

+ MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0194 (MOD 3)

KINGS FOREST STAGE 1 – PROPOSED RESIDENTIAL SUBDIVISION

At Kings Forest, Kingscliff

• Prepared For: Project 28 Pty Ltd | • Prepared by: DAC Planning Pty Ltd | • September 2015 |

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MODIFICATION OF MAJOR PROJECT APPROVAL NO. 08_0194 (MOD 3)

PROPOSED SERVICE STATION/FOOD AND DRINK PREMISES – KINGS FOREST – PRECINCT 1 LOT 7 DP 875447 TWEED COAST ROAD, KINGSCLIFF

1.0 INTRODUCTION

1.1 Brief

DAC Planning has been commissioned by Project 28 Pty Ltd to prepare a Section 75W Modification to MP08_0194 to facilitate a proposed Service Station/Food and Drink Premise(s) to be located within Kings Forest Precinct 1 on land identified as Lot 7 DP 875447, Tweed Coast Road, Kings Forest.

Any reference to 'Service Station' within the report is to be taken as a reference to both uses sought being Service Station and Food and Drink Premises.

The proposed service station is to 'replace' the rural supplies development currently approved under MP08_0194. This modification is No.3 to MP08_0194.

1.2 Major Project Approval No. 08_0194

On 11 August 2013 the Planning and Assessment Commission, as delegate for the Minister for Planning, issued Project Approval No. 08_0194 in respect of Lots 76, 272, 323 and 326 DP 755701; Lot 6 DP 875446; Lot 2 DP 819015; Lot 1 DP 706497; Lot 40 DP 7482; Lot 38A DP 13727; Lot 38B DP 13727; Lot 1 DP 129737; Lot 1 DP 781633; Lot 7 DP 875447 and Lot 37A DP 13727 for Kings Forest Stage 1 comprising the following key project elements:

"Kings Forest residential subdivision Stage 1 bulk earthworks, road works and subdivision of Precinct 4, including:

- ♦ Subdivision of the site into 10 development lots in four stages;
- ♦ Bulk earthworks across the site;
- ♦ Road works comprising:
 - Construction of the entrance road and associated intersection works with Tweed Coast Road
 - Construction of the Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western site precinct; and
 - Construction of 2 roads providing access to the southern site precincts
- ♦ Plan of Development for Precinct 5;
- ♦ **Development of 2036m² of floor space for a rural supplies building and access arrangements to Precinct 1;**
- ♦ Construction of subdivision and infrastructure works along Kings Forest Parkway and within Precincts 1 and 5;
- ♦ Subdivision of Precinct 5 into 376 residential lots comprising:
 - 1 townhouse lot (7860m²);
 - 37 terrace house lots (minimum lot size 150m²)
 - 25 duplexes (minimum lot size 450m²)
 - 192 zero lot dwellings (minimum lot size 240m²)
 - 121 traditional detached dwellings (minimum lot size 400m²)"

This modification seeks to replace the development of 2036m² of floor space for rural supplies with 1063m² of floor space for service station and food and drink premises uses. The total structural building footprint will be approximately 2026m².

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A copy of the Consolidated Project Approval incorporating Modifications 1 and 2 is attached at **Appendix N**.

1.3 Environmental Planning and Assessment Act And Regulations

By definition, the Project Approval is for a transitional Part 3A project (under Clause 2(1)(a) of the Schedule 6A of the Act).

Clause 2(5) of Schedule 6A of the Act says:

*A transitional Part 3A project **extends** to the project **as varied** by changes to the Part 3A ... project approval, **whether made before or after the repeal of Part 3A** (bold added).*

Section 75W of the Act facilitates the lodgement and determination of an application to modify a Part 3A Approval. Section 75W is in the following terms:

"Modification of Minister's approval

75W

(1) In this section:

Minister's approval means an approval to carry out a project under this Part, and includes an approval of a concept plan.

Modification of approval means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
 - (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
 - (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
 - (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.
 - (5) The proponent of a project to which Section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request with 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
 - (6) Subsection (5) does not apply to a request to modify:
 - (a) an approval granted by or as directed by the Court on appeal, or
 - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
 - (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

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It is clear that Section 75W continues to apply and that an approval may be varied to include new elements that were not previously in the approval. It is irrelevant to consider whether the new elements would, by themselves, be a transitional Part 3A project.

Additionally, Gadens has provided legal advice as follows:

- *The proposed development cannot be carried out unless the Minister for Planning (or delegate) has approved it.*
- *The Council cannot lawfully:*
 - *consider a development application; or*
 - *grant a development consent,*

for a service station and/or fast food outlet on the subject land.

- *In the present circumstances, the only means of securing a merit assessment (and an approval) for the carrying out of this development is via a project approval.*
- *The requested modification of the project approval is plainly within the scope of section 75W of the Act.*
- *The Minister has a public duty to consider the section 75W request and either modify the approval or disapprove of the modifications. In making this decision, the Minister must consider the merits of the particular request.*

A copy of this legal advice is included as **Appendix V**.

1.4 Modification Justification

The proposed modification to remove the approved rural supplies development (retail) and replace this with a service station that includes food outlets and car washing facilities is a direct response to further assessment of the site's potential, its location, its surrounding context and its opportunities and constraints.

The modification is requested following consideration of the site, its highest and best use, ability to maximise its employment generating ability and its ability to provide a local essential service which is currently limited in supply in the area.

Currently the closest service stations are located at Chinderah Highway Service Centre, the Kingscliff Shopping Centre or Hastings Point. Given the significant populations to develop within Kings Forest and the existing populations directly adjoining within Salt, Seaside City and Casuarina, the use of the site for a service station centrally locates a facility to service this population's need to fuel and clean their vehicles.

Further the site is located at the beginning of the Tweed Coast Tourist Drive and is on the route to the local resorts including Peppers and Mantra ensuring it can service the passing tourist trade. It is also located in a broader farming area and can provide fuel for farm machinery and farming activities in the broader area.

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In terms of employment generating potential, the proposed service station has considerably greater ability to employ. This ability to employ includes both more persons and a broader age of person over the currently approved rural supplies development. The service station, car wash and food outlets have the potential to employ a minimum of 60 staff in their overall operations including part time work for appropriately aged minors.

It is considered in the public interest to develop this site with a use that will provide an essential service (vehicle fuelling) and a complementary service (food provision), that will provide a stable base of employment. This better achieves the objectives of the land's designation (under the Concept Plan Approval) as employment land than leaving the land idle if/until a rural supplies retail development becomes viable on the site (and there is no foreseeable prospect of that).

As demonstrated as part of this S75W submission there are no items that preclude development of the site for a service station as proposed nor does developing the site for a service station prevent or alter any of the existing commitments and management measures established for the Kings Forest Concept Approval or the Stage 1 Project Approval. Most importantly the modification better advances the paramount planning direction for the land set by the Concept Plan Approval itself.

2.0 THE SITE

2.1 Site Description

Although part of the larger Kings Forest holding, the subject allotment which will accommodate the service station and food and drink premises is legally described as Lot 7 DP 875447. The allotment currently has no common or street address reference. The allotment has frontage to Tweed Coast Road; is irregular in shape and provides for a total area of 7.5876 hectares. The allotment is identified on **Figure 1 – Aerial Image**.

The proposed Service Station is to be located on part of the lot only. This part is Precinct 1 as identified within approved Kings Forest Concept Plan (MP06_0318). The proposed Service Station is to be located within the footprint of the currently approved Rural Supplies Development issued under Project Approval (MP08_0194). A copy of MP06_0318 as amended is included at **Appendix M**.

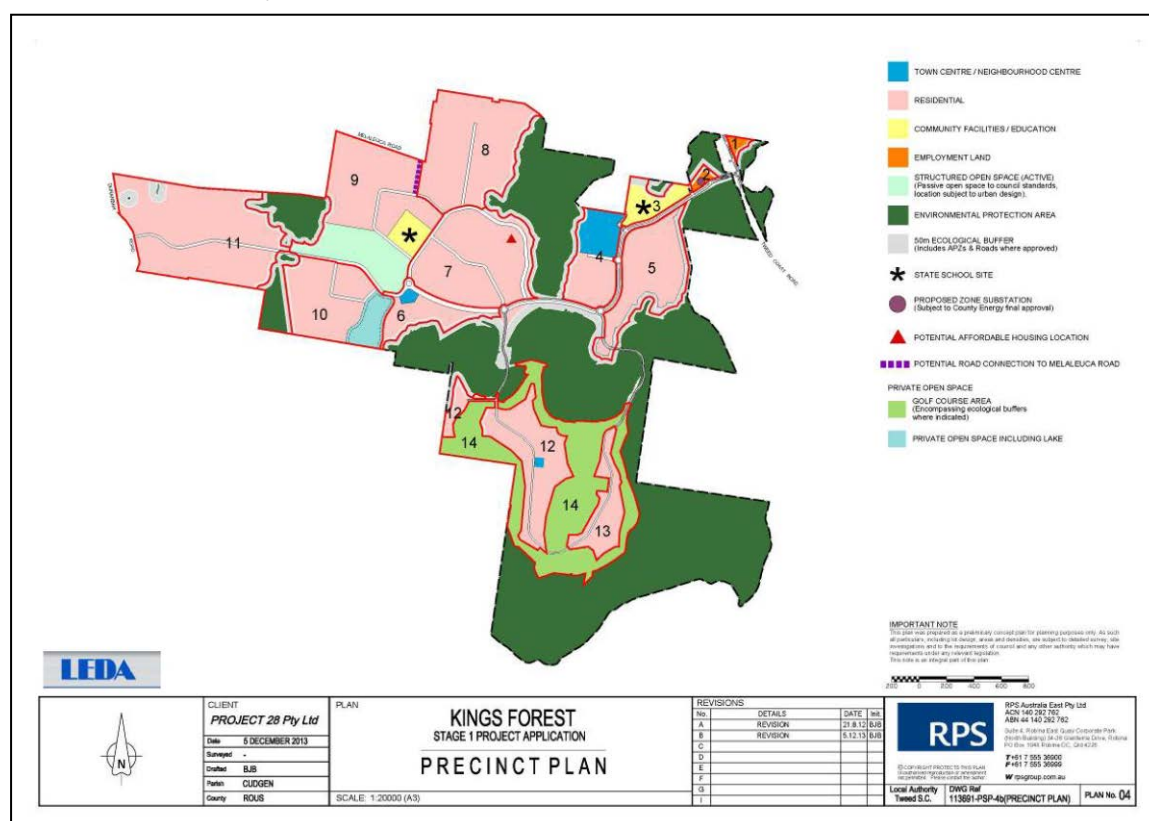
The Project Approval already provides for the subdivision of Lot 7 DP 875447 (Condition 1 of Part 1 of the Project Approval), and no change is proposed in this regard (other than to revise the description of the use of the subdivided land).

That part of the allotment which is to house the Service Station is identified in **Figure 2 – Kings Forest Precinct Plan**.



Figure 1 – Aerial Image. Source: NSW SIX Viewer.

For the purposes of this report, a reference to the 'site' is to be taken as a reference to Precinct 1 and the footprint established by the current approved rural supplies development. The site is contained within the land identified as proposed Lot 1 in Condition 2 of Part 1 of the Project Approval.



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2.2 Zoning & Mapped Constraints

Concept Plan Land Designation

The paramount land use planning direction for the land is established by Concept Plan Approval 06_0318. This approval is intended to override inconsistent Environmental Planning Instruments and Development Controls Plans (Clause 3B(2) of Schedule 6A of the Act).

The Concept Plan designated the land as 'employment land' (as per **Figure 3**, below).

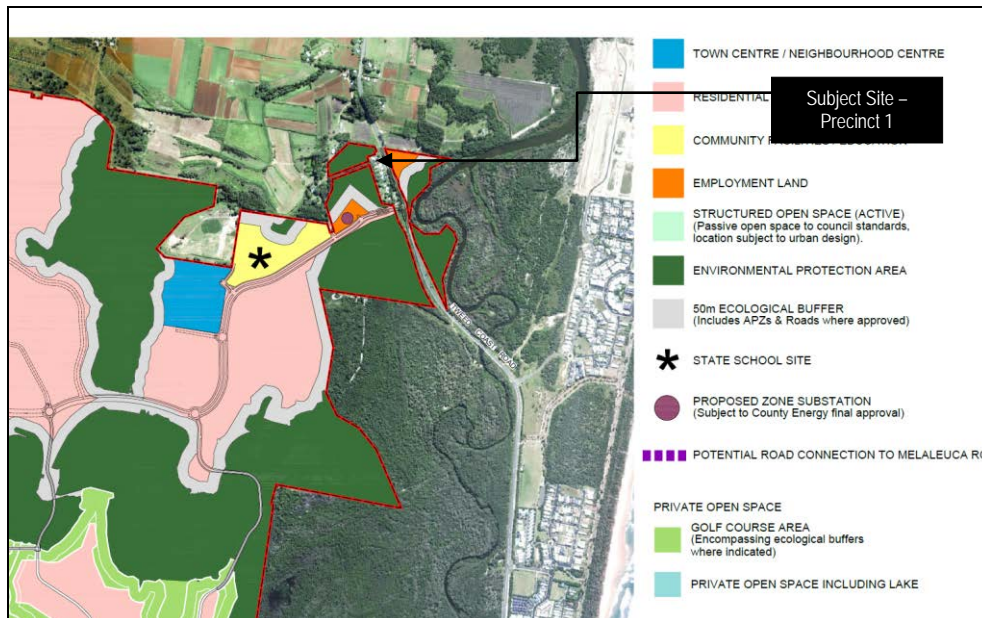


Figure 3 – Kings Forest Revised Concept Plan No. 01, Rev B, 5 December 2013. Source: RPS.

The Concept Plan Approval itself (in Section 2.2.2 of the *Preferred Project Report* by JBA, August 2009 incorporated into the Concept Plan Approval under Condition A3) says this about the purpose of the 'employment land':

Seven hectares of land is designated in the Concept Plan for employment uses. At this point it is not realistic to designate the actual GFA for this use as it will depend on market conditions and the take up of land by prospective businesses. Nonetheless, an indicative GFA of 15,000 square metres is considered reasonable and realistic ...

The proposed development on the east side of Tweed Coast Road is now limited to approximately 2,000 square metres of retail area with associated parking. A service station is not included in this proposal, but remains a potential future use that would be subject to a future project application. ...

The uses in the employment precinct will be dependent on a number of factors - uncertain at this stage – such as the demographic profile of the future community, the timing of the development and the success of individuals establishing businesses. This employment land will not undermine the capacity or the viability of other precincts such as Chinderah (bold added).

The Executive Summary (Page ix) of the *Concept Plan Environmental Assessment Report* (incorporated into the Concept Plan Approval under Condition A3) says:

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*Employment lands: Seven hectares of land has been allocated for **local business, employment and economic development opportunities** including trade services, business services, professional and commercial offices, large format retaining and emergency service providers (bold added).*

The Concept Plan Approval explicitly envisages that the employment land will do more than simply meet the employment and services needs of the residents of the Kings Forest development itself. It says (in Section 5.4.4 of the *Concept Plan Environmental Assessment Report*, incorporated into the Concept Plan Approval under Condition A3):

*This area [ie the employment land] has specifically been located at the entrance to Kings Forest and along the Tweed Coast Road to provide employment and services for people from Kings Forest **as well as the surrounding areas**, and also to reduce through traffic within Kings Forest (bold added).*

Zoning

The allotment is zoned 2(c) Urban Expansion and 7(a) Environmental Protection (Wetlands & Littoral Rainforests) pursuant to State Environmental Planning Policy (Major Development) 2005; refer **Figure 4** – SEPP (Major Development) 2005 Zoning. The site is exclusively zoned 2(c) Urban Expansion.

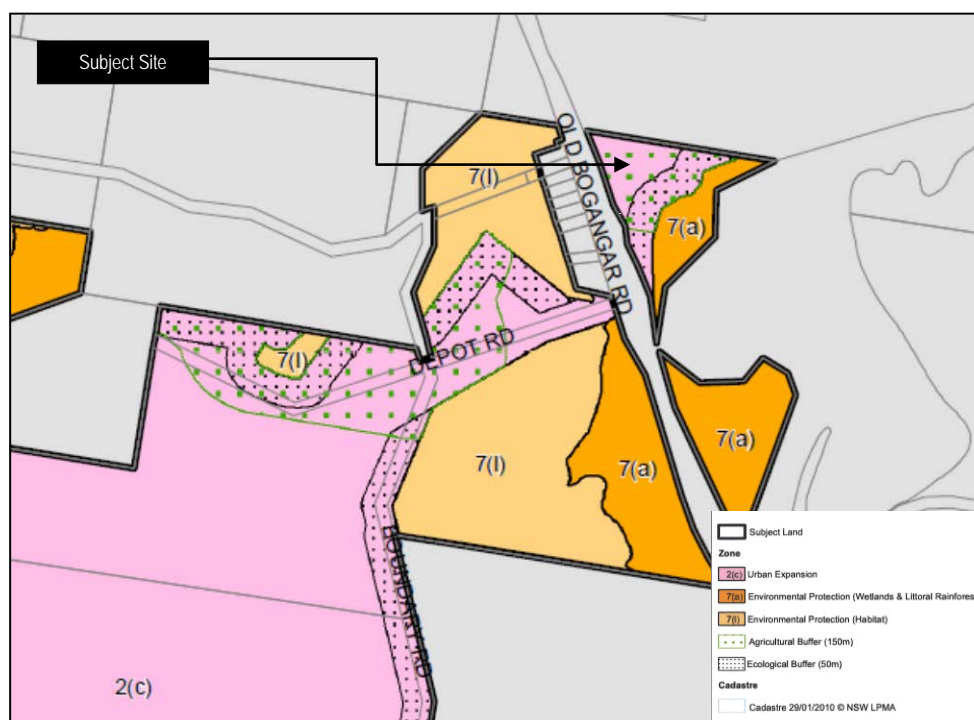


Figure 4 – SEPP (Major Development) 2005 Zoning. Source: SEPP (Major Development) 2005.

The zoning of the site is subordinate to the site's designation as 'employment land' under the Concept Plan Approval (Clause 3B(2) of Schedule 6A of the Act).

Buffers

The allotment and site is identified within Agricultural Buffer (150m) and Ecological Buffer (50m) pursuant to State Environmental Planning Policy (Major Development) 2005; refer **Figure 4** – SEPP (Major Development) 2005 Zoning.

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Flood Prone Land

The development site is not mapped as flood liable land. Refer **Figure 5 – Design Flood Level**.

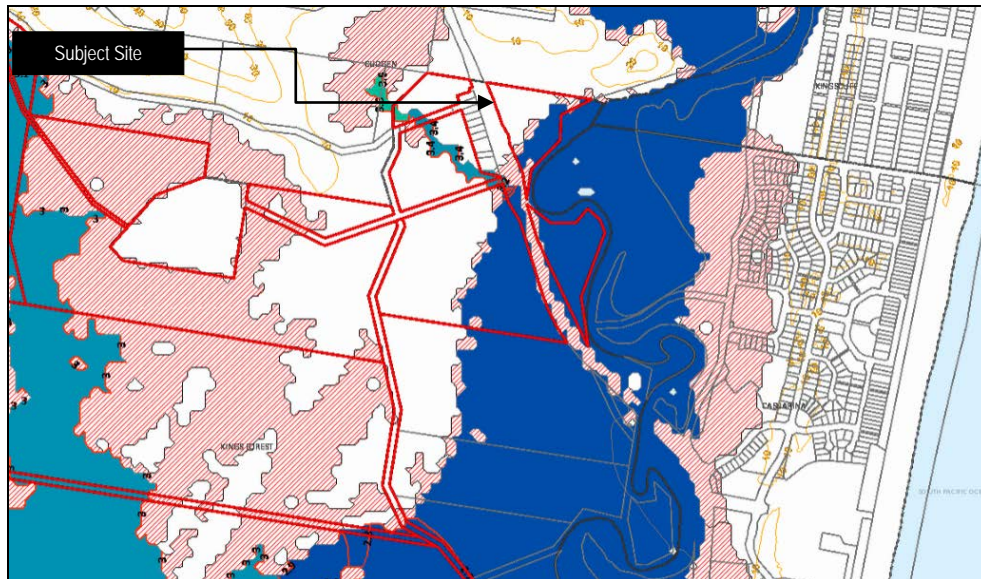


Figure 5 – Design Flood Level. Source: TSC GIS.

Tree Preservation Order

The site is mapped as subject to the Tree Preservation Order 1990 and the Koala Habitat Study Area under Tree Preservation Order 2011. Refer **Figure 6 – Tree Preservation Order 1990** and **Figure 7 – Tree Preservation Order 2011**.

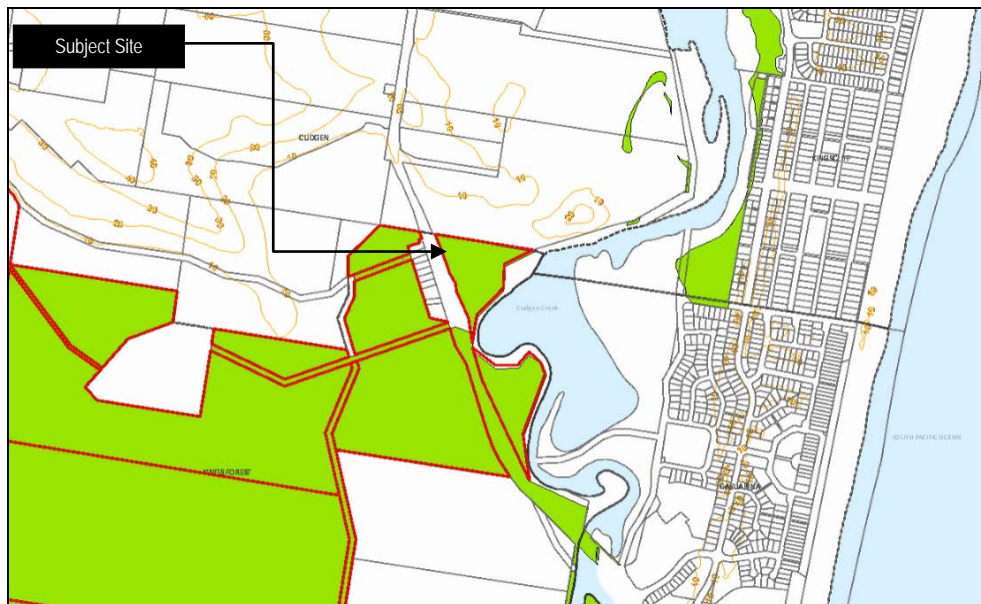


Figure 6 – Tree Preservation Order 1990. Source: TSC GIS.

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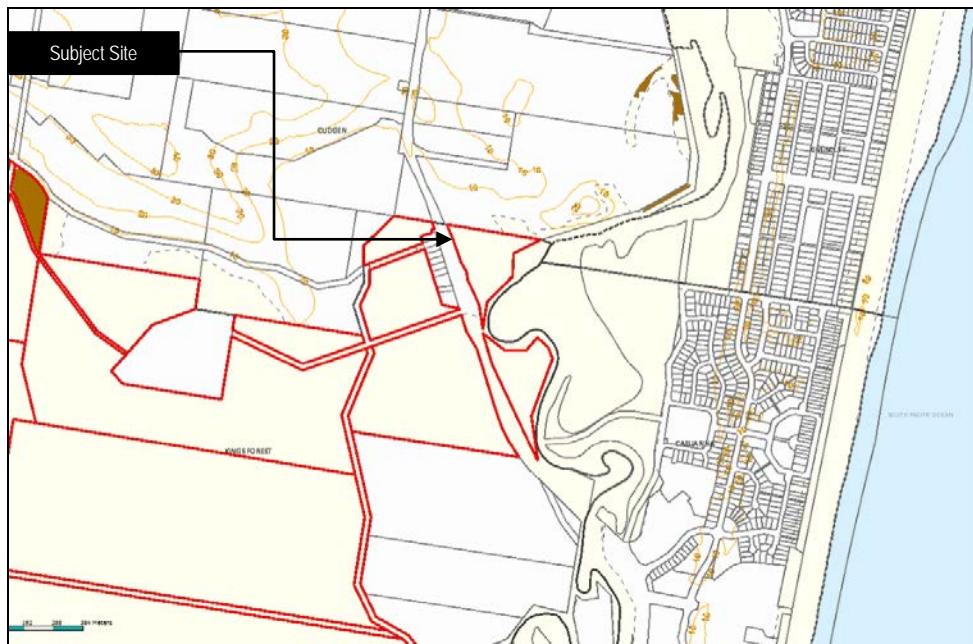


Figure 7 – Tree Preservation Order 2011. Source: TSC GIS.

Acid Sulfate Soils

The site is mapped as containing Class 2 and 3 Acid Sulfate Soils. Refer **Figure 8** – ASS Extract.

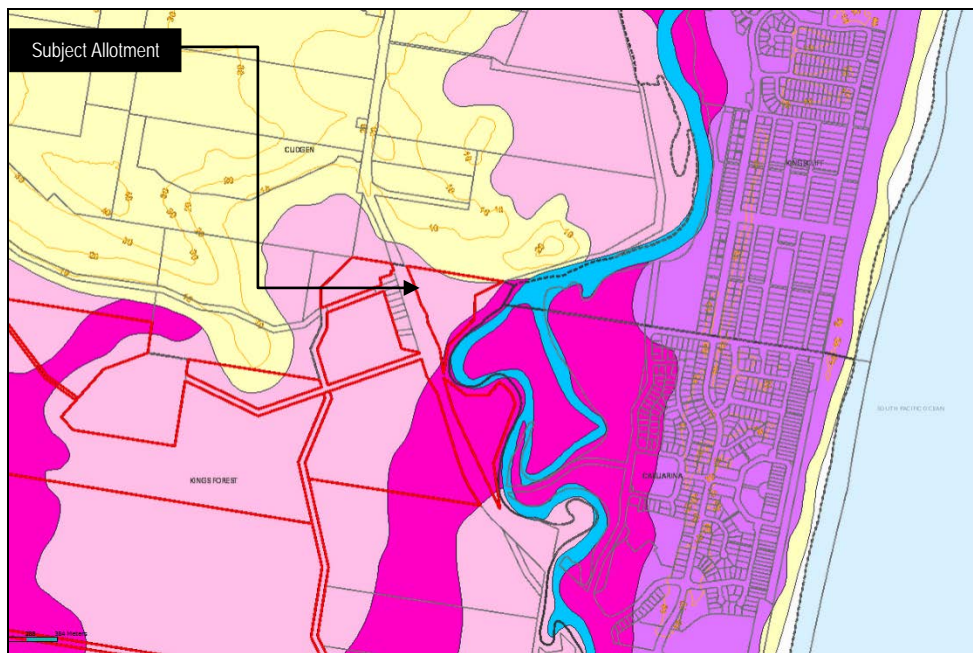


Figure 8 – ASS Extract. Source: TSC GIS.

Designated Road

The site fronts the Tweed Coast Road which is identified as a designated road under the provisions of the TLEP 2000. Refer **Figure 9** – Designated Roads.

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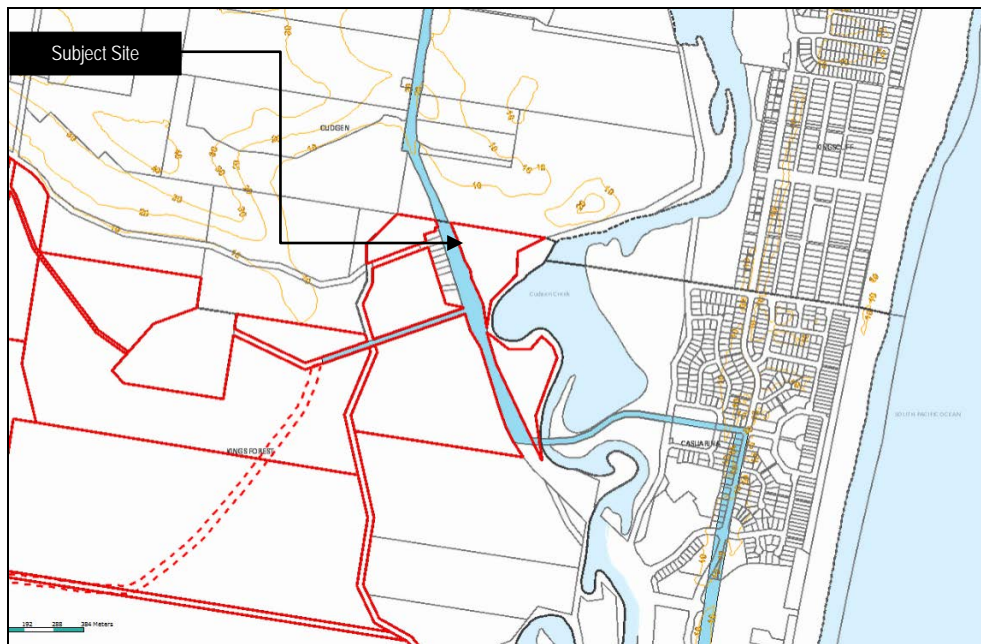


Figure 9 – Designated Roads. Source: TSC GIS.

Bushfire Prone Land

The site is identified as bushfire prone land. Refer **Figure 10 – Bushfire Prone Land**.

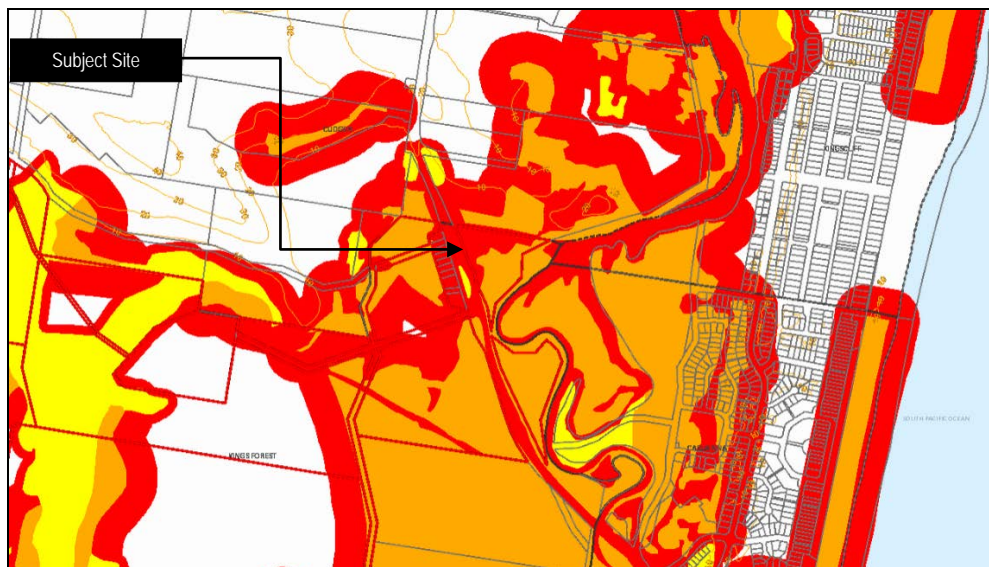


Figure 10 – Bushfire Prone Land. Source: TSC GIS.

3.0 THE PROPOSAL

3.1 Proposal Summary

The proposal is for development of a Service Station. The Service Station will comprise a technically defined two (2) storey building with a total GFA of 1063m² GFA. This GFA includes a station shop, six (6) food tenancies and associated dining area. Two (2) of the food tenancies provide drive through facilities.

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The total structural building footprint will be approximately 2026m² (the approved rural supplies building has 2036m² of floor space).

The Service Station will provide eight (8) car fuelling points under a technically defined two (2) storey canopy and two truck filling points. The service station will sell the full range of fuels including E10 unleaded, 91 octane unleaded, 95 octane unleaded, 98 octane unleaded, diesel, premium diesel and autogas.

The development will be carried out in two stages with Stage 1 comprising the entire site excluding the truck bowzers and Stage 2 will include the truck bowzers.

The proposal includes a 'Station Shop' with a retail area of 120m². This shop will:

- have facilities for the customers of the service station to pay for their petrol purchase; and
- include an ancillary retail component.

The shop itself will also be 'food and drink premises' in that it will sell food and drinks for intended immediate consumption. Plan DA1001 depicts the galley kitchen that will be provided for this purpose. The gross floor area of the shop (when - as per the applicable definition of gross floor area - the service counter, galley kitchen and the administration office are included and the ancillary storage areas are excluded) will be 171m². The service station will operate 24 hours per day, 7 days per week.

It is noted that concurrent with this application to modify MP08_0194 an amendment to Concept Plan Approval MP06_0318 and the associated Kings Forest Development Code is sought. This concurrent modification seeks to identify Food and Drink Premises (excluding pub and small bar) as an envisaged development use for the employment land of Kings Forest.

Architectural Treatment

The proposal provides for a high quality Architectural design and does not utilise an operator's standard layout and design. The building and canopy will be a maximum of two (2) storey and approximately 7.15m in height respectively. The design utilises a mixture of materials and colours to provide a defined Architectural Statement on the site. Refer **Appendix A – Architectural Plans**.

Car Parking and Access

The proposal provides seventy three (73) car spaces, exclusive of the dog wash parking bay, vacuum parking and air + water parking bay; one (1) SRV and one (1) HRV loading bay and fourteen (14) bicycle parking spaces. Three (3) of the car parking spaces are disabled compliant. Ingress and egress from the site will be provided via two (2) new crossovers. The proposal has been designed to allow AV and HRV service vehicles to access and manoeuvre onsite.

The proposed car parking layout and access points are identified on **Appendix A – Architectural Plans**; and an assessment of access, car parking and alternative transport is provided within **Appendix C – Traffic Impact Assessment**.

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Signage

The proposal includes a total of nine (9) signs. The signs proposed include three (3) x 7.5m high pylon signs for business, one (1) by 9.5m high pylon sign for site and pricing identification, three (3) canopy fascia signs and two (2) wall signs. The proposed signage provides a total advertising area of approximately 88m² consistent with that allowed for the frontage length and width.

It is anticipated that the pylon and canopy fascia signs will be internally illuminated, while the walls signs would be indirectly externally illuminated. The proposed signage is consistent with that applied to Service Stations commonly and is integrated into the overall Architectural style of the building. The location of proposed signage is provided within **Appendix A – Architectural Plans**. The wording, symbols and colouring of the signs depicted in the Architectural Plans are indicative only.

Landscaping

The proposal includes high quality landscaping with a predominance provided to the Tweed Coast Road frontage. The landscaping is to be predominately native in accordance with Council requirements. A Statement of Landscape Intent is provided under **Appendix B**.

Demolition

No demolition is required.

Waste Management

The proposal is to be serviced by four (4) 3m³ bulk waste bins and two (2) 2m³ bulk recycling bins. The bins are to be located within screened bin enclosures located behind the service station building and as such is screened from direct view from Tweed Coast Road.

As is standard practice small convenience waste and recycling bins will be provided under the main canopy adjacent to the fuelling points. Onsite waste management will be undertaken by staff of the service station including emptying all smaller convenience bins into the larger storage units. The bins will be serviced onsite by a Waste Disposal Contractor with adequate access available. Refer **Appendix I – Waste Management Plan**.

Tree Removal & Offset

The proposal will see the existing commitments of MP08_0194 retained. The proposal retains the previously approved footprint for the rural supplies development and results in the same amount of vegetation to be removed on Lot 7 DP 875447 and the same area of rehabilitation within the 50m buffer as previously committed. These commitments are further discussed within **Appendix F – Preliminary Flora & Fauna Assessment** and demonstrated within **Appendix H – Revegetation Plan**.

Koala Exclusion Fencing

This proposed modification maintains the approved strategies of the Koala Plan of Management for Kings Forest excluding Koalas from the development footprint area and positions boundary fencing in the previously approved locations.

The revision does however involve the provision of masonry fencing to the development footprint's northern boundary, for reasons associated with the adjoining agricultural uses.

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The originally approved 'Flop top' fencing is retained as the type of fencing and in those locations previously approved. Refer **Appendix G** – Koala Exclusion Fencing Location and Detail Plan.

The masonry fencing, through materials and design, prevents Koalas scaling the fence as the surface lacks of roughness, friable/soft surfaces or hold point. Refer **Appendix G** – Koala Exclusion Fencing Location and Detail Plan. This fencing will integrate with fencing at Tweed Coast Road as required by existing Part 2, Condition 46.

Land Forming

The proposed Service Station will not alter the extent of the approved earthworks within Precinct 1. These are to remain as currently approved under MP08_0194. Refer **Appendix K** – Engineering Report for cut and fill detail.

Services & Stormwater Management

The proposal will be connected to all essential urban infrastructures. To demonstrate urban service measures an Engineering Report is included under **Appendix K** and Stormwater Management Plan under **Appendix O**.

Bushfire

The proposed service station use has been assessed against the relevant bushfire protection requirements. Commitments relating to BAL levels and Asset Protection Zones are detailed within **Appendix J** – Bushfire Threat Assessment. Commitments relating to emergency evacuation of the site in the case of a bushfire emergency are outlined in **Appendix L** – Emergency Evacuation Plan Bushfire.

Dewatering

The proposal will require dewatering to facilitate the installation of the fuel storage tanks. A Dewatering Management Plan has been prepared and is included under **Appendix Q**.

We note that Dewatering is a controlled activity under the Water Management (WM) Act 2000. We note Schedule 2, Administrative Condition A9 outlines a need for the proponent to have in place all relevant approvals. This existing condition is appropriate to address seeking a Controlled Activity Approval under the WM Act 2000 prior to works commencing on the fuel storage tank installation.

As this application is accompanied by all relevant technical information, including Application Plans and a Dewatering Management Plan, the relevant State Agency is requested to issue a Controlled Activity Approval as part of this Modification.

4.0 FURTHER INFORMATION

Should the Department require any additional information, or wish to clarify any matter raised by this proposal or submissions made in relation to the proposal, the Department is requested to consult with DAC Planning Pty Ltd or Project 28 Pty Ltd.

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5.0 ENVIRONMENTAL ASSESSMENT

5.1 Kings Forest Concept Plan & Development Code

The site is located within Precinct 1 and is identified as employment land under the Kings Forest Concept Plan and Development Code. The proposal is considered to be generally consistent with the Concept Plan and Development Code.

It is noted that concurrent with this application to modify MP08_0194, an amendment to Concept Approval MP06_0318 and the associated Kings Forest Development Code is sought. This concurrent modification seeks to identify Food and Drink Premises (excluding pub and small bar) as an envisaged development use in the employment land of Kings Forest.

It should be understood that a 'Service Station' is already an envisaged use on the employment land. The Concept Plan Approval **explicitly** identifies the site as for retail development. The possibility of a Service Station is specially flagged in the Concept Plan Approval documents. (See Section 2.2 above, which includes an extract from Section 2.2.2 of the *Preferred Project Report* by JBA, August 2009. That document has been incorporated into the Concept Plan under Condition A3.)

The following comment is provided against the relevant provisions of the Kings Forest Development Code:

KFDC Section 1.2 – The Kings Forest Concept Plan

As per Section 1.2 controls (2), the envisaged development uses are specified in the Precinct Development Matrix at Figure 1.2.2 of the Code. The Precinct Development Matrix identifies Service Station as an envisaged land use within the employment lands.

The concurrent modification to Concept Approval MP06_0318 and the associated Kings Forest Development Code will explicitly include the Food and Drink Premises as an envisaged use on the employment land.

It is anticipated by the proponent that this modification request will be determined concurrently with, or subsequent to, a determination in relation to the proposed modification to the Concept Plan Approval.

However if, for some unexpected reason, that modification does not proceed or is disapproved, it should be noted that the Minister for Planning still has the legal power to approve the modification. In the event that this situation arises, the proponent relies on:

- the fact that the service station/food and drink premises development (and therefore the proposed modified Project Approval) is **generally consistent** with the terms of the unmodified Concept Plan Approval; and
- the Strategic Justification set out in **Appendix W**.

KFDC Section 4.3 – Development Within the Kings Forest Employment Land

(1) Provide a range of building heights to a maximum of three storeys.

Complies – The proposal is technically two storeys in height.

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-
- (2) Provide high quality built form and landscaping particularly to primary street frontages and frontages visible from Kings Forest Parkway and Tweed Coast Road.

Complies – To ensure the highest quality built form the proposed service station will not utilise a provider's standard design, rather a coastal themed custom architectural design and landscaping solution is proposed for the site. Refer **Appendix A** – Architectural Plans and **Appendix B** – Statement of Landscape Intent.

- (3) Side and rear setbacks are to be in accordance with the Plan of Development.

N/A – The site does not currently have a Plan of Development.

- (4) Blank walls visible from the public domain are not permitted.

Complies – No blank walls are proposed. Refer **Appendix A** – Architectural Plans.

- (5) Provide a minimum 2m building line setback to the primary frontage.

Complies – A primary frontage setback of a minimum of 8m is provided to the main building roof and 3m to 5m for the car wash building. Refer **Appendix A** – Architectural Plans.

- (6) Provide signage envelopes within the building design to co-ordinate the appearance of signage.

Complies – Integrated signage is proposed as part of the service station design. Refer **Appendix A** – Architectural Plans.

- (7) Site servicing and loading facilities, waste storage and other infrastructure is to be designed to minimise visual impact on the public domain and impacts on neighbours.

Complies – All items listed above are either located at the rear of the building or screened as appropriate. Refer **Appendix A** – Architectural Plans. With regards to visual impact refer **Appendix E** – Visual Impact Assessment.

- (8) Parking access and loading is to be provided in accordance with Tweed DCP 2008, Section A2.

Complies – Refer **Appendix C** – Traffic Impact Assessment.

- (9) Avoid parking within the primary road frontage building line unless screened from public view.

The proposal provides a parking solution consistent with the development currently approved on site. The proposed Service Station maintains appropriate landscaping between Tweed Coast Road and proposed car parking to ensure an appropriate streetscape contribution. Refer **Appendix A** – Architectural Plans and **Appendix B** – Statement of Landscape Intent.

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5.2 State Environmental Planning Policies

5.2.1 State Environmental Planning Policy (Major Development) 2005

The following comments are provided against the relevant clauses of Schedule 3, Part 6 of SEPP (Major Development) 2005.

"4 Land use zones and objectives

- (1) *For the purposes of this Policy, land within the Kings Forest site is in a zone specified below if the land is shown on the Land Zoning Map as being within that zone:*
- (a) Zone 2 (c) Urban Expansion,*
 - (b) (Repealed)*
 - (c) Zone 7 (a) Environmental Protection (Wetlands and Littoral Rainforests),*
 - (d) Zone 7 (l) Environmental Protection (Habitat).*

The site of the proposed development is zoned 2(c) Urban Expansion

- (2) *Subject to the other provisions of this Part, the provisions of Tweed Local Environmental Plan 2000, as in force at the commencement of this clause, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of this Policy.*

The provisions of the TLEP 2000 are addressed under Section 5.3.

- (3) *The consent authority must have regard to the objectives for development in a zone within the Kings Forest site when determining a development application in respect of land within that zone."*

The proposal is consistent with the objectives for the zone as contained within the TLEP 2000.

7 Ecological buffers

The proposal does not alter the commitments currently approved in regards to the 50m ecological buffer located on Lot 7 DP 875447. As this buffer is to remain as previously approved, the provisions of Clause 7 are considered to be satisfied.

8 Agricultural buffers

In summary, this Clause provides that:

"Consent must not be granted to development on land within an agricultural buffer unless the consent authority:

- (a) has considered the potential impact of the proposed development on agricultural activities on land adjoining the buffer and of those agricultural activities on future occupiers of land within the buffer, and*

As the modification would result in a different land use within Precinct 1, a Land Use Conflict Risk Assessment (LUCRA) has been prepared in relation to the proposed Service Station. Refer **Appendix S** – LUCRA and **Appendix T** – LUCRA Supplementary Report. The Reports indicate land use conflicts can be easily managed with limited commitments.

- (b) has consulted the Department of Primary Industries."*

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Consultation has occurred with the NSW Department of Primary Industries as part of the preparation of this modification request. Refer **Appendix U** – DPI Consultation Correspondence.

5.2.2 State Environmental Planning Policy No. 33 (SEPP33) – Hazardous and Offensive Development

A Multi Level Risk Assessment has been prepared and is included under **Appendix R**. The Assessment finds that the societal risk is negligible and that only a Level One qualitative Risk Analysis is required. This analysis is referred to in applying SEPP 33 as a Preliminary Hazard Analysis (PHA). This analysis is included as Appendix C to the Multi Level Risk Assessment. The proposal is compliant with the requirements of SEPP 33.

5.2.3 State Environmental Planning Policy No. 55 (SEPP55) – Remediation of Contaminated Land

The issue of contamination for the entire Kings Forest development has been assessed as part of Concept Approval MP06_0318 and Project Approval MP08_0194. The proposal seeks to replace the current approved rural supplies (commercial development) with a Service Station (commercial development) via S75W amendment to MP08_0194. It is considered that the proposed amendment to MP08_0194 raises no issues with regards to contaminated land and the proposal is compliant with the requirements of SEPP 55.

5.2.4 State Environmental Planning Policy No. 64 (SEPP64) – Advertising Signage

The proposal includes a total of nine (9) signs. The signs include three (3) x 7.5m high pylon signs for business, one (1) by 9.5m high pylon sign for site and pricing identification, three (3) canopy fascia signs and two (2) wall signs. The proposed signage provides for a total advertising area of approximately 88m², consistent with that allowed for the frontage length and width.

It is anticipated that the pylon and canopy fascia signs will be internally illuminated, while the walls signs would be indirectly externally illuminated. The proposed signage is consistent with that applied to Service Stations commonly and is integrated into the overall Architectural style of the building. The location of proposed signage is provided; within **Appendix A** – Architectural Plans. The wording, symbols and colouring of the signs depicted in the Architectural Plans are indicative only.

With regards to Clause 10 of the Policy, the 2(c) Urban Expansion zone is considered a 'mixed residential and business or similar zone'. In this regard, commercial uses are permissible in the 2(c) zone. As such the display of advertisements is not prohibited on the site.

Clause 17 of the Policy provides that signs with a display area of greater than 20m² or higher than 8m above ground must be advertised and the application must be accompanied by an Impact Statement addressing the Assessment Criteria in Schedule 1. One of the proposed pylon signs is 9.5m high and therefore Clause 17 applies.

The relevant criteria in Schedule 1 of the Policy are addressed in the following table (**Table 1**).

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TABLE 1 – SEPP64, SCHEDULE 1	
MATTERS FOR CONSIDERATION	COMMENT
1. Character of the area <ul style="list-style-type: none"> Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located? Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<p>Desired future character is urban, as reflected in the 2(c) zoning and Concept Plan/Development Code. The proposal is therefore compatible.</p>
2. Special areas <ul style="list-style-type: none"> Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<p>Signage is of high a high standard of appearance and will not detract from the amenity or visual quality of the area. The Visual Impact Assessment at Appendix E concludes that the development will not have significant impacts and landscaping will mitigate potential amenity and visual issues.</p>
3. Views and vistas <ul style="list-style-type: none"> Does the proposal obscure or compromise important views? Does the proposal dominate the skyline and reduce the quality of vistas? Does the proposal respect the viewing rights of other advertisers? 	<p>The proposal does not obscure any significant view.</p> <p>The proposal does not dominate the skyline.</p> <p>There are no other 'advertisers' in the immediate vicinity of the site (see Appendix E).</p>
4. Streetscape, setting or landscape <ul style="list-style-type: none"> Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? Does the proposal contribute to the visual interest of the streetscape, setting or landscape? Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? 	<p>The signage is generally consistent with the standards stated in TDCP 2008, Section A4.</p> <p>The sign will contribute a modern appearance to the streetscape.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>The signage does protrude above the proposed building by approximately 2.5m but is generally below the vegetation canopy to the rear of the proposed building (see Appendix E).</p>
5. Site and building <ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<p>The proposed signage is in character and relates to the scale of the proposed buildings (see Architectural Plans at Appendix A).</p> <p>The signage is located clear of important features and poses no impediment to the building services, access or amenities.</p> <p>The signage utilises a variety of materials to provide a high quality appearance (see Appendix A).</p>

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TABLE 1 – SEPP64, SCHEDULE 1	
MATTERS FOR CONSIDERATION	COMMENT
6. Associated devices and logos with advertisements and advertising structures <ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	Due to the scale of the proposed signs no safety devices or platforms are required or necessary.
7. Illumination <ul style="list-style-type: none"> Would illumination result in unacceptable glare? Would illumination affect safety for pedestrians, vehicles or aircraft? Would illumination detract from the amenity of any residence or other form of accommodation? Can the intensity of the illumination be adjusted, if necessary? Is the illumination subject to a curfew? 	<p>The signage will be illuminated.</p> <p>No impact on safety is anticipated.</p> <p>No amenity impacts are anticipated given that existing dwellings are located well clear of the site.</p> <p>No.</p> <p>No curfew is proposed.</p>
8 Safety <ul style="list-style-type: none"> Would the proposal reduce the safety for any public road? Would the proposal reduce the safety for pedestrians or bicyclists? Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas? 	The signage is not considered to raise any public safety issues given that Tweed Coast Road will ultimately be four lanes and appropriate intersection treatment is proposed.

5.2.5 State Environmental Planning Policy No. 71 (SEPP71) – Coastal Protection

The provisions of SEPP 71 apply as the site is located within the Coastal Zone. Having regard to the matters contained within the SEPP, the following observations are made:

- The site is landward of the identified coastal erosion zones and will not be affected by coastal erosion processes;
- The proposed development will not overshadow foreshore open space;
- The proposed development will not affect public access to the beach or foreshore areas;
- The proposed development will not impact upon marine habitats;
- The proposed development will not impact upon threatened species of flora or fauna as listed under the Threatened Species Conservation Act 1995;
- The site is suitably serviced with water, sewer, and stormwater infrastructure, Refer **Appendix K** – Engineering Report and **Appendix O** – Stormwater Management Plan.

It is considered the proposed development is consistent with the provisions of the SEPP including but not limited to Clause 8.

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5.2.6 North Coast Regional Environmental Plan (NCREP) 1987

The site is existing urban land, part of the 'King's Forest' Urban Release Area. Service Stations are permitted development and are considered necessary ancillary development to the future Kings Forest development. The proposed development is consistent with the provisions of the NCREP 1987.

5.3 Local Environmental Plan

5.3.1 Tweed Local Environmental Plan 2000 (TLEP2000)

The subject site is zoned 2(c) Urban Expansion pursuant to SEPP (Major Developments) 2005. As per the requirements of SEPP (Major Development) 2005, Schedule 3 State Significant Sites, Part 6 Kings Forest Site, Clause 4(2) the provisions of TLEP 2000 apply to the site. Clause 4(2) States:

- (2) Subject to the other provisions of this Part, the provisions of Tweed Local Environmental Plan 2000, as in force at the commencement of this clause, apply to land within a zone in the same way as they apply to land within a zone of the same name under that Plan and so apply as if those provisions were provisions of this Policy.

The following comment is provided against the relevant clause of the TLEP 2000.

Clause 11 – The Zones

Under the TLEP 2000 the proposal would be defined as 'Service Station' and 'Refreshment Room', both are permissible with consent in the 2(c) zone. The objectives of the 2(c) Urban Expansion zone state, inter alia:-

Zone objectives

Primary objectives

- to identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake.

Secondary objectives

- to allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents.
- to ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development.
- to enable planning flexibility to achieve the other objectives of the zone by means of detailed guidelines in a development control plan.

The proposed development is entirely consistent with the objectives of the zone. Service Stations and Refreshment Rooms are a necessary related facility to both residential and tourist developments. Further, the proposal includes detailed measures to ensure no amenity impact upon the locality.

Clause 15 – Availability of Essential Services

The site is provided with all urban services. Refer **Appendix K** – Engineering Report and **Appendix O** – Stormwater Management Plan. The proposal is compliant with Clause 15 of the TLEP 2000.

Clause 16 – Height of Buildings

The site is located in a three (3) storey permitted area. The proposal includes a maximum height of two (2) storeys technically defined. The proposal is compliant with Clause 16 of the TLEP 2000.

Clause 22 – Development near Designated Roads

The site fronts Tweed Coast Road. Tweed Coast Road is a Designated Road pursuant to TLEP 2000. The proposed development will not impact upon the function of Tweed Coast Road nor will it result in a traffic hazard or materially reduce the capacity and efficiency of Tweed Coast Road. A Traffic Impact Assessment has been prepared and included under **Appendix C**. The proposal is compliant with Clause 22 and remains consistent with the commitments made with regards to Tweed Coast Road and upgrades committed to under MP08_0194. Relevant matters for consideration in Clause 22(4) are addressed in **Table 2** below.

TABLE 2 – CLAUSE 22(4) DESIGNATED ROADS	
CLAUSE	COMMENTS
(a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road,	See Traffic Impact Assessment at Appendix C . The proposed development, proposed access arrangements, lighting and signage have been designed to ensure that the project does not constitute a traffic hazard and does not reduce the capacity or efficiency of Tweed Coast Road.
(b) the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded,	See comments above.
(c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road,	The Tweed Coast Road corridor has been designed to accommodate four travel lanes and the proposed access design will not prejudice future improvements to Tweed Coast Road.
(d) where the land is in Zone 1(a), 5(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage,	Not applicable.
(e) the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact,	The proposed development is not sensitive to traffic noise.
(f) the development would not detract from the scenic values of the locality, particularly from the point of view of road users,	The Visual Impact Assessment at Appendix E addresses potential impacts on scenic values and concludes that the development will not have significant impacts and landscaping will mitigate potential amenity and visual issues.

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TABLE 2 – CLAUSE 22(4) DESIGNATED ROADS	
CLAUSE	COMMENTS
(g) where practicable, access to the land is provided by a road other than the designated road,	There are no other options for accessing the development other than Tweed Coast Road.
(h) in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development: <ul style="list-style-type: none"> (i) would not compromise the Highway's function as the North Coast's primary inter and intra-regional road traffic route, and (ii) would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and (iii) would not compromise highway safety and efficiency, and (iv) would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site. 	Not Applicable.

Clause 23 – Control of Access

Approval is sought for new access points to Tweed Coast Road (by means of this modification request). Details of the proposed access arrangements are contained in the Architectural Plans at **Appendix A** and the Traffic Impact Assessment at **Appendix D**.

Clause 34 – Flooding

The development site is not mapped as flood liable land.

Clause 35 – Acid Sulfate Soils

As part of the assessment of MP08_0194, Acid Sulfate Soils were assessed. The proposal does not alter any approved element of MP08_0194 in relation to Acid Sulfate Soils and their management. All works associated with the Service Station will be undertaken in accordance with the endorsed Management Plan under MP08_0194. The proposal is compliant with the requirements of Clause 35 of the TLEP 2000.

Clause 39 – Soil Contamination

It is considered that the proposal is consistent with the provisions of this Clause and SEPP 55 (Remediation of Contaminated Land). Refer comments provided under SEPP 55 above.

Clause 47 – Advertising Signs

The proposal includes a total of nine (9) signs. The signs include three (3) x 7.5m high pylon signs for business, one (1) by 9.5m high pylon sign for site and pricing identification, three (3) canopy fascia signs and two (2) wall signs. The proposed signage provides for a total advertising area of approximately 88m², consistent with that allowed for the frontage length and width.

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It is anticipated that the pylon and canopy fascia signs will be internally illuminated, while the walls signs would be indirectly externally illuminated. The proposed signage is consistent with that applied to Service Stations commonly and is integrated into the overall Architectural style of the building. The location of proposed signage is provided; refer Appendix A – Architectural Plans

The proposal is compliant with Clause 47 of the TLEP 2000.

Clause 54 – Tree Preservation Order

The proposal will retain the existing commitments of MP08_0194. Indeed, the proposal retains the previously approved footprint for the rural retail development and results in the same amount of vegetation to be removed on Lot 7 DP 875447 and the same area of rehabilitation within the 50m buffer as previously committed. These commitments are further discussed within **Appendix F – Flora & Fauna Assessment** and demonstrated in **Appendix G – Koala Exclusion Fencing Location and Detail Plan** and **Appendix H – Revegetation Plan**.

5.4 Development Control Plan

5.4.1 Tweed Development Control Plan 2008 (TDCP2008)

The proposal is subject to the provisions of the Tweed Development Control Plan 2008. Following is an assessment against the relevant sections:

5.4.1.1 Section A2 – Site Access and Parking Code

The proposal provides seventy three (73) car spaces, exclusive of the dog wash parking bay, vacuum parking and air + water parking bay; one (1) SRV and one (1) HRV loading bay and fourteen (14) bicycle parking spaces. Three (3) of the car parking spaces are disabled compliant. Ingress and egress from the site will be provided via two (2) new crossovers. The proposal has been designed to allow AV and HRV service vehicles to enter, exit and manoeuvre within the site as required.

The proposed car parking layout and access points are identified on **Appendix A – Architectural Plans**; and an assessment of access, car parking and alternative transport are provided within **Appendix C – Traffic Impact Assessment**. The proposal is generally compliant with the requirements of Section A2 of the TDCP 2008.

5.4.1.2 Section A3 – Development of Flood Liable Land

The development site is not mapped as flood prone land.

5.4.1.3 Section A4 – Advertising Signs Code

The proposal includes a total of nine (9) signs. The signs include three (3) x 7.5m high pylon signs for business, one (1) by 9.5m high pylon sign for site and pricing identification, three (3) canopy fascia signs and two (2) wall signs. The proposed signage provides for a total advertising area of approximately 88m², consistent with that allowed for the frontage length and width.

It is anticipated that the pylon and canopy fascia signs will be internally illuminated, while the walls signs would be indirectly externally illuminated.

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The proposed signage is consistent with that applied to Service Stations commonly and is integrated into the overall Architectural style of the building. The location of proposed signage is provided; within **Appendix A – Architectural Plans**.

The proposal is compliant with the requirements of Section A4 of the TDCP 2008.

5.4.1.4 Section A11 – Public Notification of Development Proposals

In accordance with Table 1 of Section A11 of the Tweed Development Control Plan, Service Stations within the 2(c) Urban Expansion Zone are not listed as requiring either notification or advertising. Refreshment rooms are listed as requiring advertising. As the proposal is a modification to an existing Project Approval issued under Part 3A of the EP&A Act it is anticipated that the Modification Application will be advertised and notified.

5.4.1.5 Section A15 – Waste Minimisation & Management

The proposal is to be serviced by four (4) 3m³ bulk waste bins and two (2) 2m³ bulk recycling bins. The bins are to be located within screened bin enclosures located behind the Service Station building and as such will be screened from direct view from Tweed Coast Road.

As is standard practice, small convenience waste and recycling bins will be provided under the main canopy adjacent to the fuelling points. Onsite waste management will be undertaken by staff of the service station including emptying all smaller convenience bins into the larger storage units. The bins will be serviced onsite by a Waste Disposal Contractor with adequate access available. **Refer Appendix I – Waste Management Plan.**

The proposal is compliant with Section A15.

5.5 Environmental Planning and Assessment Regulation 2000

Potential areas of concern arising from the proposed development are identified as follows:

- Impacts on the character and amenity of the area;
- The need to mitigate any likely loss of amenity
- Socio Economic Outcomes; and
- The suitability of the proposed design.

The above matters have been identified by way of inspection of site, review of applicable planning controls, consultation with the property owners, completion of detailed survey and preparation of detailed specialist reports.

The measures proposed to address those matters identified above are summarised as follows:

- Provision of all essential infrastructure, refer **Appendix K – Engineering Report** and **Appendix O – Stormwater Management Plan**;
- Preparation of Traffic Impact Assessment, refer **Appendix C – Traffic Impact Assessment**;
- Preparation of Noise Impact Assessment, refer **Appendix D – Noise Impact Assessment**;
- Preparation of a Multi Level Risk Assessment, refer **Appendix R – Multi Level Risk Assessment**;
- Preparation of a Air Quality Impact Assessment, refer **Appendix P – Air Quality Impact Assessment**;
- Preparation of a Visual Impact Assessment, refer **Appendix E – Visual Impact Assessment**; and

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-
- General compliance with relevant controls and regulations;

The proposed development is satisfactorily sited and designed such that no significant adverse impacts are likely in relation to the amenity of adjoining properties or the physical environment. Importantly the proposed modification MP08_0194 does not alter any of the endorsed measures with regards to revegetation, environmental or project management.

A Multi Level Risk Assessment has been prepared and is included under **Appendix R**. The Assessment finds that the societal risk is negligible and that only a Level One qualitative Risk Analysis is required. This analysis is referred to in applying SEPP 33 as a Preliminary Hazard Analysis (PHA). This analysis has been included as Appendix C to the Multi Level Risk Assessment. The proposal will not result in an unacceptable risk to the locality.

Satisfactory measures have been taken to ensure that the proposed development is consistent with the Kings Forest Concept Approval (MP06_0318) and the commitments made under MP08_0194. Furthermore, suitable amended conditions of the Project Approval can be applied in relation to potential areas of concern associated specifically with the proposed service station.

The proposal is considered unlikely to give rise to any significant adverse environmental impacts.

5.5.1 Socio Economic

The closest service stations are located at Chinderah Highway Service Centre, the Kingscliff Shopping Centre or Hastings Point. Given the significant populations to develop within Kings Forest and the existing populations directly adjoining within Salt, Seaside City and Casuarina, the use of the site for a service station centrally locates a facility to service this population's need to fuel and clean their vehicles.

Further the site is also located at the beginning of the Tweed Coast Tourist Drive and is on the route to the local resorts including Peppers and Mantra, ensuring it can service the passing tourist trade. It is also located in a broader farming area and can provide fuel for farm machinery and farming activities in the broader area.

The likely future occupiers of the site are a major fuel retailer and car wash provider and a range of food outlet operators including the four large chain operators including McDonalds, Hungry Jacks, KFC and Subway. All these business are experienced in operating in such facilities.

In terms of controlling anti social behaviour, the site will be fitted out with standard features to deter such behaviour include sufficient public area lighting, the design of landscaping and areas to remove blind spots and the installation of closed circuit TV systems.

In terms of employment generating potential, the proposed service station has considerably greater ability to employ. This ability to employ includes both more persons and a broader age of person over the currently approved rural supplies development. The service station, car wash and food outlets have the potential to employ a minimum of 60 staff in their overall operations including part time work for appropriately aged minors.

It is considered in the public interest to develop this site with a use that will provide an essential service (vehicle fuelling), that will provide a stable base of employment anchored by an essential service and that will not, as many small scale retail developments within the Tweed have, remain predominately vacant with no contribution to local employment.

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The proposed modification to remove the approved rural supplies development (retail) and replace this with a service station that includes food outlets and car washing facilities is a direct response to further assessment of the site's potential, its location, its surrounding context and its opportunities and constraints.

The proposal is expected to have a positive social and economic impact on the locality.

6.0 PROPOSED AMENDMENTS

The changes sought to MP08_0194 are set out in **Table 3** below.

TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS

Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Schedule 1		
<p>Project:</p> <p>Kings Forest Residential Subdivision Stage 1 Bulk Earthworks, Roadworks and Subdivision of Precinct 5 Including:</p> <ul style="list-style-type: none"> • Subdivision of the site into ten development lots in 4 stages • Bulk earthworks across the site • Roadworks comprising: <ul style="list-style-type: none"> - Construction of the entrance road and associated intersection works with Tweed Coast Road; - Construction of the Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western site precincts; and - Construction of two roads providing access to the southern site precincts • Plan of Development for Precinct 5; • Development of 2,036sqm of floorspace for a rural supplies building and access arrangements to Precinct 1; • Construction of subdivision and infrastructure works along Kings Forest Parkway and within Precincts 1 & 5 • Subdivision of Precinct 5 into 376 residential lots comprising: <ul style="list-style-type: none"> - One townhouse lot (7,860m²) - 37 terrace house lots (minimum lot size 150m²) - 25 duplexes (minimum lot size 450m²) - 192 zero lot dwellings (minimum lot size 240m²) - 121 traditional detached dwellings (minimum lot size 400m²) 	<p>Project:</p> <p>Kings Forest Residential Subdivision Stage 1 Bulk Earthworks, Roadworks and Subdivision of Precinct 5 Including:</p> <ul style="list-style-type: none"> • Subdivision of the site into ten development lots in 4 stages • Bulk earthworks across the site • Roadworks comprising: <ul style="list-style-type: none"> - Construction of the entrance road and associated intersection works with Tweed Coast Road; - Construction of the Kings Forest Parkway from Tweed Coast Road via Precincts 4 and 5 through to the western site precincts; and - Construction of two roads providing access to the southern site precincts • Plan of Development for Precinct 5; • development of 2,036sqm <u>1,063sqm</u> of floorspace for a rural supplies building <u>for a service station and food and drink premises</u> and access arrangements to Precinct 1; development of 2,026m² of floor space for service station and access arrangements to Precinct 1 • Construction of subdivision and infrastructure works along Kings Forest Parkway and within Precincts 1 & 5 • Subdivision of Precinct 5 into 376 residential lots comprising: <ul style="list-style-type: none"> - One townhouse lot (7,860m²) - 37 terrace house lots (minimum lot size 150m²) - 25 duplexes (minimum lot size 450m²) - 192 zero lot dwellings (minimum lot size 240m²) - 121 traditional detached dwellings (minimum lot size 400m²) 	<p>To amend the project description to remove the reference to rural supplies building and its approved size, to reference the proposed service station and food and drink premises and its proposed size.</p>

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS																																																																																				
Existing approval provision (only relevant portion extracted)		Requested modification to relevant portion		Reasons for modification																																																																																
Schedule 2, Condition A1(5)																																																																																				
<p>Project Description A1. Project approval is granted only to: ... Part Three – Construction of Precinct 1 5) Construction of 2,036sqm of floorspace for rural supplies building, including carparking and landscaping</p>		<p>Project Description A1. Project approval is granted only to: ... Part Three – Construction of Precinct 1 5) Construction <u>and use of 2,036sqm 1,063sqm</u> of floorspace for <u>rural supplies building a service station and food and drink premises</u>, including carparking and landscaping</p>		To amend the project description to remove the reference to rural supplies building and its approved size, to reference the proposed service station/food and drink premises and its proposed size.																																																																																
Schedule 2, Condition A3(e)																																																																																				
<p>Terms of Approval A3. (e) The following drawings: ...</p>		<p>Terms of Approval A3. (da) <u>The 'S75W Modification No.3' report prepared by DAC Planning Pty Ltd, dated September 2015</u> (e) The following drawings: ...</p>		To delete the approved plans relating to the rural supplies building and then reference the proposed plans for the service station/food and drink premises.																																																																																
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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS

Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification																								
Schedule 2, Condition A12(1)																										
<p>Limits of Approval A12. This approval does not give approval to the first use of the rural supplies building in Precinct 1, including hours of operation, car parking, access to Tweed Coast Road, retail fit out, use or signage of the building in Precinct 1. Separate development approval/s for these matters must be obtained.</p>	<p>Limits of Approval A12. 1) This approval does not give approval to the first use of the rural supplies building in Precinct 1, including hours of operation, car parking, access to Tweed Coast Road, retail fit out, use or signage of the building in Precinct 1. <u>Separate development approval/s for these matters must be obtained: any pub or small bar within the service station/food and drink premises development within Precinct 1.</u></p>	<p>Amendments to A12 are required to remove references to the first use of the rural supplies building. There is no need for there to be any separate development approval / complying development certificate for the first use of the food tenancies. Building Code of Australia compliance will be established via the construction certificate process. It is irrelevant, in a land use planning sense, which particular outlets take up food and drink tenancies (and the precise mix of the food and drinks sold).</p> <p>This change also makes it clear that there will be no pub or a small bar within the development.</p>																								
Schedule 2, Part One, Condition 1(2)																										
<p>Subdivision of Kings Forest Estate 1. ... 2) The subdivision shall create the following new allotments:</p> <table border="1"> <thead> <tr> <th>Proposed Lot</th><th>Proposed Use</th><th>Area</th></tr> </thead> <tbody> <tr> <td>Lot 1</td><td>Precinct 1 – rural supplies development</td><td>2.368ha</td></tr> <tr> <td>Lot 2</td><td>Precinct 5 – residential development and part of Kings Forest Parkway</td><td>41.28ha</td></tr> <tr> <td>Lot 3</td><td>Environmental protection area to be dedicated to NPWS (including roads proposed to be closed)</td><td>180.6ha</td></tr> </tbody> </table>	Proposed Lot	Proposed Use	Area	Lot 1	Precinct 1 – rural supplies development	2.368ha	Lot 2	Precinct 5 – residential development and part of Kings Forest Parkway	41.28ha	Lot 3	Environmental protection area to be dedicated to NPWS (including roads proposed to be closed)	180.6ha	<p>Subdivision of Kings Forest Estate 1. ... 2) The subdivision shall create the following new allotments:</p> <table border="1"> <thead> <tr> <th>Proposed Lot</th><th>Proposed Use</th><th>Area</th></tr> </thead> <tbody> <tr> <td>Lot 1</td><td>Precinct 1 – rural supplies development <u>service station/food and drink premises</u></td><td>2.368ha</td></tr> <tr> <td>Lot 2</td><td>Precinct 5 – residential development and part of Kings Forest Parkway</td><td>41.28ha</td></tr> <tr> <td>Lot 3</td><td>Environmental protection area to be dedicated to NPWS (including roads proposed to be closed)</td><td>180.6ha</td></tr> </tbody> </table>	Proposed Lot	Proposed Use	Area	Lot 1	Precinct 1 – rural supplies development <u>service station/food and drink premises</u>	2.368ha	Lot 2	Precinct 5 – residential development and part of Kings Forest Parkway	41.28ha	Lot 3	Environmental protection area to be dedicated to NPWS (including roads proposed to be closed)	180.6ha	<p>To amend reference to the proposed use within the table describing the intended use of the new lots to be created.</p>
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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS

Existing approval provision (only relevant portion extracted)			Requested modification to relevant portion			Reasons for modification
Lot 4	Environmental protection area to be offered to TSC for dedication	5.18ha	Lot 4	Environmental protection area to be offered to TSC for dedication	5.18ha	
Lot 5	Environmental protection areas to be offered to TSC for dedication	4.686ha	Lot 5	Environmental protection areas to be offered to TSC for dedication	4.686ha	
Lot 6	Regional sewer pump station	396m2	Lot 6	Regional sewer pump station	396m2	
Lot 7	Precincts 2, 3 and 4	36.94ha	Lot 7	Precincts 2, 3 and 4	36.94ha	
Lot 8	Road to southern precincts	1.119ha	Lot 8	Road to southern precincts	1.119ha	
Lot 9	Part of Kings Forest Parkway and road to southern precincts	3.967ha	Lot 9	Part of Kings Forest Parkway and road to southern precincts	3.967ha	
Lot 10	Precincts 6 to 14	592.2ha	Lot 10	Precincts 6 to 14	592.2ha	
Schedule 2, Part Two, Condition 28(1)						
Intersection Design 28. 1) Final intersection design plans shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for relevant civil works for the following intersections: a) Tweed Coast Road and Rural Retail Access (Precinct 1) b) Tweed Coast Road and Kings Forest Parkway c) Town Centre Access and Kings Forest Parkway d) Residential Precinct 5 access and Kings Forest Parkway e) Access Roads to southern precincts and Kings Forest Parkway			Intersection Design 28. 1) Final intersection design plans shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for relevant civil works for the following intersections: a) Tweed Coast Road and <u>Rural—Retail Service Station/Food and Drink Premises</u> Access (Precinct 1) b) Tweed Coast Road and Kings Forest Parkway c) Town Centre Access and Kings Forest Parkway d) Residential Precinct 5 access and Kings Forest Parkway e) Access Roads to southern precincts and Kings Forest Parkway			To amend reference within Condition 28(1)(a) from rural retail access to service station/food and drink premises access.

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS		
Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Schedule 2, Part Three, Condition 99		
<p><u>PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE</u></p> <p>Amendments to Design of a Rural Supplies Building</p> <p>99.</p> <p>1) The design of the rural supplies building and landscaping in the north of Precinct 1 shall be modified to provide a 10m wide vegetated buffer generally in accordance with Appendix 2 of the Planning Guidelines: Separating Agriculture and Residential Land Uses (Old Government August 1997) and Section A5 of Tweed Shire Council's DCP 2008, or any other such arrangements to the satisfaction of the Department of Primary Industries, to minimise any future potential land use conflict with agricultural land to the north of the site. Screening by physical means other than vegetation is not acceptable.</p> <p>2) The amended design shall be submitted to the Secretary for approval within 24 months of the date of this approval.</p>	<p><u>PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE</u></p> <p>Amendments to Design of a Rural Supplies Building</p> <p>99.</p> <p>1) The design of the rural supplies building and landscaping in the north of Precinct 1 shall be modified to provide a 10m wide vegetated buffer generally in accordance with Appendix 2 of the Planning Guidelines: Separating Agriculture and Residential Land Uses (Old Government August 1997) and Section A5 of Tweed Shire Council's DCP 2008, or any other such arrangements to the satisfaction of the Department of Primary Industries, to minimise any future potential land use conflict with agricultural land to the north of the site. Screening by physical means other than vegetation is not acceptable.</p> <p>2) The amended design shall be submitted to the Secretary for approval within 24 months of the date of this approval.</p>	<p>Deletion of Condition 99 as this Condition is specific to the rural supplies building plans and would no longer be relevant.</p>
Schedule 2, Part Three, Condition 100		
<p>Use of Rural Supplies Building in Precinct 1</p> <p>100. Final details regarding the proposed first use, hours of operation, car parking and service vehicle arrangements, access, signage and external storage for the building in Precinct 1 shall be submitted to the Secretary for approval prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.</p>	<p>Use of Rural Supplies Building in Precinct 1</p> <p>100. Final details regarding the proposed first use, hours of operation, car parking and service vehicle arrangements, access, signage and external storage for the building in Precinct 1 shall be submitted to the Secretary for approval prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.</p>	<p>Sufficient detail is provided in the material that forms part of this modification request. This means that this condition is no longer required.</p>

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS		
Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Schedule 2, Part Three, Condition 101		
Bushfire Management – Design and Construction 101. The design of the rural supplies building shall comply with the following: <ul style="list-style-type: none"> c. Construction of the building shall comply with Section 3 and Section 7 (BAL 29) of Australian Standard AS 3959-2009 <i>Construction of buildings in bushfire-prone areas</i> and section A3.7 of Addendum: Appendix 3 Planning for Bushfire Protection. d. Landscaping to the site is to comply with the principles of Appendix 5 of <i>Planning for Bush Fire Protection 2006</i>. e. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible. 	Bushfire Management – Design and Construction 101. The design of the rural supplies <u>Service Station/Food and Drink Premises</u> building shall comply with the following: <ul style="list-style-type: none"> ea. Construction of the building shall comply with BAL recommendations contained within the Bushfire Threat Assessment Additional Information Response report prepared by Bushfire Risk dated 12 May 2015 Version 1 Section 3 and Section 7 (BAL 29) of Australian Standard AS 3959-2009 Construction of buildings in bushfire-prone areas and section A3.7 of Addendum: Appendix 3 Planning for Bushfire Protection. eb. Landscaping to the site is to comply with the principles of Appendix 5 of <i>Planning for Bush Fire Protection 2006</i>. ec. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible. 	Amendment to condition to reference proposed Service Station.
Schedule 2, Part Three, Condition 106		
Parking Spaces 106. The number of car spaces, bicycle spaces and loading bays to be provided for the rural supplies development in Precinct 1 shall comply with the requirements of Section A2 – Site Access and Parking Code of the Tweed Shire Council Development Control Plan 2008 (as in force at the date of this approval).	Parking Spaces 106. The number of car spaces, bicycle spaces and loading bays to be provided for the rural supplies development <u>Service Station/Food and Drink Premises</u> in Precinct 1 shall comply with the requirements of Section A2 – Site Access and Parking Code of the Tweed Shire Council Development Control Plan 2008 (as in force at the date of this approval).	Amendment to condition to reference proposed Service Station. Reference to compliance to Section A2 for bicycle parking deleted to reflect alternative solution to the number of bicycle parking spaces as assessed within the Traffic Impact Assessment – Appendix C.

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS		
Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Schedule 2, Part Three, Condition 107		
Carpark and Service Vehicle Layout 107. 1) All vehicles should enter and leave the rural supplies site in a forward direction. 2) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage. 3) Appropriate pedestrian advisory signs are to be provided at the egress for the car park. 4) All works/regulatory signposting associated with the rural supplies development shall be at no cost to the relevant roads authority. 5) The swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. 6) Details demonstrating compliance with the requirements specified above shall be submitted to the satisfaction of the Complying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.	Carpark and Service Vehicle Layout 107. 1) All vehicles should enter and leave the rural supplies <u>Service Station/Food and Drink Premises</u> site in a forward direction. 2) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) should be in accordance with AS 2890.1-2004 and AS 2890.2-2002 for heavy vehicle usage. 3) Appropriate pedestrian advisory signs are to be provided at the egress for the car park. 4) All works/regulatory signposting associated with the rural supplies <u>Service Station/Food and Drink Premises</u> shall be at no cost to the relevant roads authority. 5) The swept path of the longest vehicle (including garbage trucks) entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. 6) Details demonstrating compliance with the requirements specified above shall be submitted to the satisfaction of the Complying Authority prior to the issue of a Construction Certificate for the construction of any building in Precinct 1.	Amendment to condition to reference proposed service station.
Schedule 2, Part Three, condition 116		
Construction Management 116. In addition to condition 115 above, conditions 73 to 92 and 94 to 98 of this project approval (08_0194) must be complied with during the construction of the rural supplies building in Precinct 1.	Construction Management 116. In addition to condition 115 above, conditions 73 to 92 and 94 to 98 of this project approval (08_0194) must be complied with during the construction of the rural supplies <u>Service Station/Food and Drink Premises</u> building in Precinct 1.	Amendment to condition to reference proposed service station.

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS		
Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Heading in Schedule 2, Part 3, following Condition 116		
PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR THE RURAL SUPPLIES BUILDING	PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE FOR THE RURAL SUPPLIES BUILDING SERVICE STATION/FOOD AND DRINK PREMISES	Amendment to condition to reference proposed service station.
Schedule 2, Part Three, Condition 117		
Road Damage 117. The cost of repairing any damage caused to council or other Public Authority's assets in the vicinity of Precinct 1 as a result of construction works associated with the rural supplies development is to be met in full by the Proponent prior to the issue of any Occupation Certificate for the building in Precinct 1.	Road Damage 117. The cost of repairing any damage caused to council or other Public Authority's assets in the vicinity of Precinct 1 as a result of construction works associated with the rural supplies development Service Station/Food and Drink Premises is to be met in full by the Proponent prior to the issue of any Occupation Certificate for the building in Precinct 1.	Amendment to condition to reference proposed service station.
Schedule 2, Part Three, Condition 119		
Structural Inspection Certificate 119. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the rural supplies building. A copy of the certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the department after: <ol style="list-style-type: none"> 1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and, 2) The drawings listed on the inspection certificate have been checked with those listed on the final design certificate/s. 	Structural Inspection Certificate 119. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the rural supplies building Service Station/Food and Drink Premises. A copy of the certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the department after: <ol style="list-style-type: none"> 1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings; and, 2) The drawings listed on the inspection certificate have been checked with those listed on the final design certificate/s. 	Amendment to condition to reference proposed service station.

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS		
Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification
Schedule 2, Part Three, Condition 125		
Utilities – Water, Sewer, Telephone and Electricity Services 125. 1) The rural supplies building is to be connected to all available services (water, sewer, electricity and telephone). A clearance letter from each authority is required prior to issue of an Occupation Certificate. Such connections, and any extension of services required to the rural supplies development, are to be carried out at full cost to the Proponent.	Utilities – Water, Sewer, Telephone and Electricity Services 125. 1) The rural supplies building <u>Service Station/Food and Drink Premises</u> is to be connected to all available services (water, sewer, electricity and telephone). A clearance letter from each authority is required prior to issue of an Occupation Certificate. Such connections, and any extension of services required to the rural supplies development, are to be carried out at full cost to the Proponent.	Amendment to condition to reference proposed service station.
Schedule 2, Part Three, Condition 126		
Loading and Unloading 126. All loading and unloading of service vehicles in connection with the use of the rural supplies building shall be carried out wholly within the Precinct 1 site at all times.	Loading and Unloading 126. All loading and unloading of service vehicles in connection with the use of the rural supplies building <u>Service Station/Food and Drink Premises</u> shall be carried out wholly within the Precinct 1 site at all times.	Amendment to condition to reference proposed service station.
Schedule 2, Part Three, Condition 127		
Unobstructed Driveways and Parking Areas 127. All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the rural supplies building.	Unobstructed Driveways and Parking Areas 127. All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the rural supplies building <u>Service Station/Food and Drink Premises</u> .	Amendment to condition to reference proposed service station.

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TABLE 3 – MP08_0194 – PROPOSED AMENDED CONDITIONS

Existing approval provision (only relevant portion extracted)	Requested modification to relevant portion	Reasons for modification																
Schedule 2, Part Four, Condition 153(c)																		
<p>Section 94 Developer Contributions</p> <p>153.</p> <p>...</p> <p>c) In accordance with Division 6 of Part 4 of the Act, the Proponent shall pay, in proportion to the additional lots created by each stage of the subdivision, the following monetary contributions:</p> <p><u>Stage 1 – Precinct 1</u></p> <table><tr><td></td><td>Trips/ET</td><td>Rate per trip/ET</td><td>Total Contribution</td></tr><tr><td>S94 Plan No.4 (7)***</td><td>1717.992 trips</td><td>1186 per trip</td><td>\$2,037,539</td></tr><tr><td>S94 Plan No.18</td><td>0.373555 ET*</td><td>\$1860.31 per ET</td><td>\$695.01</td></tr></table> <p>...</p>		Trips/ET	Rate per trip/ET	Total Contribution	S94 Plan No.4 (7)***	1717.992 trips	1186 per trip	\$2,037,539	S94 Plan No.18	0.373555 ET*	\$1860.31 per ET	\$695.01	<p>Provisions of table relating to ‘Stage 1 - Precinct 1’ to be updated to reflect reasonable S94 contributions relative to the service station use</p>	<p>This is required to ensure S94 contributions are levied in accord with the demand generated by the proposed use.</p>				
	Trips/ET	Rate per trip/ET	Total Contribution															
S94 Plan No.4 (7)***	1717.992 trips	1186 per trip	\$2,037,539															
S94 Plan No.18	0.373555 ET*	\$1860.31 per ET	\$695.01															
Schedule 2, Part Four, condition 154(e)																		
<p>S64 Development Contributions</p> <p>154.</p> <p>...</p> <p>e) The Proponent shall pay, in proportion to the additional lots created by each stage, the following monetary contributions:</p> <p><u>Stage 1 – Precinct 1</u></p> <table><tr><td></td><td>Equivalent Tenement</td><td>Rate per ET</td><td>Total Contribution</td></tr><tr><td>Water DSP5</td><td>4.072ET*</td><td>\$12,575 per ET</td><td>\$51,205.40</td></tr><tr><td>South Kingscliff Water Levy</td><td>4.072ET</td><td>\$292 per ET</td><td>\$695.01</td></tr><tr><td>Sewer Kingscliff</td><td>6.108ET</td><td>\$6042 per ET</td><td>\$36,904.50</td></tr></table> <p>...</p>		Equivalent Tenement	Rate per ET	Total Contribution	Water DSP5	4.072ET*	\$12,575 per ET	\$51,205.40	South Kingscliff Water Levy	4.072ET	\$292 per ET	\$695.01	Sewer Kingscliff	6.108ET	\$6042 per ET	\$36,904.50	<p>Provisions of table relating to ‘Stage 1 - Precinct 1’ to be updated to reflect reasonable S64 contributions relative to the service station use.</p>	<p>This is required to ensure S64 contributions are levied in accord with the demand generated by the proposed use.</p>
	Equivalent Tenement	Rate per ET	Total Contribution															
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7.0 CONCLUSION

As detailed in the foregoing submission, the proposed Service Station provides for demonstrated compliance with the relevant policy and statutory requirements and the modification MP08_0194 should be supported. No significant impacts are anticipated upon the built or natural environment or the amenity of the locality by approving this modification request. The proposed development advances the Concept Plan Approval's objectives for the designated employment land.

The Department of Planning and Environment's support for the proposed S75W amendment to facilitate the proposed Service Station is respectfully requested.