



TownPlanning

A L L I A N C E

**SECTION 75W MODIFICATION NO. 15
CONCEPT APPROVAL MP06_0258 (AS MODIFIED)**

**CASUARINA TOWN CENTRE
MIXED USE DEVELOPMENT
10 GRAND PARADE, CASUARINA**

**ON BEHALF OF
KSC DEVELOPMENT PTY LTD ATF CSC DEVELOPMENT UNIT TRUST
OUR REFERENCE: N240203**

PROJECT DETAILS

CLIENT: KSC Development Pty Ltd ATF CSC Development Unit Trust
PROJECT ADDRESS: 10 Grand Parade, Casuarina
PROJECT NUMBER: N240203
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1. EXECUTIVE SUMMARY

The Section 75W Modification application before the Department of Planning, Housing and Industry seeks a change of use of the site to permit a mixed-use development and a partial building height increase at 10 Grand Parade, Casuarina.

The purpose of the proposed change of use is to provide outpatient specialist services for ambulatory patients across several medical specialties – a need which has been recognised by the community and physicians alike. The health services facilities will be operated by a group of medical specialists currently living and working locally in Northern NSW and the southern Gold Coast. The health services facilities will be accompanied within the development by a café.

The partial increase in building height is to facilitate a central roof terrace to be utilized by patients and staff of the health services facilities provided within the development. It is important to note the partial fourth storey will not result in any additional impact to adjacent or surrounding allotments due to its centralised location within the roof form.

The site is suitably located so that access to care for patients is maximised and will support the new Tweed Valley Hospital nearing completion within 5km of the subject site.

An Economic Analysis and assessment of the proposal on the road network have been undertaken. The economic analysis found that the proposed modifications will not have any adverse impacts on the availability of housing stock within the Town Centre and Casuarina more broadly through the conversion of the site from mixed use medium density to mixed use. The traffic assessment found the proposed change of use will not result in an unacceptable additional load to the existing road network during peak hours.

2. SITE DETAILS & APPROVALS

Site Address	10 Grand Parade, Casuarina 2487
Property Description	51/-/DP1264557
Site Area	1,545m ²
Local Planning Instrument	Tweed Local Environmental Plan 2014
Zone	E1: Local Centre
Proposal Description	Change of Use of building from mixed use medium density to mixed use and increase in approved building height from three storeys to three storeys with a partial fourth storey for a rooftop terrace.
Supporting Documentation	Architectural Plans prepared by <i>Sparc</i> Traffic Letter prepared by <i>TTM Consulting</i> Economic Analysis prepared by <i>Bull & Bear Economics</i>

2.1 Site Approvals

The subject site forms part of the Casuarina Town Centre which was created under Major Project MP06_0258 and approved by the Minister for Planning on the 20th of September 2009. The approval included a Concept Approval which comprised of the subdivision of land, creation of a retail centre, a hotel, associated road network and car parking, services, and landscaping works.

Under Modification No. 10 (MP06_0258-Mod-10 approved 7 November 2018) the approval was modified to increase the number of lots created by the subdivision of land thereby increasing the number of residential, mixed use and open space and drainage lots, decreasing the number of medium density lots and removal of the hotel.

Modification 10 also sought to modify the staging of the project, seeking to reduce the overall number of stages from four (4) to two (2). Stage 1 was approved to comprise earthworks, subdivision of land into 172 lots, construction of a retail centre, closure of Dianella Drive, construction of roads and services, landscaping, and the development of specified low and medium density residential allotments. Stage 1 was also approved to be carried out in five sub-stages, being Stages 1A, 1B, 1C, 1D and 1E, with Stages 1A to 1D required to be completed prior to Stage 1E and Stage 2.

Stage 2 was approved to comprise the development of the mixed use and remaining medium density allotments, consolidation of seven (7) lots into one (1) and development of commercial lot 2.

As per the modification, the subject site was approved to comprise a three-storey, mixed-use medium density building comprising ground floor retail/commercial uses fronting Grand Parade, with a projected dwelling yield of 18 dwellings across levels 1 and 2.

The Concept Approval has been modified on a number of occasions, most recently under Modification No. 14 approved on 16 February 2021.

2.2 Consultation

Representatives for the proposal, including Town Planning Alliance, have consulted with Tweed Shire Council and the NSW Department of Planning, Housing and Industry (DPHI) prior to the lodgement of this Section 75W Modification application.

Tweed Shire Council

A Development Assessment Panel (DAP) meeting was held with Tweed Shire Council on 8 November 2023 to discuss the proposed mixed-use development and seek advice.

Whilst Council did not raise concern with the proposal in principle, their perspective was that the proposal was in conflict with the approved land use and building height approved for the site by Concept Approval MP06_0258-Mod-10 and did not achieve compliance with condition C7 as the Grand Parade street frontage did not comprise a mix of retail and commercial premises as defined by the *Tweed Local Environmental Plan 2014* (TLEP 2014).




In addition to the above, Council provided comments in respect of matters relating to site layout/built form, architectural design, access, servicing, waste management, carparking and servicing.

Council's comments have been acknowledged and this Section 75W Modification application has been prepared in response to Council's comments pertaining to land use and building height. In respect of the additional matters considered by Council, these comments have been used to refine the proposal.

Department of Planning, Housing and Industry

In response to Council's findings of the proposal as being in conflict with the approved land use and building height of the site, a meeting with DPHI was held on 24 January 2024 to discuss modification of the MP06_0258 Concept Approval. An overview of the proposed amendments including plans and rationale for the modification of the Concept Approval and items to be clarified were provided to DPHI prior to the meeting.

During the meeting, the Department did not object to the proposed amendments to the Concept Approval. A list of matters required to be addressed and justified as part of any Section 75W Modification report. These matters included, but were not limited to:

-  Urban Analysis Report
-  Economic Analysis
-  Traffic

The Department subsequently provided advice clarifying land use definitions discussed in the meeting.

Matters raised by the Department have been acknowledged and the proposal has incorporated all items noted by the Department during the meeting and in the subsequent minutes.

3. PROPOSED CHANGES


The proposal before the Department consists of two primary components. The first being the proposed change of use of the building from mixed use medium density, as approved under MP06_0258-Mod-10, to solely mixed-use. The second being a change in the building height from three-storeys, as approved under MP06_0258-Mod-10, to three storeys with a partial fourth storey to facilitate rooftop services as well as a roof terrace.


Details of the proposed changes are provided below.

3.1 Change of Use


The proposal seeks to change the use of the subject site from mixed use medium density, as approved, to solely mixed use. As show on the concept plans, the mixed use development will likely comprise of ten (10) medical centre clinics across each level of the building, and a café on the ground floor, located in the north-eastern corner fronting the Grand Parade/Candlenut Street intersection. A roof terrace is proposed to provide patients with a quiet place to utilise before, during and/or after treatment or appointments.

The proposed clinics will be operated by a group of medical specialists currently living and working the Northern NSW and southern Gold Coast. Alongside the proposed café (*food and drink premises*), two different land uses are proposed, complying with the definition of Mixed Use Development.

 **Mixed use development** means a building or place comprising 2 or more different land uses.

 **Food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

 **Medical centre** means premises that are used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals. It may include the ancillary provision of other health services.

The proposed clinics as shown on the concept plans vary in size to accommodate a range of specialists within an integrated facility. A breakdown of the proposal is provided below. However, the final layout will be subject to the development application and detailed design process.

Basements

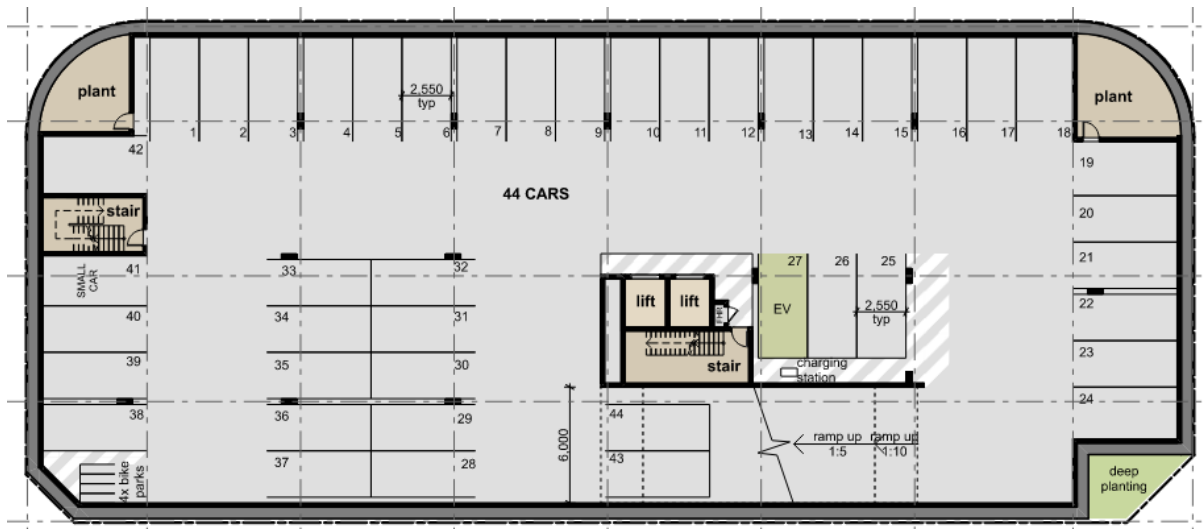


Figure 1: Basement Level Two. Source: Sparc - Issue F dated 05/03/24

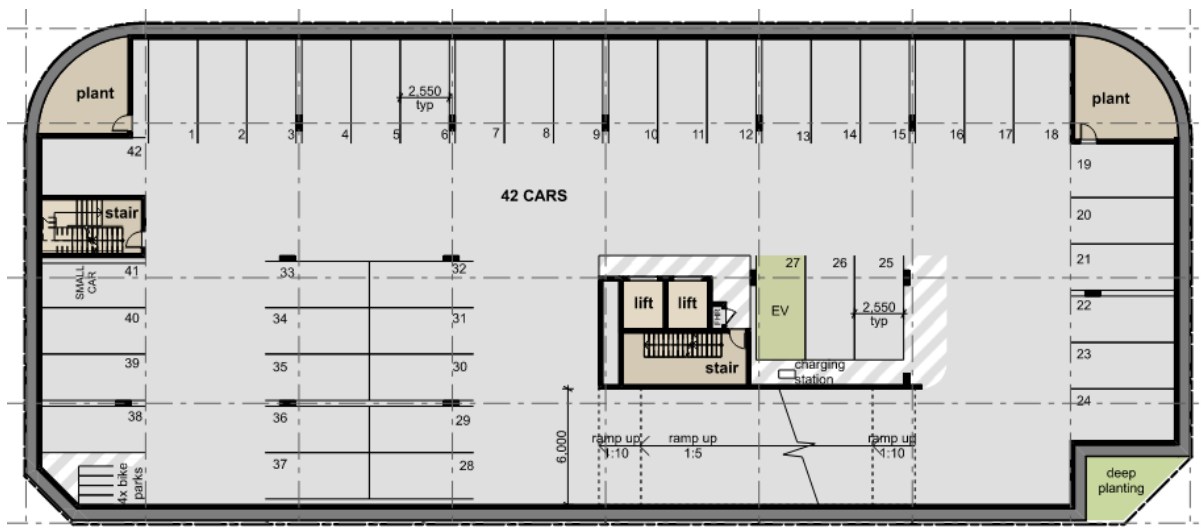


Figure 2: Basement Level One. Source: Sparc - Issue N dated 05/03/24

Eighty-six (86) car spaces, including two spaces designated to Electric Vehicles, with adjoining charging stations, are provided across two basement levels to serve the needs of the café as well as the medical centre specialist clinics. 44 car spaces and 4 bicycle spaces are proposed in Basement Level Two and 42 car spaces, and 4 bicycle spaces are provided in Basement Level One.

Ground Floor Level

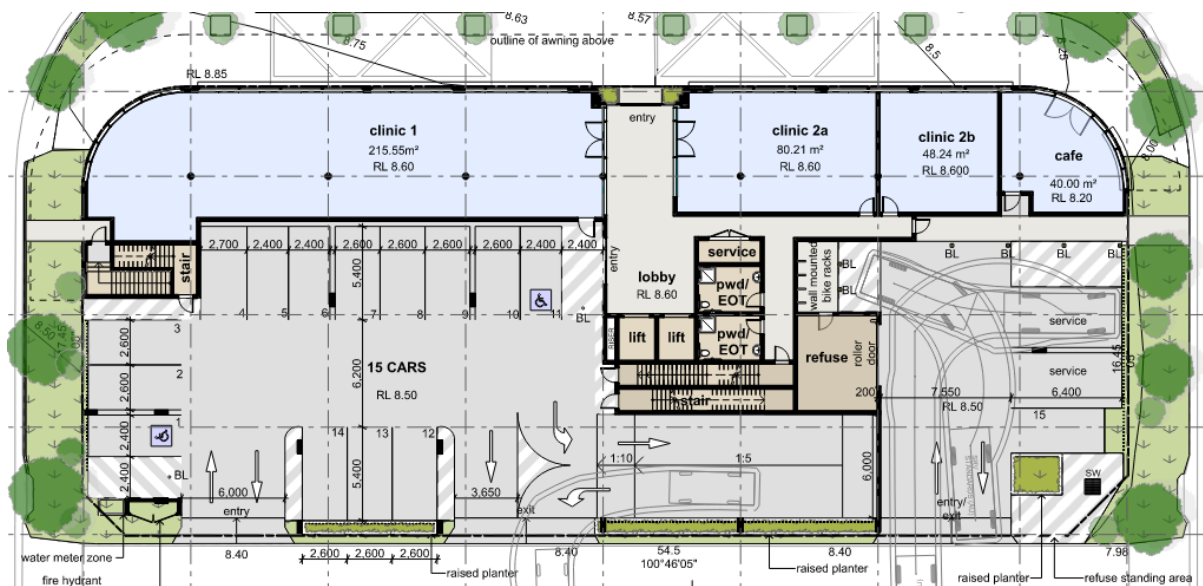


Figure 3: Ground Floor Level Floor Plan. Source: Sparc - Issue N dated 05/03/24

The ground floor level is proposed to comprise three (3) specialist medical centre clinics (clinic 1, 2a and 2b) and a café. The clinics range in size from 48m² to 215m². The café is proposed to be approximately 40m².

Access to the café is proposed to be via street entry at the north-eastern corner of the building, with access to the clinics via a central building access point along the Grand Parade street frontage. By having mixed uses on the ground floor, an active street frontage to Grand Parade is achieved across the width of the building's street frontage, contributing to the character of the centre by providing direct access to various uses and complying with condition C7 of MP06_0258-Mod-10.

A further 15 car spaces are provided via at-grade parking including two spaces for people with a disability. Two spaces for service vehicles are also provided. Vehicular access to at-grade parking and ramp to basement level parking is provided via Sunray Lane at the rear of the site.

Level One

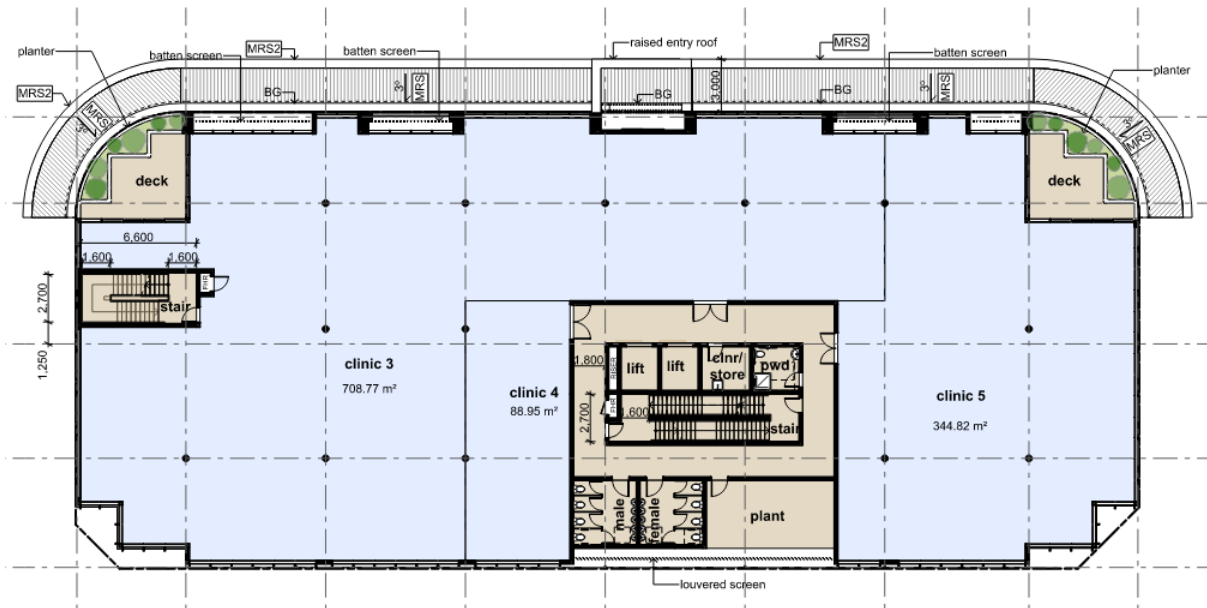


Figure 4: First Floor Level Floor Plan. Source: Sparc - Issue N dated 05/03/24

Three specialist medical centre clinics (Clinics 3, 4 and 5) are proposed across Level 1, ranging in size from approximately 89m² to approximately 717m².

Level Two



Figure 5: Second Floor Level Floor Plan. Source: Sparc - Issue N dated 05/03/24

A further four (4) specialist medical centre clinics (Clinics 6, 6a, 6b and 7) are proposed across Level 2, ranging in size from approximately 106m² to 650m².

Changing the use of the site to allow for these services results in a better outcome for the local community, Tweed Shire and surrounding regions. It is widely acknowledged that regional areas across Australia have reduced access to medical facilities, especially to modern facilities. Conversion of the subject site to a mixed use facility will allow for the provision of modern medical services which will support the new, state of the art Tweed Valley Hospital.

An Economic Analysis of the proposal has been undertaken by Bull and Bear Economics and found the removal of the residential component of the site would not result in adverse impacts on housing supply within the Casuarina Town Centre, or Casuarina more broadly.

The community need for such spaces has been well recognised by clinicians and patients in the area to meet the needs of the growing population.

The 'do-nothing' approach will leave patients, physicians and researchers utilizing the new Tweed Valley Hospital to provide care and services to patients, whether local to the community, Tweed or surrounding regions. Whilst this is acceptable given the new hospital will be state of the art, it will result in access to facilities limited to the hospital alone.

In changing the use of the subject site to support the proposal, a greater number of patients will be able to access specialist health care simultaneously to those access health care at the new hospital. Changing the use of the subject site will also allow for a greater number of clinical trials and research, outside of what the new hospital would be capable of providing, in doing so, unlocking new medications and potential cures which, in turn, not only benefits the patients and the surrounding community, but has the potential to affect the lives of everyday Australians across the country.

It is considered changing the use of the site to facilitate the proposed specialist medical centre clinics has a greater outcome on the community, at large, than leaving the site as approved.

3.2 Building Height

The proposal seeks to increase the approved building height, in part. Under MP06_0258-Mod-10, the subject site was approved a maximum building height of three storeys. A partial increase to the approved height, to include a partial fourth storey, is sought by this modification. The proposed partial fourth storey will accommodate a proposed roof terrace and lobby, along with rooftop services including plant room, lift core and overrun, and stairs. The partial fourth storey is proposed to be a maximum of approximately 15.4m above ground level (existing). The proposed partial fourth storey as shown on the concept plans will encompass approximately 207m², which equates to 14.1% of the total area of the roof.

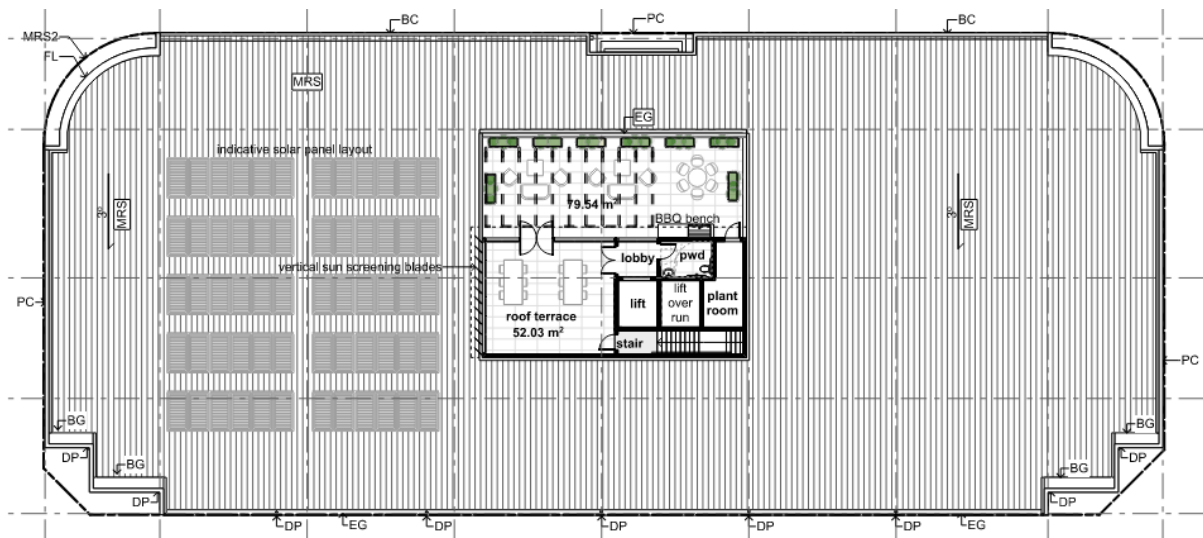


Figure 6: Roof Plan. Source: Sparc - Issue J dated 05/03/24



Figure 7: South Elevation. Source: Sparc - Issue J dated 05/03/24

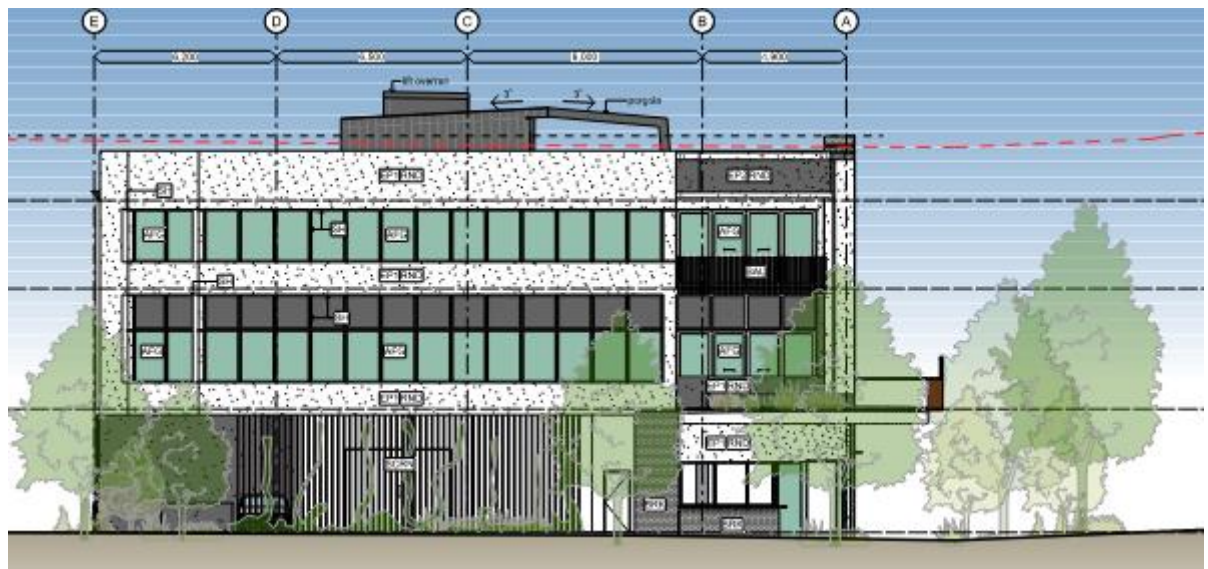


Figure 8: East Elevation. Source: Sparc - Issue J dated 05/03/24

The roof terrace is proposed to comprise an enclosed area, open pergola structure, covered and uncovered seating, a toilet, a BBQ bench, planting provided within planter boxes located along the eastern, western and northern extents of the terrace. Access to the roof terrace is provided via the main lift core, with a covered lobby providing access from the lift to the terrace.

The roof terrace is proposed to provide patients with a quiet place to retreat before, during or after treatment as well as providing a break out space for staff. It is a space for patients to go when they require privacy that is not afforded in areas of public open space.

The proposed partial fourth storey will not result in additional impacts over southern adjacent properties in respect of privacy. The proposed partial fourth storey is located approximately 6.9m from the southern (rear) boundary with an enclosed portion located on the southern side of the roof terrace ensuring visual and acoustic privacy to those utilising the roof terrace and to the residential dwellings adjacent to the subject site to the south. Access to the roof terrace will be available to patients and their guests for conversation or quiet reflection only and will be subject to operating hours of the specialist clinics.

The partial fourth storey will not result in any additional impacts to southern adjacent properties in respect of overshadowing as the partial fourth storey is located relatively centrally to the roof. The rear of the partial fourth storey will be set back approximately 6.9m from the site's southern boundary, 22.5m from the eastern side boundary, 22m from the western side boundary and 5.4m from the northern (front) boundary. The enclosed portion of the roof terrace, lobby, bathroom, lift core and overrun and stairs will have the same finished roof level. As such, shadows cast by the partial fourth storey will fall onto the roof of the three-storey portion of the building only, and not onto adjacent properties. Note the dashed red line shown in the images below depict the extent of shadows cast by a three storey built form.



Figure 9: Shadow Analysis. Source: Sparc - Issue B dated 05/03/24

In addition to the above, and as depicted in the section below, it is not anticipated the partial fourth storey will be visible from the public domain given the proposed setbacks from the site's boundaries.

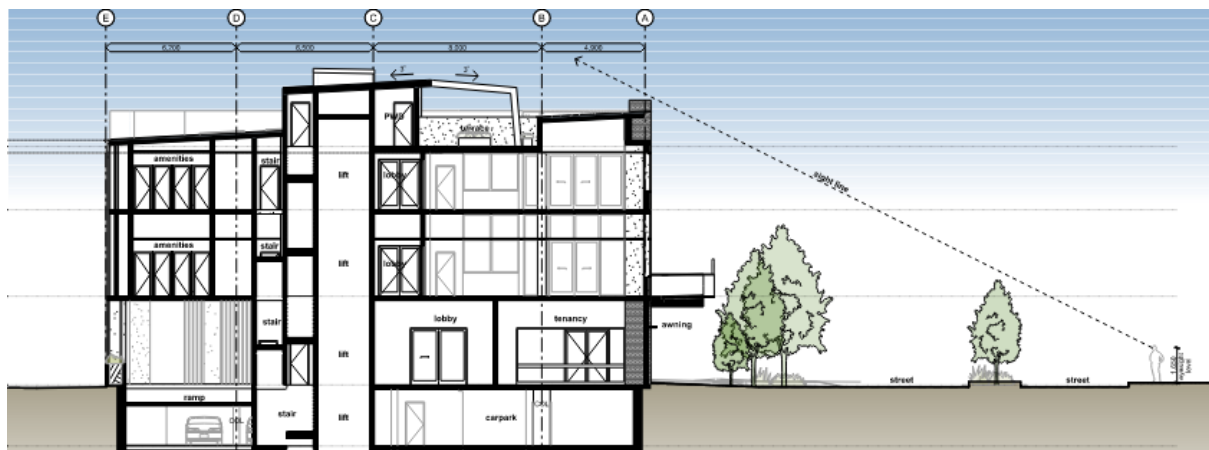


Figure 10: Section 1. Source: Sparc - Issue I dated 05/03/24

Overall, the proposed modification seeks amendments to the Concept Approval to facilitate the proposed mixed use development on the site as described above. While concept plans for the proposed development have been included for context, the final layout will be subject to the development application and detailed design process. Accordingly, it is sought that the modification approve Concept Plan Issue J dated 05/03/2024 by Sparc which identifies the site as 'mixed use' with a building height of 3 storeys with a partial 4 storeys. The concept plan defers to MP06_0258-Mod-10 for the balance of the land under the Concept Approval.



Figure 11: Concept Plan. Source: Sparc - Issue J dated 05/03/24

4. CHANGES TO CONDITIONS

To facilitate the proposed change of use, clarity is sought in respect of the wording of condition of consent number C7 of MP06_0258-Mod-10. The condition currently reads as follows:

C7. Street Activation

Future Applications for the development of buildings with a frontage to Grand Parade between Road B and the foreshore must incorporate ground floor retail and commercial uses along the entire frontage to Grand Parade.

The subject site is located between Road B and the foreshore and is therefore affected by the condition,

In a Development Assessment Panel (DAP) meeting with Tweed Shire Council, held on 08 November 2023, there was uncertainty as to intent of the condition based on the wording and whether the use of the term *commercial uses* was meant in respect of commercial land uses as defined by the Tweed Local Environmental Plan (TLEP) 2014, or merely uses that are commercial in nature. It was the view of Council that health service facilities are a different land use to commercial premises under the Tweed LEP 2014 and the proposed use therefore did not meet the requirement of the condition. It

was the view of the applicant however that these services are paid services and are therefore commercial in nature, thereby satisfying the condition.

In order to remove ambiguity, a change to the wording of condition No. C7 is requested. The proposed modified wording of condition C7 is as follows (note words to be removed have been ~~struck through~~ and words to be included have been provided in **bold**):

C7. Street Activation

*Future Applications for the development of buildings with a frontage to Grand Parade between Road B and the foreshore must incorporate ground floor retail, ~~and~~ commercial uses **and health services facility** along the entire frontage to Grand Parade.*

5. PLANNING CONSIDERATIONS

5.1 Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

In accordance with Section 3BA(5), Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* section 75W continues to apply to the modification of Part 3A projects.

3BA Winding-up of transitional Part 3A modification provisions on cut-off date of 1 March 2018 and other provisions relating to modifications

(5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only if the Minister is satisfied that—

- (a) the proposed modification is to correct a minor error, misdescription or miscalculation, or*
- (b) the proposed modification is of minimal environmental impact, or*
- (c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).*

Section 75W facilitates the modification of approved concept plans by providing the framework within which the Minister's approval of a Major Project Application may be modified. The modification lodged with DPHI has been done so in accordance with these provisions.

5.2 State Environmental Planning Policies

The site is identified as being in the land application area for the following State Environmental Planning Policies (SEPPs). The relevant policies have been addressed below.

STATE ENVIRONMENTAL PLANNING POLICY	APPLICABILITY
SEPP (Biodiversity and Conservation) 2021	Applicable
SEPP (Sustainable Buildings) 2022	Not Applicable
SEPP (Exempt and Complying Development Codes) 2008	Not Applicable
SEPP (Housing) 2021	Not Applicable

STATE ENVIRONMENTAL PLANNING POLICY	APPLICABILITY
SEPP (Industry and Employment) 2021	Not Applicable
SEPP (Planning Systems) 2021	Applicable
SEPP (Primary Production) 2021	Not Applicable
SEPP (Resilience and Hazards) 2021	Applicable
SEPP (Resources and Energy) 2021	Not Applicable
SEPP (Transport and Infrastructure) 2021	Not Applicable

5.2.1 SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

To facilitate the subdivision of land, approved under MP06_0258, the site was cleared of any significant vegetation. Existing vegetation comprises groundcover only, in the form of grass. The removal of existing groundcover will be subject to a future Development Application over the site. The proposed modification before the Department has no bearing on existing vegetation at the site and is not in conflict with the aims of this Chapter of the SEPP.

5.2.2 SEPP (Planning Systems) 2021

Schedule 6 Regionally significant development

5 Private infrastructure and community facilities over \$5 million

Development that has a capital investment value of more than \$5 million for any of the following purposes –

*(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, **health services facilities** or places of public worship.*

The proposal seeks a change of use from mixed use medium density to solely mixed use to support a future development of a building comprising specialist medical centre clinics (health services facilities) and a café.

Whilst the capital investment value has not yet been refined, the proposal is anticipated to exceed the \$5 million threshold for development of health services facilities and is therefore deemed a regionally significant development.

5.2.3 SEPP (Resilience and Hazards) 2021

Chapter 2 Coastal Management

The subject site is mapped as being within the coastal use area and the coastal environment area.

The proposal before the Department is for a change of use and partial increase to approved building height, neither of which will result in any unacceptable impacts on the coastal environment or areas of coastal use. The proposed modification is not in conflict with the SEPP.

Chapter 4 Remediation of Land

Contamination and remediation of land was assessed as part of the original Major Projects application (MP06_0258). Relevant conditions were imposed at the time of the approval of the application, with additional conditions imposed by MP06_0258-Mod-10.

The proposed modification before the Department seeks a change of use and partial increase to building height only. No changes to any conditions pertaining to contamination and remediation are proposed.

The site has remained vacant since the approval of MP06_0258. No activities have been undertaken that could result in the contamination of the site.

It is not considered further assessment of this Chapter of the SEPP is warranted.

5.3 Tweed Local Environmental Plan 2014

Under the *Tweed Local Environmental Plan (TLEP) 2014*, the subject site is zoned E1 Local Centre.

5.3.1 Land Use Table

In accordance with the TLEP 2014:

E1 – Local Centre
Objectives of zone <ul style="list-style-type: none"> To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. To encourage investment in local commercial development that generates employment opportunities and economic growth. To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. To provide for tourism and residential opportunities that contribute to the vitality of the local centre. To encourage development that is of a scale consistent with surrounding neighbourhoods and that promotes a sense of place and focal points for the local community.
Permitted without consent <i>Environmental facilities: Environmental protection works; Home businesses; Home occupations</i>
Permitted with consent <i>Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Home industries; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4</i>
Prohibited

E1 – Local Centre

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Moorings; Mortuaries; Open cut mining; Residential accommodation; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Wharf or boating facilities; Wholesale supplies

The proposal seeks a change of use from mixed use medium density to solely mixed use, comprising specialist medical centre clinics and a café. As per the land use table above, medical centres which are a type of **health services facility**, and café's which are a type of **food and drink premises** are not listed as being prohibited and are therefore permitted with consent.

5.3.2 Section 4.4 – Floor Space Ratio

Floor Space Ratio does not form part of the proposal. Consistent with Condition No. B8 of MP06_0258-Mod-10, compliance with FSR will be assessed by way of future Development Application.

5.3.3 Section 5.10 – Heritage Conservation

The site is not listed as being or containing a heritage item. The site is not mapped as being an Aboriginal Place of Heritage Significance or containing Predictive Aboriginal Cultural Heritage.

5.3.4 Section 5.11 Bush fire hazard reduction

The site is not mapped as being bush fire prone land. Bush fire hazard reduction works are not proposed to be undertaken over the site, nor is the site to be used for such purposes.

5.3.5 Section 5.21 Flood Planning

The subject site is not mapped as being affected by the 1% AEP Flood Event, or the Probable Maximum Flood (PMF) level.

5.3.6 Section 7.1 Acid Sulfate Soils

The subject site is mapped as containing Class 4 Acid Sulfate Soils and is located within 500m of land mapped Class 2. Acid sulfate Soils will be considered under future development application. However, geotechnical testing has been undertaken which confirms that soils on site will not require treatment for acid sulfate potential.

5.3.7 Section 7.8 Airspace Operations

The subject site is located within the Take Off/Approach Obstacle Limitation Surface (OLS). The contour is RL149.5 AHD. The proposed partial fourth storey will have a maximum height of approximately RL23.6 AHD and will not pose any undue risk to the safe and continued operation of Gold Coast Airport.

5.3.8 Section 7.10 – Essential Services

The subject site has connections to all necessary infrastructure/services including electricity, water, sewer and road access.

6. MATTERS FOR CONSIDERATION

6.1 Zoning

The subject site is zoned E1 Local Centre under the TLEP 2014. The objectives for the zone read as follows:

Objectives of zone

1. *To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.*
2. *To encourage investment in local commercial development that generates employment opportunities and economic growth.*
3. *To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.*
4. *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
5. *To provide for tourism and residential opportunities that contribute to the vitality of the local centre.*
6. *To encourage development that is of a scale consistent with surrounding neighbourhoods and that promotes a sense of place and focal points for the local community.*

Objective numbers three and five talk to the provision of residential development and opportunities within the zone. The proposal seeks, in part, to change the use of the site from mixed use medium density to solely mixed use, thereby removing the requirement to provide residential accommodation on the site. The yield estimates under MP96_0258-Mod-10 indicatively identified 18 dwellings on the subject site at 10 Grand Parade in the Casuarina Beach Town Centre Vision and Landscape document. While MP96_0258-Mod-10 included indicative yields in the Casuarina Beach Town Centre Vision and Landscape document, these yields were not approved on the basis that the future built forms would be subject to further refinement through the future development application process. This is set in Condition B8 which states that *"the future built forms shown in the Casuarina Beach Town Centre Vision and Landscape document are only approved to the extent that they indicate the location of where three and four storey building envelopes can be developed. The GFA of the proposed building envelopes indicated on the plans is not approved as the buildings will be subject to further design refinement as part of the assessment of future development applications"*.

The removal of the residential component of the approved land use is acceptable for a number of reasons. Firstly, removal of the residential component on the site will allow for the development of a mixed use building that comprises a café and a number of specialist medical centre suites providing medical facilities to the community and supporting the new Tweed Valley Hospital, as discussed in Section 2 of this report. Secondly, development approvals on other medium density lots in the Casuarina Town Centre have exceeded the indicative dwelling density in the Casuarina Beach Town Centre Vision and Landscape document for those lots therefore the removal of the residential component on this site will not have any detrimental impact on housing supply in the Casuarina Town Centre. Thirdly, there are numerous residential allotments within the town centre that will provide medium density residential accommodation. Fourthly, achieving residential accommodation on the subject site that meets the indicative yield in the Casuarina Beach Town Centre Vision and Landscape document and achieves amenity for the occupants of those dwellings per the Apartment Design Guide

is constrained. Finally, the modifications proposed in this report do not preclude compliance with majority of the objectives of the E1 zone.

At 5 Grand Parade, the indicative yield in the Casuarina Beach Town Centre Vision and Landscape document under Modification 10 was a total of 40 dwellings. As per DA21/0637, the Northern Regional Planning Panel approved 47 dwellings on 26 May 2022, an increase of 7 dwellings above the indicative yield.





At 6 Grand Parade, the indicative yield in the Casuarina Beach Town Centre Vision and Landscape document under Modification 10 was a total of 72 dwellings. As per DA22/0408, the Northern Regional Planning Panel approved 78 dwellings on 19 March 2024, an increase of 6 dwellings above the indicative yield.


The above examples demonstrate that the removal of the residential component from the site will not have any detrimental impact on housing supply in the Casuarina Town Centre.

Further, a total of eight (8) allotments within the town centre (excluding the subject site) are approved to accommodate medium density residential development. Two (2) have DA approval (5 Grand Parade – under construction & 6 Grand Parade), one has a DA being assessed by Council (9 Grand Parade) with the remainder being vacant sites with no DA's having been lodged for their development. It is considered the change of use of the subject site will have no adverse impacts in respect of the availability of medium density residential accommodation within the Casuarina Town Centre.

In respect of providing residential accommodation at the site, meeting the yield anticipated by MP-06_0258-Mod-10 and providing amenity to the dwellings is constrained. In order to meet the anticipated yield of 18 dwellings, 9 dwellings are likely to be provided per level. As the subject site is located on the southern side of Grand Parade, achieving minimum solar access to living rooms and areas of private open space will be difficult for dwellings that are located on the southern side of any development on the site. Simultaneously obtaining adequate ventilation and cross-ventilation to centrally located dwellings will also be difficult to achieve. It is considered on this basis that the proposed modification to the approved land use results in a better outcome for the site.

Whilst the proposed change of use fails to meet the requirement of Objective 3, and part of Objective 5, it is considered the proposal is acceptable for the reasons outlined above. Further, the proposal will achieve the remainder of the objectives, including partial compliance with Objective 5, of the E1 zone as:

-  The proposed change of use will provide specialist medical centre clinics that support the needs of the people who live, work in or visit the area by allowing for the incorporation of additional businesses at the site that would otherwise not be possible under the current land use;
-  Changing the use of the building to allow for more businesses within the development increases employment opportunities and economic growth. Changing the use of the building to allow for the incorporation of businesses that are different to those on the western side of Casuarina Way will encourage investment and therefore generate economic growth;
-  The proposal does not seek to change the use of the ground floor of the development from being non-residential in nature;
-  Whilst the proposed change of use removes the requirement for the site to provide residential opportunities, it does provide tourism opportunities through the incorporation of the café in the north eastern corner of the site;

-  The scale of development on the subject site can achieve consistency with the existing retail centre on the western side of Casuarina Way as well as the scale of development along Grand Parade and surrounding streets, approved by MP06_0258-Mod-10. Providing businesses in the form of specialist medical centre clinics will make the development a focal point of the local community, whilst the proposed café will encourage a sense of place as it encourages the meeting of people within the community.

The proposed change of use is generally consistent with the objectives of the E1 Local Centre zone. Further, it is considered development within the Casuarina Town Centre can comfortably absorb the 18 residential dwellings sought to be removed from the subject site, thereby ensuring access to medium density residential dwelling types will continue to be available.

6.2 Substantially the Same Development

As discussed throughout this report, the proposal seeks to change the use of the subject site from mixed-use medium density to solely mixed use and seeks to increase the building height from three storeys to three storeys with a partial fourth storey. The proposed changes affect No. 10 Grand Parade only and are considered to result in substantially the same development to that approved under MP06_0258 as modified.





In *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 Stein J stated:

Turning to the issue of s.102(1)(a). Is the proposed modified development substantially the same development as that in the development consent (as already amended)? In my opinion substantially when used in the section means essentially or materially or having the same essence.

When assessing whether a proposed modification will result in ‘essentially or materially having the same essence’, a qualitative and quantitative assessment must be undertaken between the originally approved development (or in this case, concept plan) and the development (or concept plan) as proposed to be modified.

The modification to the approved change of use and increase and building height to No. 10 Grand Parade, Casuarina will result in the approval of the MP06_0258 concept plan, as modified, having essentially or materially the same essence for the following reasons:

Qualitatively:

-  The change of use will not impact upon the ability for the development to provide an active street frontage to Grand Parade, thereby remaining consistent with approved MP06_0258 as modified;
-  The change of use and increased building height subject of this modification application is proposed to affect the subject site only and will not result in any changes to any other sites within the concept approval, as modified;
-  The change of use is considered to result in a beneficial outcome to the adjacent residential allotments to the south in terms of visual and acoustic privacy;
-  The proposed partial fourth storey will not result in any additional impacts on adjacent properties in respect of overshadowing;

- Despite the proposal seeking a partial fourth storey, it is not considered this will alter the appearance of the building in respect of form or scale, as the additional storey are located centrally to the roof form and therefore unlikely to be visible from the public domain;
- The proposed change of use and increased building height will have no impact on the site's primary or secondary road frontages, or on the setbacks permitted under the Tweed Development Control Plan 2008.

Quantitatively:

- The proposed removal of the residential land use is not anticipated to result in a detrimental impact on housing supply within the Casuarina Town Centre as the dwelling yield was an estimate only, as discussed elsewhere in this report.
- The site retains the same area and boundary measurements as approved by MP06_0258 as modified.

It is therefore considered that the proposed change of use and partial increase in building height results in substantially the same development as that approved by the Concept Approval.

6.3 Activation of Grand Parade

Health services facilities operate generally as other commercial and retail businesses do, with set hours making access to these facilities similar in nature to any access to other future businesses along the Grand Parade frontage. The incorporation of health services facilities through the building encourages usage of the street, with the café encouraging patronage from people utilising the health services as well as members of the community who live, work in and travel to the area.

From a built-form perspective, the street frontage of the development will be activated through the entry to the café in the north western section of the building fronting the Grand Parade/Candlenut Street intersection, the main building entrance located halfway along the street frontage, and glazing across each of the proposed clinics. The pedestrian entries across the Grand Parade frontage have been maximised with consideration to the need to provide DDA compliant access and the constraint of the topography of the pedestrian footpath which ranges from approximately 8.00m AHD to 8.85m AHD east to west and the need to provide compliant pedestrian access. Whilst *L&G Management P/L v Council of the City of Sydney [2021] NSWLEC 1084 at [104]* provides authority on how a street frontage can be activated via two entry points and glazing, the street frontage will also be activated by the incorporation of different materials, planting, and awnings.

From a broader perspective, the building frontage, in its entirety, will also be served by balconies in the north eastern and north western corners at Levels 1 and 2 and further changes in materials and structure through the incorporation of screening across the northern elevation.

The building has been designed taking into consideration comments provided during the DAP meeting, and in the subsequent minutes, by Tweed Shire Council's Urban Designer.

It is considered the development achieves a high level of activation across the Grand Parade frontage through two principle building entries, glazing and incorporation of the additional elements mentioned above.

6.4 Traffic

It is not considered the proposed change of use from mixed use medium density to solely mixed use, nor partial increase in building height, will place an unacceptable burden on the existing road network within, and surrounding, the Casuarina Town Centre.

As noted in the traffic assessment prepared by TTM Consulting, the existing traffic volumes on roads within the network are below capacity and, as such, the increase in traffic volume generated by the proposed change of use at during peak hours can be accommodated within the spare capacity. The assessment concludes the local road networks will not be significantly impacted by the proposed development at during peak hours.

The proposed change of use will not result in unacceptable additional load to the road network.

6.5 Crime Prevention Through Environmental Design (CPTED)

Crime Prevention Through Environmental Design (CPTED) delineates the principles required to be considered to ensure proposed developments minimise the potential, and opportunities, for crime through appropriate design and place management. The four key principles to minimise crime risks, along with a response as to how the proposal will incorporate each principle, are provided below.

CPTED Principle	Response
Territorial Reinforcement	<p>To be refined through detailed design. However, achieved at the least via:</p> <ul style="list-style-type: none"> - location of building entry lobby at GFL which is central to the built form, and - incorporation of ground floor level café, and - location of some suites at ground floor level, and - vehicle access along secondary street frontage (Sunray lane). <p>Each of these factors increase the movement and presence of individuals in and around the site.</p>
Surveillance	<p>Detailed design will refine opportunities for technical/mechanical and formal/organised surveillance. In respect of natural surveillance, detailed design will capitalise on the following design elements:</p> <ul style="list-style-type: none"> - Ground Floor level: <ul style="list-style-type: none"> o Activated street frontage to Grand Parade, and o Incorporation of a café, and o At grade parking, and access to basement parking, provided along secondary street frontage (Sunray Lane) allowing natural surveillance of entry points at the rear of the site. - Upper levels: <ul style="list-style-type: none"> o Decks at north eastern and north western corners of the building providing increased surveillance of Grand Parade, Candlenut Street and Habitat Drive, and

CPTED Principle	Response
	Glazing to building facades.
Access Control	To be refined through detailed design and will look at opportunities such as wayfinding, desire-lines, landscaping etc.
Space/activity Management	Achieved through: <ul style="list-style-type: none">- activation of the street frontage along Grand Parade including glazing extending around the north eastern and north western extents of the building, and- access to at-grade and basement parking via Sunray Lane. Opportunities for space/activity management will be further considered through detailed design.

Refinement of the proposal will be undertaken during the detailed design stage. Further enhancements will ensure the key principles are incorporated into the final design however, it is considered that the principles of CPTED are already largely integrated within the proposal.

7. CONCLUSIONS

This Section 75W Modification application seeks approval for the change of use to mixed use and an increase to the approved height to three storeys and partial fourth storey at 10 Grand Parade, Casuarina.

The modifications sought will allow for the development of a mixed use building that will provide specialist medical centre clinics and café, serving the local community and Tweed and surrounding shires, and will support the new Tweed Valley Hospital.

The proposed modifications will not alter any other site within the Casuarina Town Centre, created under approved MP06_0258, as modified, and will not result in any additional adverse impacts to adjacent properties, or to the Casuarina Town Centre at large. The Concept Plan, as approved by MP06_0258, as modified, will therefore remain largely unaffected by the proposed modifications.

The proposed modification is considered to be in the public interest as it will allow for the provision of, and access to, additional health services facilities. As such, the modification should be approved by the Department.