



New Tweed Valley Hospital (Concept Proposal and Stage 1)

*State Significant
Development
Modification Assessment
(SSD-9575-Mod-1)
October 2019*

October 2019

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Glossary

Abbreviation	Definition
Applicant	Health Administration Corporation
BC Act	<i>Biodiversity Conservation Act 2016</i>
BDAR	Biodiversity Assessment Report
BMP	Biodiversity Management Plan
CIV	Capital Investment Value
Council	Tweed Shire Council
Department	Department of Planning, Industry and Environment
EEC	Endangered Ecological Communities
EESG	Environment, Energy and Science Group (EESG) of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
GFA	Gross Floor Area
Minister	Minister for Planning and Public Spaces
MNES	Matters of National Environmental Significance
Secretary	Planning Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TEC	Threatened Ecological Community
TLEP 2014	Tweed Local Environment Plan 2014
TLEP 2000	Tweed Local Environment Plan 2000
TVH	New Tweed Valley Hospital



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1. Introduction

This report is an assessment of an application seeking to modify the State significant development (SSD) approval (SSD 9575) for the New Tweed Valley Hospital (Concept Proposal and Stage 1) (TVH), located at 771 Cudgen Road, Cudgen within the Tweed Shire Local Government Area (LGA). The approved concept development application for the TVH comprises:

- a Concept Proposal for the maximum building envelopes (including a nine-storey hospital building with rooftop helipad and a building for support services), a maximum gross floor area of 65,000 square metres, the site layout (including internal roads, site access and car parking), landscape masterplan and Tweed Coast Road / Cudgen Road intersection upgrade works.
- Stage 1 early and enabling works including site preparation, bulk earthworks to establish site levels, location of temporary construction facilities, new vehicular access points from Cudgen Road, improvements to the roundabout at the Turnock Street / Cudgen Road intersection, utility augmentation works, construction of retaining walls, stormwater drainage works, soil and water management measures, site remediation works and piling works associated with the future hospital.

The application has been lodged by Health Infrastructure, on behalf of Health Administration Corporation (the Applicant), pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval for modifications to correct and make minor modifications to the approved vegetation removal plan.

1.1 Background

The site comprises one allotment known as 771 Cudgen Road, Cudgen, legally described as Lot 11 DP 1246853. The site is located approximately 9.8 kilometres (km) south of Tweed Heads town centre and 40km south-east of Surfers Paradise in Gold Coast (refer to **Figure 1**).

The site is irregular in shape, with a total area of approximately 19.38 hectares (ha), a 730 metres (m) long frontage to Cudgen Road (south-western boundary) and 185m frontage to Turnock Street (north-eastern boundary). The southern and south-western part of the site, fronting Cudgen Road, comprises a slightly elevated, gentle sloping plateau, with levels ranging between +25m to +27m Australian Height Datum (AHD). The site slopes gently down to the north, east and west of this plateau, surface levels reducing to approximately +5m AHD near the northern boundary, where a flood plain area exists.

The site largely comprises agricultural land generally cleared of native vegetation, except the area to the north which supports a dense covering of native bush vegetation (refer to **Figure 2**).

The approved areas for vegetation removal are inconsistent within the approved documentation and is also inconsistent with the final plans for the Stage 1 roadworks. The Applicant is seeking to modify the approved vegetation removal plan to ensure the vegetation removal is consistent with the biodiversity offset strategy for the site and the final detailed design drawings for Stage 1 works.

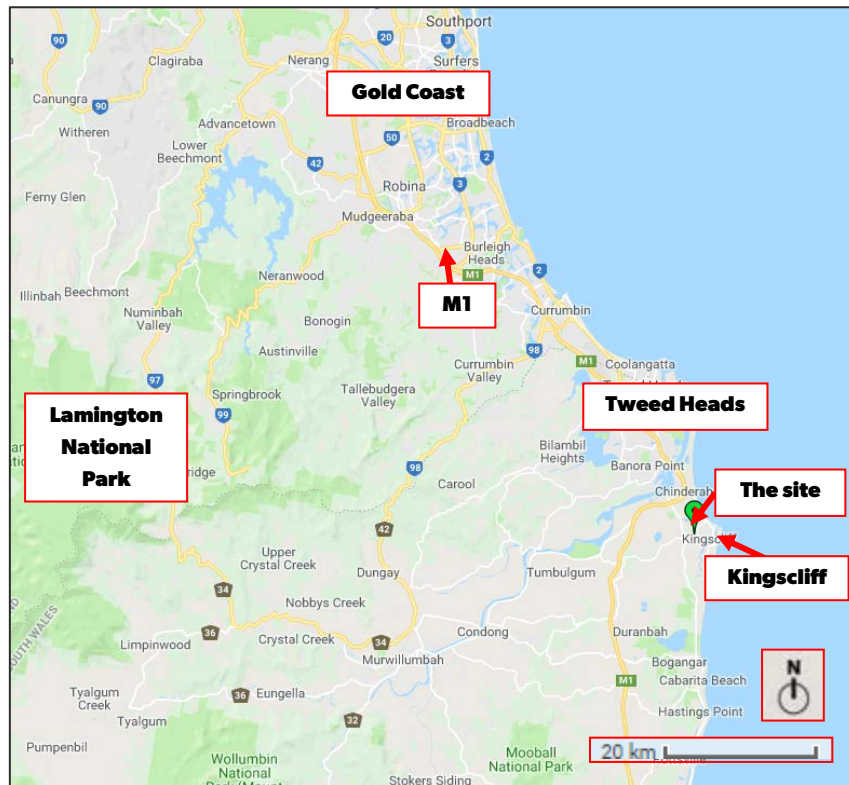


Figure 1 | Regional Context Map (Base source: Nearmap)



Figure 2 | Local context map identifying the site and the surrounding developments (Base source: Nearmap)

1.2 Approval History

On 11 June 2019, the Minister for Planning and Public Spaces granted consent for the concept development application for the TVH comprising:

- A Concept Proposal comprising:
 - the maximum building envelope for a nine-storey hospital with helipad and plant rooms on the rooftop.
 - the maximum building envelope for a building for support services (health hub).
 - the maximum gross floor area of 65,000 square metres for the hospital and the health hub building on the site.
 - the site layout, internal roads, site access arrangements and car parking provisions.
 - a landscape masterplan, concept public domain treatments and stormwater strategy.
 - Tweed Coast Road and Cudgen Road intersection upgrade works.
- Concurrent Stage 1 early and enabling works comprising:
 - site preparation and bulk earthworks to establish site levels.
 - identification of the construction compound with temporary car parking areas, laydowns and internal roads.
 - new vehicular access points from Cudgen Road.
 - improvements to the roundabout at the intersection of Turnock Street and Cudgen Road.
 - utility augmentation and connection of permanent services for the future hospital.
 - construction of retaining walls.
 - stormwater drainage works and soil and water management measures.
 - site remediation works.
 - piling works associated with the future hospital.

The Stage 1 works have commenced.



2. Proposed Modification

The modification application (SSD-9575-Mod-1) seeks to amend the vegetation clearing approved as part of the Stage 1 works, as illustrated in **Figures 3** and **4**. The approved vegetation clearing areas to be undertaken as part of the Stage 1 Works under SSD-9575 are inconsistent with the Biodiversity Development Assessment Report (Stage 1 BDAR) submitted for the concept proposal and Stage 1 works. The approved vegetation clearing areas also do not align with the final detailed design of the roadworks and landscaping, as illustrated in **Figure 5**. As a consequence of the modified vegetation removal areas, the Applicant is seeking to modify the conditions of consent to include reference to revised tree removal and preservation plan and condition B33(c) of Schedule 3, which requires biodiversity management (including tree protection) be undertaken in accordance with the approved vegetation clearing.



Figure 3 | Approved Tree Removal and Preservation Plan (Source: SSD-9575)

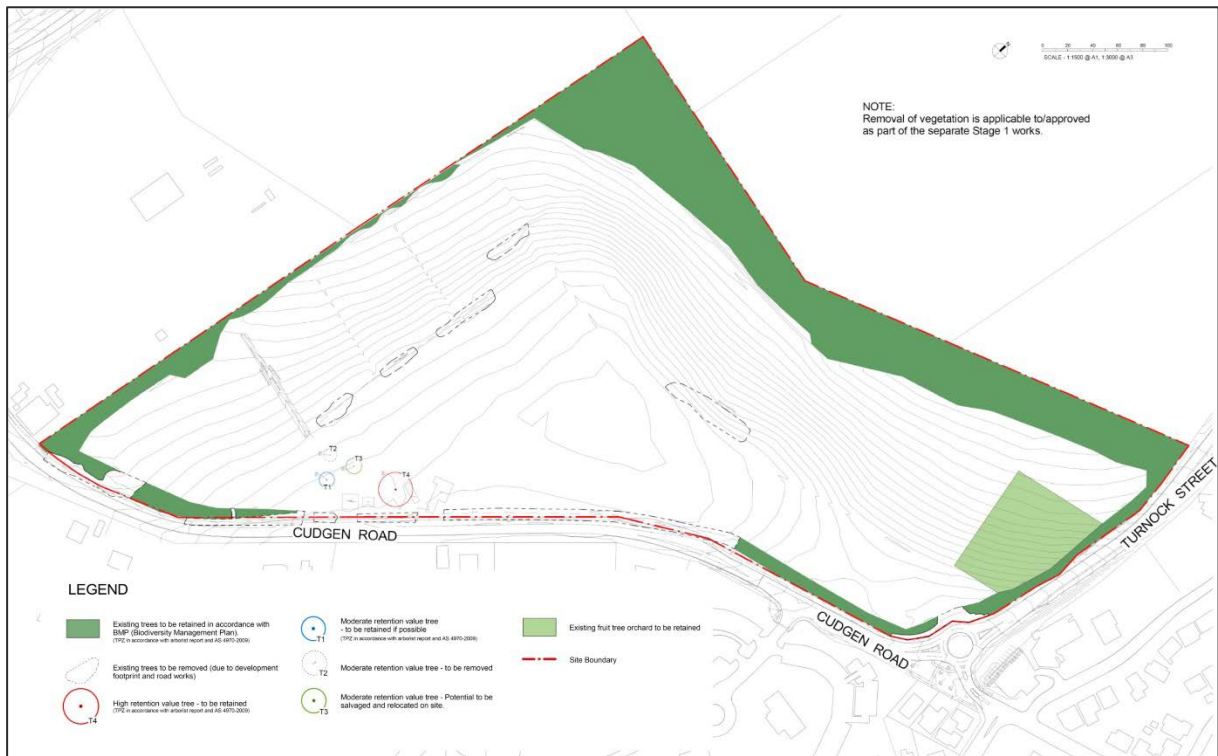


Figure 4 | Proposed Tree Removal and Preservation Plan (Source: SSD-9575-Mod-1)

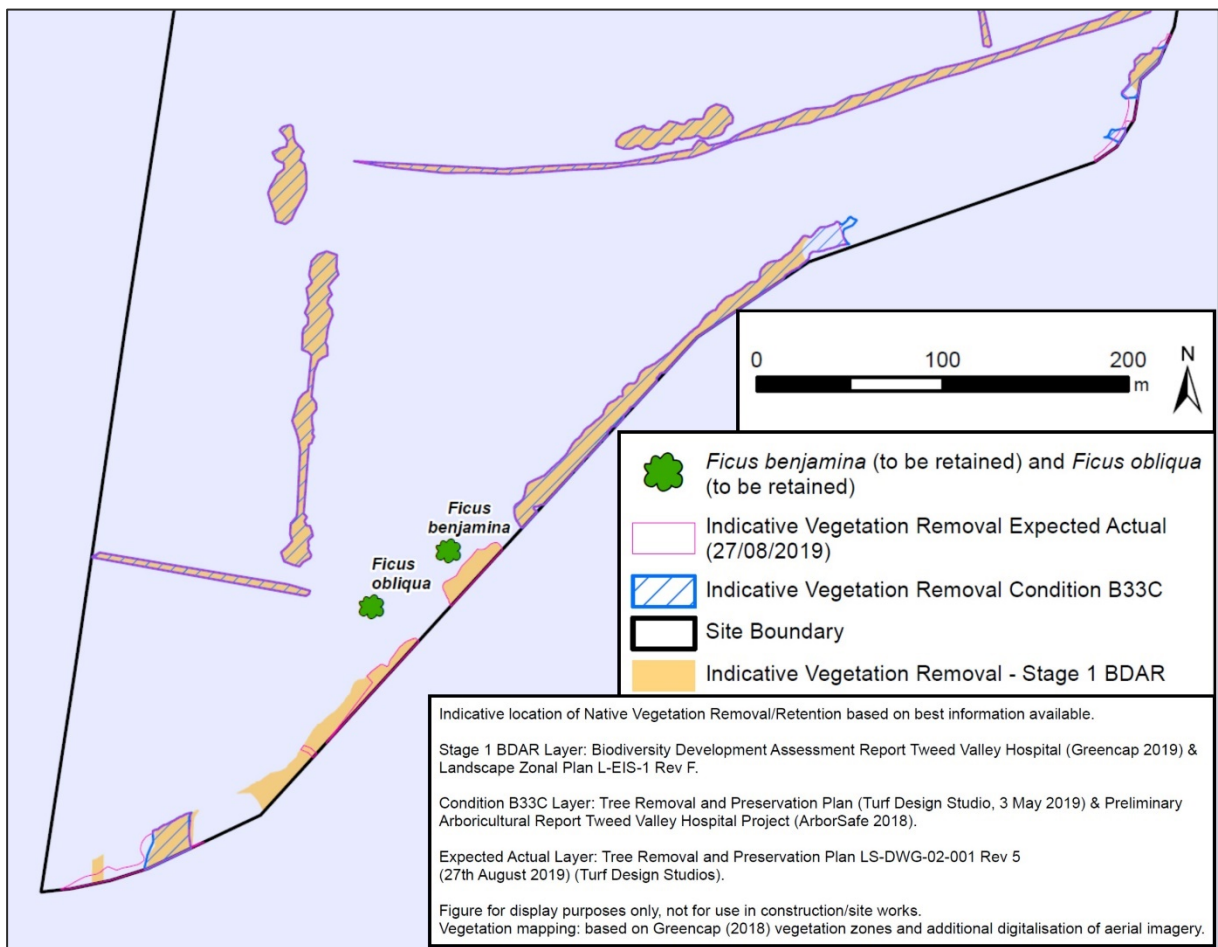


Figure 5 | Inconsistencies between vegetation removal areas identified under the approved vegetation removal plan (condition B33C), original Stage 1 BDAR and proposed / expected vegetation removal



3. Strategic Context

The development, as modified, continues to be consistent with the assessment of the strategic context in the original application and does not alter the key components or outcomes of the proposal. The Department considers that the proposal is consistent with the majority of strategic planning objectives and policies, including the relevant provisions of the following:

- NSW State Priorities.
- North Coast Regional Plan 2036.
- Infrastructure NSW's Building the Momentum State Infrastructure Strategy 2018 – 2038.
- Transport for NSW's Future Transport Strategy 2056.

The development, as modified, also continues to provide direct investment in the region of approximately \$471 million, which would support 2700 jobs across Stage 1 early enabling works and the Stage 2 construction, and a minimum of 208 new operational jobs which is projected to increase in accordance with the service line.



4. Statutory Context

4.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase the environmental impacts of the project as approved.
- is substantially the same development as originally approved.
- would not involve any increase in the total vegetation to be removed compared to the total quantum of vegetation assessed for removal under the original biodiversity offset strategy.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Environmental Assessment Requirements

Section 4.55 of the EP&A Act requires the following matters to be assessed in respect of all applications which seek modifications to approvals:

Table 1: Matters to be considered under section 4.55 of the EP&A Act

Matter	Consideration
Whether the proposed modification is of minimal environmental impact	The proposed modification seeks to vary the areas of vegetation to be removed but does not increase the total area of vegetation removal envisaged under the concept proposal as assessed as part of the biodiversity offset strategy. Accordingly, the proposed amendments would result in minimal environmental impacts.
Whether the development to which the consent as modified relates is substantially the same development	The proposed modification does not seek to significantly amend development and only seeks to clarify and vary the location of the vegetation removal. The approved development, as proposed to be modified, will remain substantially the same.
Whether notification has occurred and any submissions have been considered	In accordance with the EP&A Act and the EP&A Regulations, the modification request does not need to be notified. The application was made publicly available on the Department's website.
Any submission made concerning the proposed modification has been considered.	The Department has consulted the Environment, Energy and Science Group (EESG) of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage), which advised that the modification to clearing areas is minor and within the offset requirements that have been met by the Applicant. Details of the consultation are provided in Section 5 of this report.

Matter	Consideration
Any relevant provisions of section 4.15(1) of the EP&A Act	The relevant provisions of section 4.15(1) of the EP&A Act are considered in this section and the assessment section of this report. The modification would not alter the development's existing compliance with the relevant planning instruments.
Consideration of the reasons for the granting of the consent that is sought to be modified	The Department has considered the findings and recommendations in the Department's Assessment Report for SSD-9575, including the key reasons for granting consent outlined in the Notice of Decision. The Department is satisfied that the key reasons for the granting of consent continue to be applicable to the development, as modified.

4.3 Consent Authority

The Minister will be the consent authority under s. 4.5(a) of the Act unless the Independent Planning Commission is the consent authority under cl.8A(2) of the SRD SEPP.

Minister's delegate as consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 11 October 2017, the Director, Social and Infrastructure Assessments, may determine the application as:

- the relevant local council has not made an objection.
- a political disclosure statement has not been made.
- there are no public submissions by way of objection.



5. Engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation for section 4.55(1A) applications do not apply to State significant development. Accordingly, the application was not notified or advertised. However, it was made publicly available on the Department's website on 13 September 2019, and was referred to EESG for comment.

The EESG advised that it accepts the Applicant's conclusion that the modification to clearing areas are minor in nature and are within the offset requirement that has already been met by the Applicant.



6. Assessment

The key consideration is biodiversity impacts from the additional and modified areas of vegetation removal.

The proposed vegetation removal illustrated in **Figure 3** equated to 0.84ha and the Stage 1 BDAR assessed the removal of 0.95ha of vegetation. The EESG were satisfied with the Biodiversity Offset Strategy and the credit offset calculations for the approved Stage 1 works. The Department required that the offsets be retired prior to the commencement of Stage 1 works.

The Applicant has subsequently made payment to the Biodiversity Conservation Fund on 5 July 2019, for the retirement of the necessary biodiversity credits to address the biodiversity impact of the proposal as assessed in the Stage 1 BDAR.

The Applicant proposes to remove vegetation in accordance with **Figure 4**, which equates to 0.93ha of vegetation. This variation includes correcting discrepancies with the original Stage 1 BDAR as well as additional vegetation removal to support the detailed design of the Stage 1 roadworks and landscaping. This is partially offset with additional areas of vegetation to be retained.

The Applicant has assessed the vegetation proposed to be removed and has concluded that it is of poor condition. The Applicant has also provided a copy of the BDAR for the future stage of the proposal (being Stage 2 construction and operation), which demonstrates that the areas of vegetation retention and removal are consistent with that proposed in this modification request.

EESG has noted that the proposed removal of additional vegetation in zone 8 is vegetation that is in a degraded condition. EESG advised that it was satisfied that the additional vegetation removal is within the offset requirement that has already been met by the Applicant.

The modified vegetation removal areas would require the conditions of consent to be modified to reference revised plans for tree removal, address biodiversity management for the revised retention areas and minor administrative amendments. The modified conditions are detailed in **Appendix C**.

The Department considers that as the overall quantum of vegetation to be removed is consistent with that assessed under the Stage 1 BDAR and of a lower or equivalent quality of vegetation, the revised vegetation removal is acceptable. The biodiversity impacts are sufficiently covered by the biodiversity offset strategy and the variation in the areas of vegetation removal would have negligible impacts. Accordingly, the Department recommends that the proposed modifications be approved.



7. Evaluation

The Department has reviewed the proposed modification and assessed the merits of the modified proposal, and all environmental issues associated with the proposal have been thoroughly addressed.

The concept proposal and approved Stage 1 works will not significantly change, and the Department's conditions of consent as amended would ensure that the conditions of consent reflect the adjusted vegetation removal areas. The proposed modifications would not impact the environmental amenity of the surrounding area.

The Department considers that the application is consistent with the objects of the EP&A Act and continues to be consistent with strategic directions for the State.

The Department concludes the impacts of the proposed modification are acceptable. Consequently, the Department considers the development is in the public interest and the modification application should be approved.



8. Recommendation

It is recommended that the Director, Social and Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report.
- **determines** that the application SSD-9575-Mod-1 falls within the scope of section 4.55(1A) of the EP&A Act.
- **forms the opinion** under section 7.17(c) of the *Biodiversity Conservation Act 2016* that a biodiversity development assessment report is not required to be submitted in relation to this application as the modification will not increase the impact on biodiversity values of the site.
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application.
- **modify** the consent SSD-9575.
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:

Megan Fu

Principal Planner
Social Infrastructure

Recommended by:

David Gibson

Team Leader
Social Infrastructure



9. *Determination*

The recommendation is: **Adopted by:**

Karen Harragon

Director

Social and Infrastructure Assessments



Appendices

Appendix A – List of Documents

<https://www.planningportal.nsw.gov.au/major-projects/project/25261>

Appendix B – Environmental Assessment

<https://www.planningportal.nsw.gov.au/major-projects/project/25261>

Appendix C – Instrument of Approval