of Contribution Plan	Number of ET	\$ per ET	Sub-Total
Tweed Road Contribution Plan No. 4	447,333 Trips	\$868 + \$87	\$427,203
S94 Plan No. 5 Open Space (Casual)	17,196	\$597+\$27	\$10,730
S94 Plan No. 5 Open Space (Structured)	17,184	\$653 + \$31	\$11,754
S94 Plan No. 11 Shirewide Library Facilities	17,184	\$374	\$6,427
S94 Plan No. 12 Bus Shelters S94 Plan No. 12	15,616	\$26	\$406
S94 Plan No. 13 Eviron Cemetery	18.48	\$131 + \$0	\$2,421
S94 Plan No. 15 Community Facilities (Tweed Coast - South)	31	\$584	\$18,104
S94 Plan No. 16 Emergency Facilities (Surf Lifesaving)	17.2	\$200	\$3,440
S94 Plan No. 18 Extensions to Council Administration Offices & Technical Support Facilities	18.7255	\$1996.8	\$37,391
S94 Plan No. 22 Cycleways	17,136	\$352	\$6,032
S94 Plan No. 26 Regional Open Space (Casual)	17,152	\$855	\$14,665
S94 Plan No. 26 Regional Open Space (Structured)	17,144	\$2,327	\$39,894

A Development Servicing Plan (DSP) enables Council, under section 64 of the *Local Government Act 1993* (LG Act), to levy contributions where the anticipated development will or is likely to increase the demand for water supply services. Contributions plans relevant include:

- Development Servicing Plan for Water Supply Services (July 2007)
- Development Servicing Plan for Sewerage Services (July 2007)

Prior to the endorsement of a Construction Certificate, the proponent must pay, the following contributions to Council pursuant to Section 64 of the LG Act.

Table 7 – Section 64 Contributions

Water Supply Services		Sewerage Services	
Calculation	Total	Calculation	Total
\$10,709 x 6.4952ET	\$69557.10	\$5,146 x 14.779ET	\$76052.73

6. CONCLUSION

The Department has assessed the EA and PPR and considered the submissions in response to the proposal. The key issues raised in submissions related to retail impact, site interface with adjoining properties, management and mitigation of stormwater flow and traffic and access. The Department has considered these issues and a number of conditions are recommended in conjunction with the proponent's Statement of Commitments to ensure these issues are satisfactorily addressed and the proposal has minimal impacts.

The proposed development will allow for an integrated retail and residential development within the heart of the Cabarita Beach/Bogangar town centre without adversely affecting its surrounding context. The proposed retail component will provide local area residents with improved choice, competition and variety of retail goods not currently available while the proposed architectural design will set a precedent for future development in the precinct to follow. The subject site's current zoning and surrounding land uses indicate the proposed centre is appropriate for the site and would complement existing businesses within the central business area of Cabarita/Bogangar. Finally, the proposal has largely demonstrated compliance with the existing environmental planning instruments.

On these grounds, the Department considers the impacts of the proposed project to be acceptable and in the public interest. Consequently, the Department recommends that the project be approved, subject to the conditions of approval and the proponent's Statement of Commitments.

DELEGATION

On 4 March 2009, delegation was given to the Director-General to determine an application for project under section 75J of the Act.

This delegation extends to applications where:

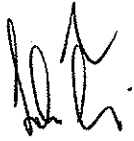
- a) there are less than 25 public submissions in respect of the project, and
- b) the capital investment value (CIV) of the project is less than \$50 million.

A total of 18 public submissions were received during exhibition of the EA and the project has an estimated CIV of \$14 million. Subsequently, it is considered appropriate for the Director-General to determine the project under delegation pursuant to section 75J of the Act.

7. RECOMMENDATION

It is recommended that the Minister's delegate:

- (A) consider the findings and recommendations of this Report; and
- (B) approve the carrying out of the project, under section 75J *Environmental Planning and Assessment Act* 1979; subject to modifications of the project and conditions; and,
- (C) sign the Instrument of Approval at **Appendix A**.



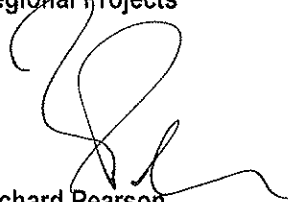
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