



AGENDA

ORDINARY COUNCIL MEETING Tuesday 4 July 2006

Chairman: Mr Garry Payne AM

**Administrators: Mr Garry Payne AM
Ms Lucy Turnbull
Mr Max Boyd AM**

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ITEMS FOR CONSIDERATION OF COUNCIL:

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ABORIGINAL STATEMENT

Administrator Payne acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners of these lands."

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Council Meetings held Wednesday 13 June 2006

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Minutes of the Ordinary Council Meeting held Wednesday 13 June 2006 (DW 1409358).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Wednesday 13 June 2006 (DW 1408980).
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PLANNING COMMITTEE

MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

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P1 [PD-PC] Development Application DA05/0923 for a Self-Storage Complex and Tweed Local Environmental Plan Amendment at Lot 11 DP 830660, Wommin Bay Road, Chinderah

ORIGIN:

Development Assessment

FILE NO: DA05/0923 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for a self-storage facility on a parcel of land zoned 6(b) Recreation. The development is currently prohibited under Tweed Local Environmental Plan 2000. In accordance with Section 72J of the Environmental Planning and Assessment Act, 1979 the Applicant is seeking an amendment to *Tweed Local Environmental Plan 2000* to facilitate the development by inclusion of the nominated land-use into Schedule 3 i.e. a site-specific permissible use.

The application was originally lodged with Council on 1 August 2005 and incorporated the construction of two main buildings containing two-storey storage units, a small office and associated car parking and loading bay provisions. The applicant was advised that the scale of the proposed development was inappropriate for the subject site.

Subsequent to consultation between the Applicant and Council's Development Assessment Unit on 8 November 2005, amended plans have now been submitted reflecting the negotiations at the meeting. That is, the proposal now incorporates only one two-storey storage unit building with associated car parking and access roadway.

In accordance with Section 72J of the Environmental Planning and Assessment Act 1979 this application seeks an Amendment to the Tweed LEP 2000 in addition to an approval for the structure through the Development Application process. If the Department of Planning approves the preparation of an amendment to the LEP the proposed amendment to Schedule 3 and the development application would be exhibited jointly. The determination of the development application would be deferred until the LEP amendment was determined by Council and if approved, was formally approved by the Department of Planning.

RECOMMENDATION:

That Council: -

- 1. Supports the proposed development in its amended form and resolves to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 to enable development for the purposes of a self-storage facility.**

2. Pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979 informs the Department of Planning of Council's intention to prepare a draft Local Environmental Plan.
3. Advises the Director General of the Department of Planning that in Council's opinion a Local Environmental Study is not considered required in this instance.

REPORT:

Applicant: Cudgen Leagues Club
Owner: Roads and Traffic Authority NSW Prop Serv
Location: Lot 11 DP 830660 Wommin Bay Road, Chinderah
Zoning: 6(b) Recreation
Cost: \$1,000,000

BACKGROUND:

Council is in receipt of a development application made in accordance with Division 4B of the *Environmental Planning and Assessment Act, 1979* comprising a proposed and presently prohibited development and a facilitating *Tweed Local Environmental Plan 2000* amendment.

The overall scale of the original design, incorporating two stages of two storey self-storage units within two separate buildings (resulting in a total of 250 sites), was considered to be inappropriate for the subject site. The applicant was advised that a single building would reduce the scale of the development and allow a more acceptable internal road network, as well as provide scope for additional car parking for the Leagues Club.

Subsequent to consultation between the Applicant and Council's Development Assessment Unit on 8 November 2005 amended plans have now been submitted. The amendments reflect the negotiation at the meeting

This report relates to the development as amended.

The subject land is known as Lot 11 DP 830660, Wommin Bay Road, Chinderah. The site is triangular in shape and has an area of approximately 5891m², with frontage to the Pacific Highway along the western boundary. The site has little vegetation, apart from the existing bowling green associated with the Leagues Club in the north eastern portion of the site. There is also an access road traversing the site to the existing Aged Care Facility on the adjoining property to the north. Access to the subject site is only available off Wommin Bay Road, through the Cudgen Leagues Club car park.

The proposed development comprises the erection of a two-storey self-storage facility. The development consists of the following principle elements:-

1. Filling of the land to Tweed Council's adopted design flood level of RL 3.3m AHD;
2. The construction of a two-storey storage building comprising:-
 - 76 storage units, internal lift well and loading bay area on the ground floor; and
 - 76 storage units on the first floor,

3. The provision of six (6) designated car parking spaces;
4. A building constructed of pre-cast concrete tilt up wall panels on the boundary elevations with colourbond walls and roller doors forming the remainder. The roof is proposed as colourbond roof sheeting;
5. Access road to the adjoining Aged Care Facility to provide wet weather access / egress when Murphys Road is closed due to flooding; and
6. Consolidation of the subject site with the Cudgen Leagues Club land (Lot 3 DP591720).

The total floor area of the proposed facility, not including the loading bay area, is 3264m².

SITE DIAGRAM:



DEVELOPMENT PLANS

PAT TAYLOR ARCHITECTS
 1/100 WILSON STREET, WILSON
 TWEED HEADS NSW 2486
 TEL: 66 555 555
 FAX: 66 555 555
 EMAIL: m.taylor@pat-taylor.com.au



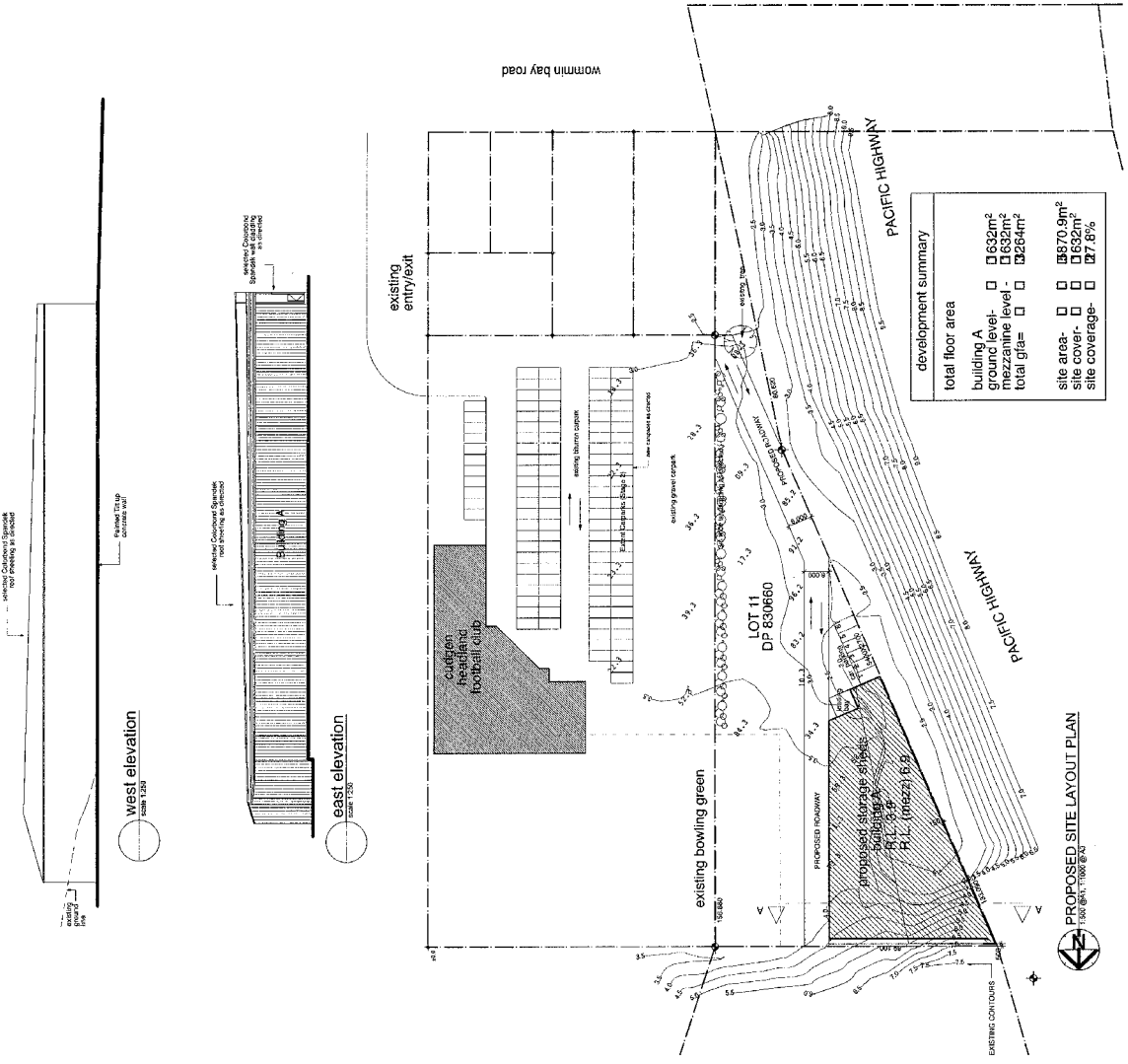
These plans are prepared in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. The plans show the proposed development and the site layout. The client is responsible for ensuring that the proposed development complies with all applicable laws and regulations. The client is also responsible for obtaining all necessary approvals from the relevant authorities. The client is advised that the proposed development may be subject to change without notice. The client is also advised that the proposed development may be subject to conditions of approval. The client is responsible for ensuring that the proposed development complies with all applicable laws and regulations. The client is also responsible for obtaining all necessary approvals from the relevant authorities. The client is advised that the proposed development may be subject to change without notice. The client is also advised that the proposed development may be subject to conditions of approval.

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Scale: AS SHOWN
 Date: 16/07/06
 Author: A.T.C./P.B.
 Draughtsman: P.A.T.
 Project No.: 3405102/DA/01

CLIENT:
 Cudgen Leagues Club

PROJECT:
 Proposed Storage,
 Wommin Bay Road
 Kingscliff
 NSW



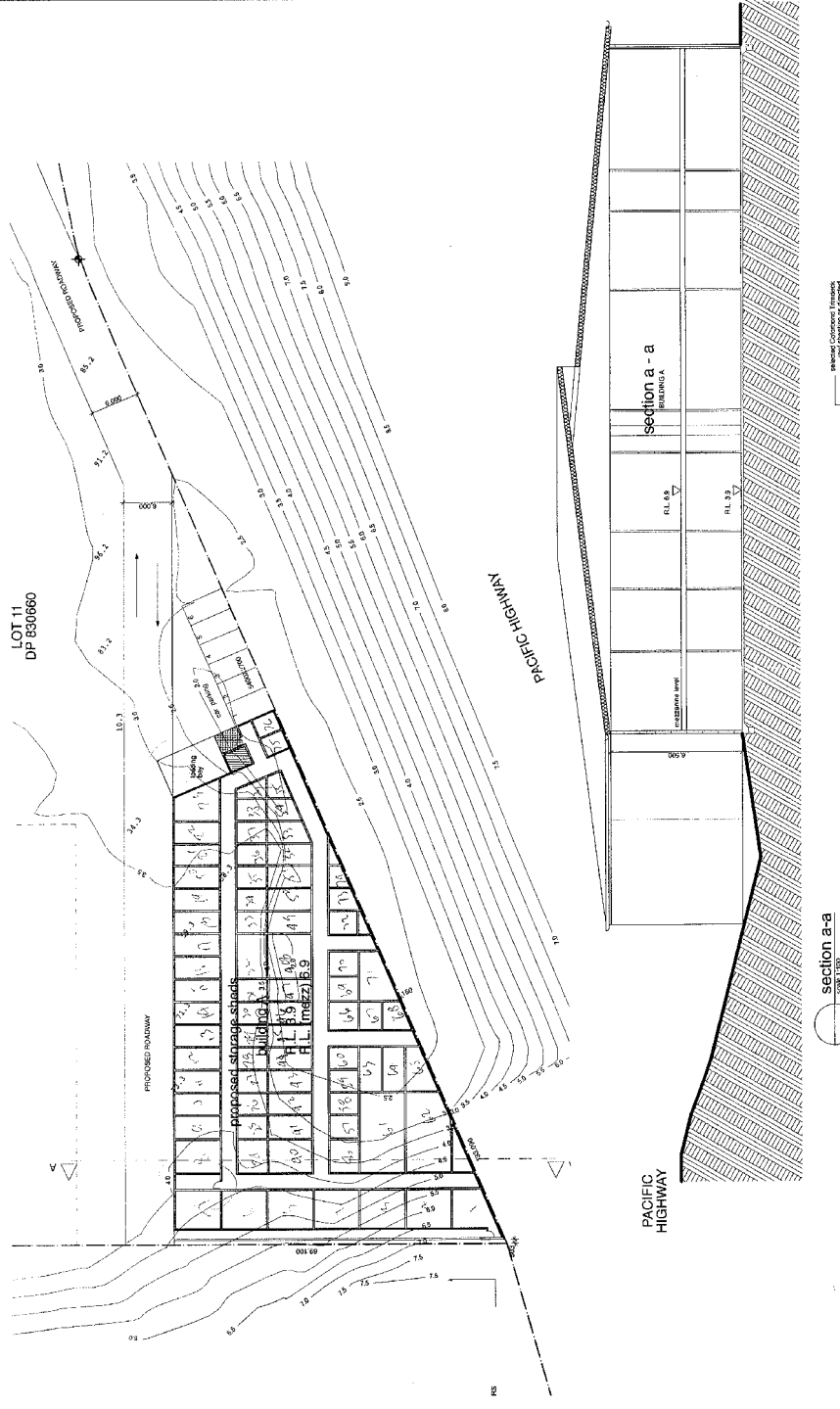
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 DATE: 10/5/06
 DRAWN: [NAME]
 CHECKED: P & T
 DRAW NO: 349304/DA/02

CLIENT: Cudgen Leagues Cl
 PROJECT: Proposed Storage - Pacific Highway Cudgen NSW



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 1:500

PLANNING CONSIDERATIONS:

Tweed Local Environmental Plan 2000

The land is zoned 6(b) Recreation under the Tweed LEP 2000. Storage units are a prohibited land-use in the zone. The Statement of Environmental Effects submits that appropriate planning justification for an amendment to the Tweed LEP exists, to enable the proposed development to be carried out on the land. Accordingly the applicant has made provision in the development application, pursuant to Section 72J of Division 4B of the *Environmental Planning and Assessment Act*, 1979 for the re-zoning (Schedule 3 amendment).

LEP Amendment

To enable the erection of a self-storage facility over the subject land Council can amend the Tweed LEP by either:

1. Amend the land-use zoning from 6(b) Recreation to another zoning, i.e. Industrial 4(a), or
2. Include the subject land in Schedule 3 (Development of Specific Sites) of the Tweed LEP, facilitating an exemption from the 6(b) Recreation zoning table for the specifically nominated land-use.

Option 1 is not a preferred option because it would permit a far broader application of the land and could provide for undesirable land-use intensification. Option 2, which is sought by the applicant, would limit development beyond the zoning provisions to that specifically nominated, and which is the preferred option.

The Applicant provides the following justification for the proposed rezoning:

- *The subject site is irregular in shape and as such does not favour its development for sports fields, private recreation or the like.*
- *The proposed use does not impact upon the ability of the surrounding recreational facilities to be utilised for their intended purpose.*
- *The proposed development of the land for a commercial enterprise (which does not rely on a town centre, industrial or road frontage site) represents an economic use of available land.*
- *The zoning of the land would remain 6(b) Recreation which would continue to prohibit other, less compatible developments on the site.*
- *The proposed development does not offend the visual or scenic amenity of the area.*

- *The proposed amendment would be consistent with existing policies, the North Coast REP 1988 and the Tweed Shire 2000+ Strategic Plan.*”

The site is unique by its circumstance in that by virtue of its size, shape, topography and proximity to the Pacific Highway it is not, despite its 6(b) Recreation land-use zoning, suitable for future recreational purposes. In addition, the land's suitability for development generally, is constrained by potential impacts upon adjoining residences and its ingress / egress through the existing Cudgen Leagues Club car park. In this regard, the proposed land-use per-se appears to be a reasonable design response to the further development of the land.

In light of the above and having regard to the 6(b) Recreation zoning of the land, the proposed development, as amended, is considered justified.

North Coast Regional Environmental Plan

The proposal is consistent with both the plan preparation and development control provisions of the NCREP 1988. The relevant clauses are discussed below:

Clause 15 - Development control - wetlands or fishery habitats

The site is not adjacent to a waterway. However, consideration needs to be given to the quality of water leaving the site and its impact on waterways. Management measures during both the construction and operational phase of the development are proposed to ensure that the proposal complies with the provisions of the Tweed Urban Stormwater Quality Management Plan. This is to be assessed by Council's Infrastructure Engineer.

Clause 32A - Plan preparation - coastal lands

This clause applies to land to which the NSW Coastal Policy applies. It requires that a draft LEP shall include provisions which are consistent with the Coastal Policy and it also contains requirements in respect of development in coastal protection zones and on dunes, beaches and headlands.

The proposal and any future Tweed LEP amendment will be consistent with the provisions of this clause.

Clause 32B - Development control - coastal lands

This clause applies to land covered by the NSW Coastal Policy 1997 and the North Coast Design Guidelines.

The North Coast Design Guidelines contains general principles concerning the location of development, particularly in relation to development on headlands and ridges, foreshores, wetlands, rainforests, inland waterways and hilly country. The proposal is consistent with the locational criteria in this document. The remainder of the document primarily concerns itself with residential and tourist development, which is not applicable to this proposal.

Clause 39 - Plan preparation - retail, commercial or business activities

This clause requires that a draft LEP for the establishment of significant retail, commercial or business development is to meet certain locational criteria. The proposal does not constitute "significant" commercial development, and therefore this clause does not apply.

Clause 45A - Plan preparation - flood liable land

The proposal does not seek to 'rezone' the land in a colloquial sense but rather amend the prohibited development schedule through a specific land-use inclusion in Schedule 3 of the Tweed LEP. Under the current zoning and Council policies the land would have to be filled to 3.3m AHD for commercial development, with the applicant to provide further detail in this regard. This is to be assessed by Council's Infrastructure Engineer.

Clause 47 - Plan preparation and development control - principles for commercial and industrial development

The clause requires that before preparing a draft LEP relating to commercial or industrial development, the Council should take into account a number of principles. These principles relate to the maintenance of strong multi-functional town centres, incorporation of flexible provisions in the LEP to enable the development of light service industry near the CBD, and the adequate supply of industrial zoned land.

The proposed rezoning is a facilitating amendment only that seeks to permit the orderly and economic development of a heavily constrained allotment zoned for recreational purposes. The nature of the proposed development is not considered likely to have a detrimental impact upon existing industrial/commercial or town centre areas nor will act as a catalyst for further development. In this regard, the proposal is consistent with these principles.

NSW Coastal Policy 1997

The subject land is affected by the NSW Coastal Policy. The Policy is essentially a strategic management document that sets out *directions to be taken by local and state government in the planning and management of the coast .. (it) is underpinned by a number of principles which are designed to guide decision making and to clarify the basic philosophy of the goals.*

The Policy is required to be given effect, where necessary, through specific planning instruments. This application does not raise any inconsistencies in respect of those provisions.

State Environmental Planning Policy No.71 – Coastal Protection

The site is within the coastal zone and therefore the provisions of the Policy apply. When preparing a draft local environmental plan and determining a development application, the Council as consent authority must take into consideration the matters outlined in Part 2 of the Policy. With respect to those matters of relevance the Applicant provides:

- “
- *the site is well removed from natural waterways,*
- *the proposal does not generate the need to provide any new public access to, or along, the foreshore,*
- *the development would not be visible from the foreshore,*
- *the site is not affected by coastal processes,*
- *the development would not adversely impact on flora and fauna, and*
- *there are no known heritage items on, or within close proximity of, the site.”*

With respect to the matters in Part 4 of the Policy, it is commented that:

- *The proposal would not affect the right of access of the public to or along the foreshore.*
- *Effluent would be disposed of by a reticulated system.*
- *The development would not discharge untreated stormwater to the sea or creek.*

It is contended that the proposal is consistent with the aims of the Policy, this view is concurred with.

Section 117 Directions

Section 117 Direction No. 7 Commercial and Retail Development along the Pacific Highway, North Coast is applicable to the proposal. Although the proposed storage units adjoin the Pacific Highway Road Reserve, they do not rely upon this frontage for access or egress to the site. Access to the property will be via Wommin Bay Road, and it is not considered that the proposal will impact upon the efficiency or the safety of the highway. In terms of land use, the proposed storage unit development is consistent with the highway's function as a major traffic corridor. In this regard, the traffic noise, fumes and the like which are associated with the highway, are not expected to impact upon the development. It is considered that the utilisation of this portion of land, which is no longer required by the RTA for the highway, is consistent with the objectives as they relate to this direction.

Section 117 Direction No. 14 Farmland of State and Regional Significance on the NSW Far North Coast applies to farmland within the Tweed Shire. A review of plans and maps associated with this direction indicate that the land is not identified as Regionally or State Significant Farmland. Therefore, the proposal is considered to be consistent with the provisions of this direction.

LEP Pro forma – Category 1: Spot Rezoning

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| <p>Will the LEP be compatible with agreed State and Regional Strategic Direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?</p> | <p>Yes. The draft LEP does not propose to rezone the land. The purpose is to address the permissibility of self-storage units within the current 6(b) zone. It does not create any issues of strategic significance in a state or regional context.</p> |
| <p>Will the LEP implement studies and strategic work consistent with State and Regional policies and Ministerial (s.117 Directions)?</p> | <p>The draft LEP is considered to be consistent with the relevant Section 117 Directions (as noted above) and State and Regional policies.</p> |
| <p>Is the LEP located in a global/regional city strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?</p> | <p>No.</p> |
| <p>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</p> | <p>The draft LEP will facilitate the generation of permanent employment and it is expected that the storage facility will result in a net increase in employment of about two (2) to three (3) jobs, in addition to employment generated during the construction phase.</p> |
| <p>Will the LEP be compatible/complimentary with surrounding land uses?</p> | <p>Surrounding land uses include the Pacific Highway, sporting facilities and clubhouse, an aged care facility and low-density housing. Noise, fumes, odour and the like generated from surrounding development are not expected to affect the proposed development. Likewise, it is not considered that the proposal will generate any impacts, which will have a detrimental affect on surrounding land uses.</p> |
| <p>Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?</p> | <p>As the subject site is located adjacent to the Pacific Highway, but within an existing urban setting, it is considered that the draft LEP is unlikely to create a precedent or affect the expectations of the landowner or other landholders in the surrounding area.</p> |
| <p>Will the LEP deal with a deferred matter in an existing LEP?</p> | <p>No.</p> |
| <p>Have the cumulative effects of other spot rezoning proposals been considered? What was the outcome of these considerations?</p> | <p>There are no other known spot rezoning proposals in the locality.</p> |

Acid Sulfate Soils

The land is identified as Class 3 on Council's Acid Sulfate Soil Planning Map. The site appears to have been subject to previous disturbances and filling. As the proposal would incorporate additional filling, and it is unlikely that Acid Sulfate Soils would be disturbed, further investigation for the presence of acid sulfate soils is not considered necessary at this stage. Additional information yet to be provided by the applicant in relation to cut and fill will determine if further ASS investigation will be necessary.

Designated Roads

Although the subject site has frontage to the Pacific Highway, which is a designated road, access off the Pacific Highway is not proposed. Access to the site is only available through the existing road network, off Wommin Bay Road via the existing car park associated with the Leagues Club. Therefore, Clause 22 of the Tweed LEP 2000 is considered to be satisfied in that matters relating to traffic safety and efficiency, traffic noise and scenic quality have been satisfactorily addressed. It should be noted that the Roads and Traffic Authority are yet to provide comment on the proposed development.

Stormwater

The original proposal for this site raised several engineering issues in relation to stormwater management and the proposed use of the existing stormwater drainage system within the road reserve of the Pacific Highway. The applicant has advised that additional supporting information is currently being prepared, including consent from the Roads & Traffic Authority for use of the existing stormwater easement. Council's Infrastructure Engineer will provide comment in this regard upon receipt of the additional information.

Earthworks

As the subject site is flood liable, any proposed development will require the site to be filled to enable the minimum floor level of the all storage units to be above the design flood level. The applicant has been requested to provide a geotechnical assessment of the site, incorporating the proposed cut and fill earthworks for the development. Council's Infrastructure Engineer will provide comment in this regard upon receipt of the additional information.

Bushfire Hazard

The subject site is identified as being located within a bushfire prone area. Subsequently, the applicant has prepared a bushfire assessment report, which will be forwarded to the Local Branch of the Rural Fire Service for comment.

Access & Traffic

As the subject site is land locked, and access not available from the Pacific Highway, access is only available via Wommin Bay Road and Sand Street and then over private land owned by the Leagues Club, which is currently used for car parking purposes. Council's Development Assessment Engineer will provide comment with regard to the proposed road network and parking provisions for the amended design. It should be noted that the proposed development incorporates a new access road through to the adjoining aged care facility to the north. The purpose of this road is to provide emergency access only or when access to Murphys Road is flooded and not trafficable. The impact of this proposed road upon the existing road network will be incorporated into Council's assessment of the amended design.

Noise

The self-storage facility is proposed to operate between the hours of 7.00am and 8.00pm, seven days a week. The impact of the proposal upon the neighbouring residences is to be assessed by Council's Environment and Health Service Unit. Preliminary assessment of the proposal indicates that noise impacts, due to mainly the movement of vehicles, are likely to be minimal given the proximity of the Pacific Highway to the west of the subject site.

OPTIONS:

Having regard to the issues raised in this report it is considered that the most appropriate response to the proposal is contained in the options provided below.

1. (i). Council support the proposed development in its amended form and resolve to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 to enable development for the purposes of a self-storage facility, and
(ii) Pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979 inform the Department of Planning of Council's intention to prepare a draft Local Environmental Plan, and
(iii) Advise the Director General of the Department of Planning that in Council's opinion a Local Environmental Study is not considered required, in this instance, or
2. Resolve not to support the proposed rezoning to facilitate a self-storage facility over Lot 11 DP 830660, Wommin Bay Road, Chinderah.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If Council determines not to resolve the draft Plan the applicant does not have a right to appeal in the Land & Environment Court.

POLICY IMPLICATIONS:

Amending Schedule 3 to Tweed LEP would be based on a merit assessment in accordance with the provisions of the Act and would therefore not set a precedent or have any unforeseen policy implications.

CONCLUSION:

Having regard to matters raised in this report the construction of the proposed facility is considered to be reasonable in the circumstances of the case. As Tweed LEP 2000 does not have provision to enable the approval of the facility it is necessary that the subject land be included in Schedule 3 of the LEP in order for the proposal to proceed.

In addition to the above, Council is requested to seek the dispensation of the Director General of Planning NSW for the necessity to prepare a Local Environmental Study having regard to the circumstances of this case and in light of the existing environmental characteristics of the subject land and its locality.

On balance the proposed facilitating LEP amendment and dispensation of a Local Environmental Study is considered satisfactory.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P2 [PD-PC] Section 96 Application DA02/1147.03 for an Amendment to Development Consent DA02/1147 for Demolition of Warehouse, Construction of Commercial & Residential Premises at Lot 9 DP 17554, Sands Street Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA02/1147 Pt3

SUMMARY OF REPORT:

Council is in receipt of an application to amend a development consent that was granted by Council in December 2002 for the demolition of a warehouse and construction of commercial and 11 unit residential premises in Sands Street, Tweed Heads. The applicant is seeking to modify the internal layout, which results in one additional residential unit, as well as some minor external amendments.

The original application was recommended for refusal by Council's Development Assessment Unit, but was subsequently approved by Council. One of the reasons for refusal was the proposal's non-compliance with Development Control Plan No. 2 – Site Access and Parking Code.

The applicant has amended the design of the proposed modifications in an effort to minimise any non-compliance with DCP 2. The proposed amendments have been assessed in detail with regard to Council's car parking requirements and the amended development is recommended for approval.

RECOMMENDATION:

That Section 96 Application DA02/1147.03 for an amendment to Development Consent DA02/1147 for demolition of warehouse, construction of commercial & residential premises at Lot 9 DP 17554, Sands Street Tweed Heads be approved subject to the following amended conditions: -

1. Condition No. 1A be AMENDED to read:

'The development shall be completed in accordance with *Dwg's: P404 WD02(Rev F); WD03(Rev E); WD04(Rev D); WD05(Rev D); WD06(Rev E); WD07(Rev E); WD08(Rev E); and WD09(Rev E) prepared by Glen Petersen Architect Pty Ltd and dated May 2006* and the Statement of Environmental Effects, except where varied by these conditions.'

2. Condition No. 9A be AMENDED to read:

'Section 94 Contributions

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges are valid for the date of issue of Section 96 application DA02/1147.03 only and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- a. Tweed Road Contribution Plan: \$7,102
S94 Plan No. 4 (Version 4.0)
(Sector1_4 Tweed Heads)

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tones

Dist. average haulage distance of product on Shire roads (trip one way)

| | | |
|---------------|--|---------------------------|
| \$Unit | the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre) | |
| | Admin. Administration component - 5% - see Section 6.5 | |
| b. | Open Space (Structured): S94 Plan No. 5 | <u>\$6,121</u> |
| c. | Open Space (Casual): S94 Plan No. 5 | <u>\$1,309</u> |
| d. | Shirewide Library Facilities: S94 Plan No. 11 | <u>\$5,399</u> |
| e. | Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13 | <u>\$1,084</u> |
| f. | Emergency Facilities (Surf Lifesaving) S94 Plan No. 16 | <u>\$1,673</u> |
| g. | Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18 | <u>\$11,576.28</u> |
| h. | Cycleways S94 Plan No. 22 | <u>\$2,770</u> |
| i. | <u>Shirewide Car Parking</u> <u>S94 Plan No. 23</u> | <u>\$34,980</u> |
| k. | Regional Open Space (Structured) S94 Plan No. 26 | <u>\$18,236</u> |
| l. | Regional Open Space (Casual) S94 Plan No. 26 | <u>\$6,691</u> |
| m. | <u>Tweed Heads Master Plan:</u> <u>S94 Plan No. 27.</u> | <u>\$1,047.00</u> |

3. Condition No. 10A be AMENDED to read:

‘A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

| | |
|---|-----------------|
| <u>Water DSP4: 7.415 ET @ \$4598</u> | <u>\$34,094</u> |
| <u>Sewer Tweed Heads: 7.835 ET @ \$6688</u> | <u>\$52,400</u> |

These charges are valid for the date of issue of Section 96 application DA02/1147.03 only and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.'

4. The following new DUR condition is to be ADDED as Conditions 42A:

'The provision of nineteen (19) off street car parking spaces. A minimum of five (5) unburdened spaces shall be marked as visitor spaces and maintained accordingly. In addition, one (1) combined car wash bay / delivery bay shall be marked and maintained accordingly. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.'

REPORT:

Applicant: Kim Kennedy & Associates
Owner: T.H.E. Home Company Pty Limited
Location: Lot 9 DP 17554, Sands Street Tweed Heads
Zoning: 3(a) Sub-Regional Business

BACKGROUND:

Development Consent for the demolition of a warehouse and construction of commercial and 11 unit residential premises was approved 5 December 2002. An application to modify the consent was lodged with Council on 15 November 2005.

The original application was recommended for refusal by Council's Development Assessment Unit, but was subsequently approved by Council. One of the reasons for refusal was the proposal's non-compliance with Development Control Plan No. 2 – Site Access and Parking Code. The non-compliance was the inability to provide a separate car wash bay and delivery space for the commercial component of the development. The approved development incorporates a combined visitor space / car wash bay and a combined visitor space / delivery bay at the entrance to the car park area.

The initial amendments to Development Consent DA02/1147 were not considered to comply with the requirements for on-site parking for residential and commercial development under Development Control Plan 2 – Site Access and Parking Code, and the applicant was advised that the application would not be supported. Accordingly, the applicant further amended the design of the proposal so that only one (1) additional residential unit was proposed, and the development is now considered to largely comply with Council's parking requirements.

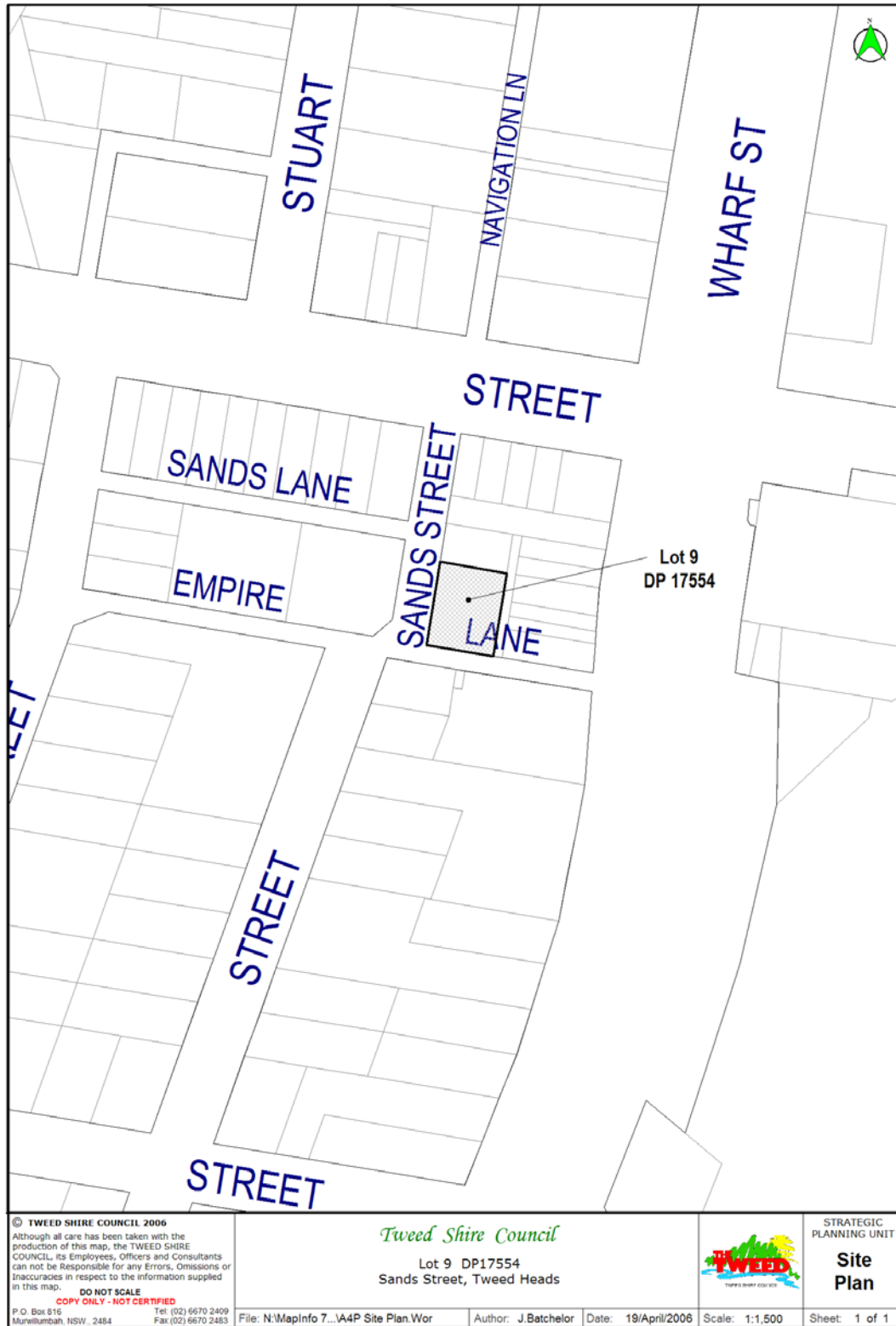
Proposed Development

The applicant has proposed the following modifications:

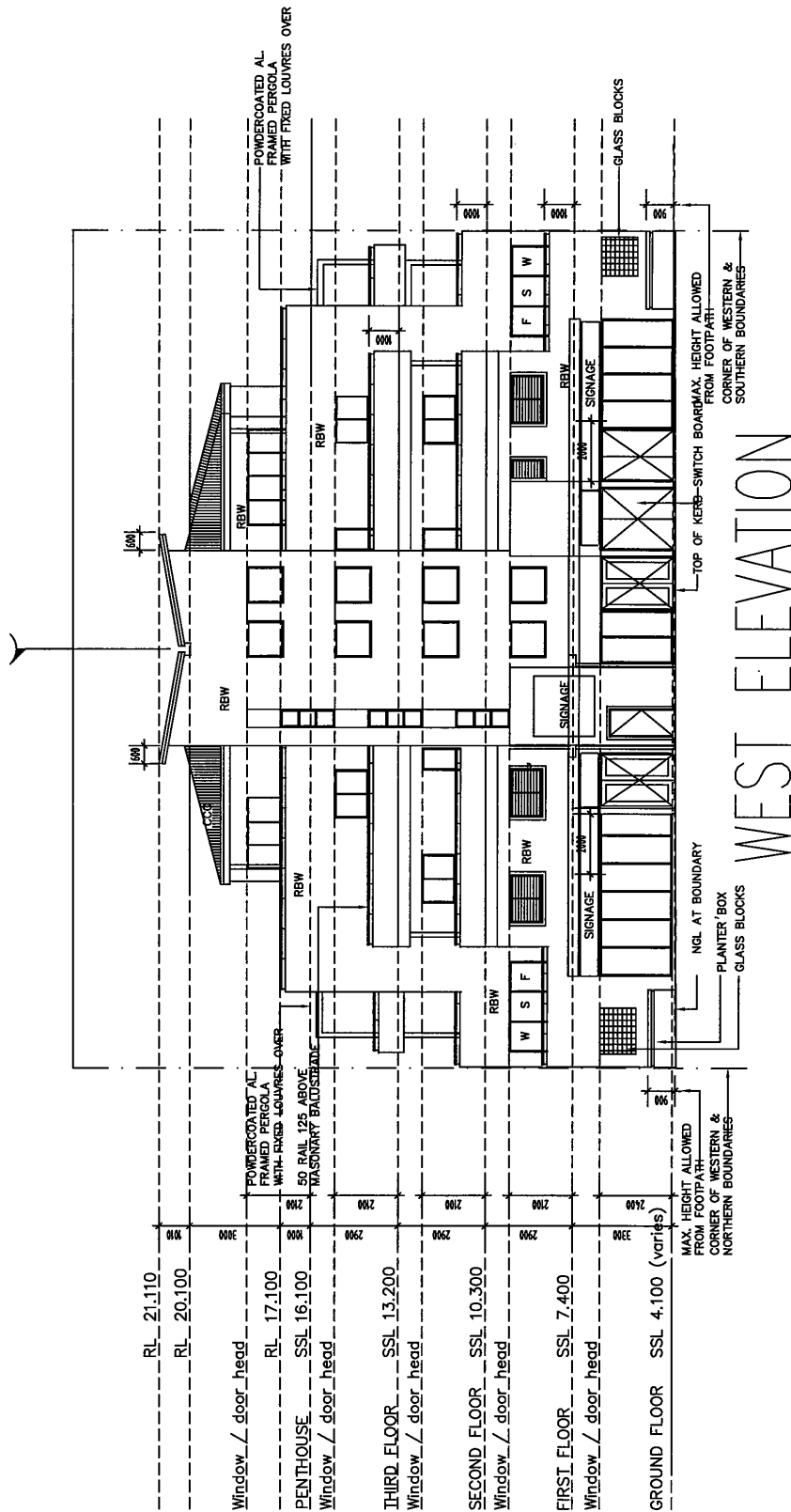
- *The original 3-bedroom unit on the second floor has been amended to now provide 1 x 2-bedroom unit and 1 x 1-bedroom unit. Although the total number of bedrooms remains unchanged, the number of residential units increases by one to a total of twelve (12) units;*
- *The addition of north and south facing balconies to Level 3 being in a similar location but smaller than the balconies presently approved on Level 2;*
- *The internal design of each unit has been amended slightly to provide a better layout for each of the residential units;*
- *The four eastern balconies on Levels 2 & 3 have been removed, reducing the external extent of the building;*
- *A small reduction in the ground floor commercial floor space to address BCA requirements;*

- *The central portion of the light well on Levels 1, 2 & 3 has been reduced for safety/security reasons. Although this has slightly increased the available internal floor area on these levels, the external appearance remains the same;*
- *Replacing planter boxes with feature potted plants to eliminate a common cause of future problems for residents and unsightly building appearance (all planter box waterproofing methods seem to break down after a period and leakage occurs). Larger more decorative landscaping is proposed;*
- *The addition of shading devices to the north facing windows of Level 3; and*
- *The reduction in light wells has allowed a better roof design. Whilst keeping the architectural feature on the western face of the building fronting Sand Street, the remainder of the roof has been amended to improve the architectural appearance without increasing the overall height.*

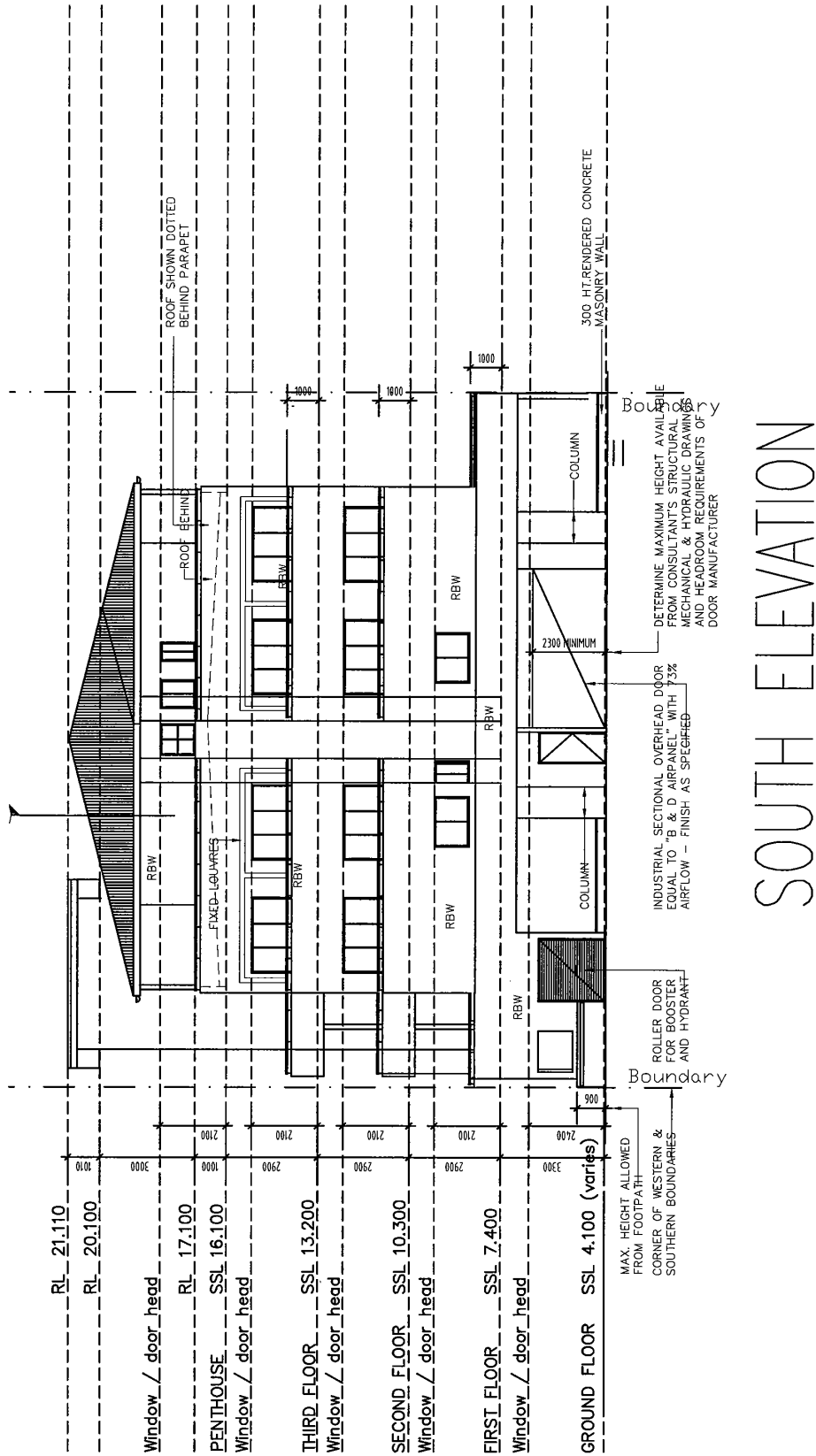
SITE DIAGRAM:

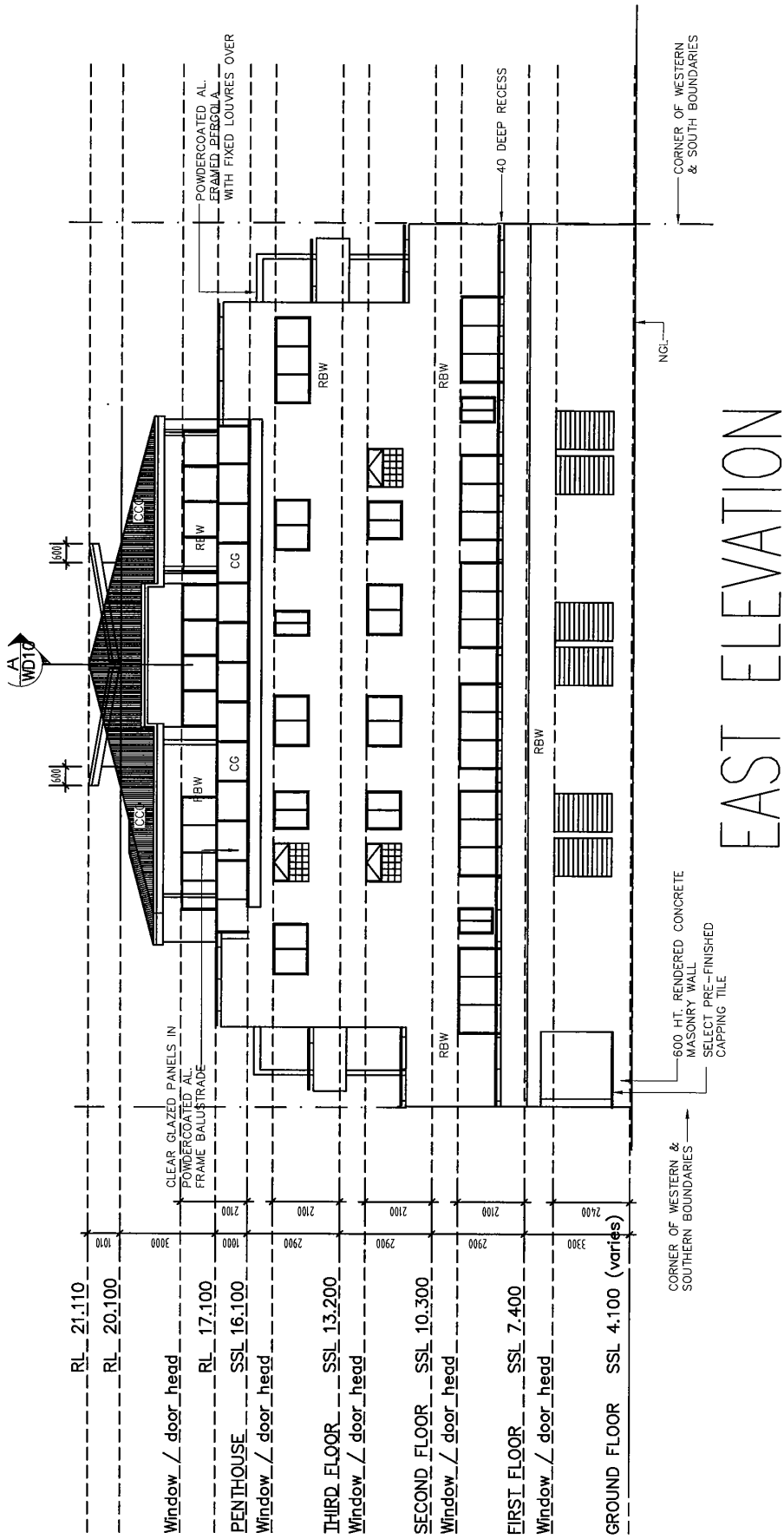


ELEVATIONS:

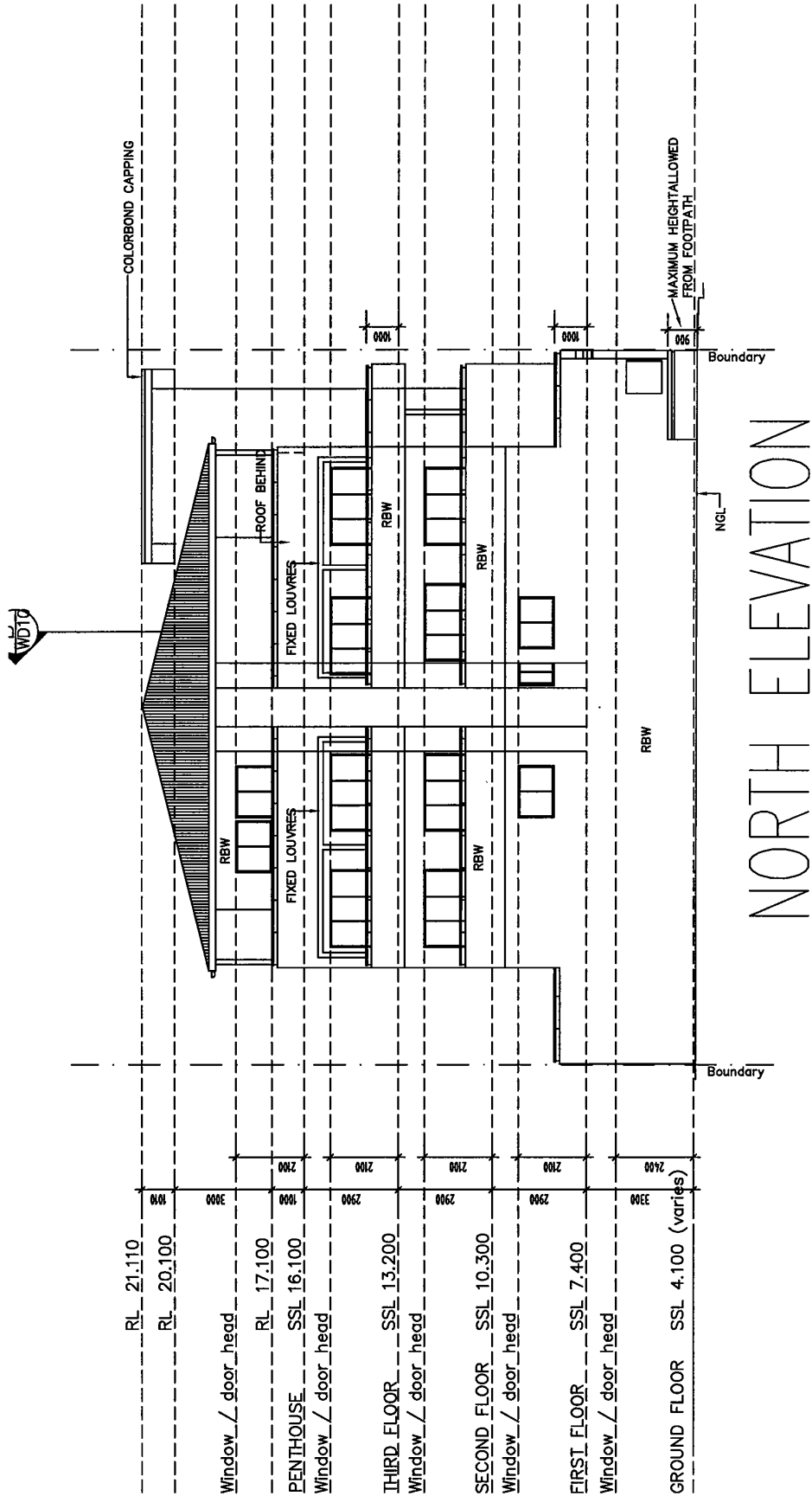


WEST ELEVATION





EAST ELEVATION



NORTH ELEVATION

ASSESSMENT UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Substantially the Same Development

The proposed modifications generally incorporate mainly minor internal amendments, along with some minor external changes. Although the proposed amendments to the originally approved development are relatively minor, the proposed internal layout changes results in changes to the car parking requirements for the development. The impacts of such changes are discussed in detail below.

Likely Environmental Impact

Car Parking Provisions

This assessment has primarily dealt with the car parking impact, resulting from the proposed amendments. The proposed modifications result in one (1) additional unit, creating a total of twelve (12) residential units within the development. Under Development Control Plan No. 2 – Site Access and Parking Code, 12 residential units generate the need for **18** spaces, incorporating 4.5 visitor parking spaces. The commercial component of the development requires 2 additional spaces. DCP 2 also requires a further 2 spaces; one for delivery purposes and a second for a car wash bay. This results in a total of **22** spaces being required (see table below). The proposed development provides **19** on-site spaces.

| Use | Requirement under DCP 2 | Proposed Development |
|--|---|---|
| Residential Dwellings (12 Units) | 1.5 per dwelling (incl 25% for visitors) = 18 spaces with 4.5 (say 5) spaces marked for visitors | 15 residential, 1 disabled car park and 3 visitor spaces are proposed within the ground level car park. See comments below. |
| Commercial Premises (2 premises totalling 71sqm in floor area) | Customer Parking (71/100 x 3.5) x 30% = 0.75 spaces Staff Parking (Adopt 2 staff per premises) = (2 staff x 2 premises x 0.5) x 80% = 1.6 spaces Total required = 2.35 (say 2) spaces | The ground floor car-parking layout does not provide for customer parking provisions. See comments below. |
| Delivery Space Car Wash Bay | 1 space 1 space | The development proposes 1 combined visitor/car wash bay space and 1 combined visitor/ delivery space – does not comply with DCP 2 requirements. See comments below. |
| Total | 22 spaces | 19 spaces |

The applicant's original Section 96 application to modify Development Consent DA02/1147 was based on 13 residential units rather than 12. This created a need for a total of 24 on-site spaces, with the applicant only able to provide 19 on-site parking spaces. In order to justify such a variation to the DCP 2 requirements, the applicant provided a detailed submission relying upon RTA Guidelines as well as results from an analysis of the 2001 Census data in support of a lower car parking requirement. After a thorough assessment of the proposed development, the applicant was advised that the proposed modifications for 13 units was not going to be supported by Council's Development Assessment Unit. Such a reduction to the parking requirements in the Tweed CBD area was considered likely to create an undesirable precedent, which was not in the public interest.

In light of this advice, the applicant amended the design of the residential component of the development to that of the current proposal for 12 units. In doing so, some variations in terms of parking requirements for the commercial component of the development and delivery bay / car wash bay provisions, are considered satisfactory.

Delivery Bay / Car Wash Bay

The proposed development incorporates a combined visitor space / delivery bay and combined visitor space / car wash bay. The applicant's argument that two separate spaces for car wash bay and delivery bay provisions are excessive for the proposed development is acknowledged. A combined car wash bay / delivery space is considered to be more appropriate.

This would allow the residential and visitor spaces to be kept clear. Given the small component of commercial premises within the development (operating during the week) and the majority of residents washing their vehicles on a weekend, it would seem acceptable to combine the car wash bay with the delivery bay, rather than require separate spaces in such a limited area. This would reduce the required car spaces to **21**.

Car Parking Credit

The applicant originally submitted that credit should be given for the four (4) existing off-site parking spaces adjacent to the subject site, located along Sand Street, stating that... *'the previous uses of the site have involved a parking requirement on-site for at least 4 parking spaces. These were not provided on-site but suitable arrangements were made with Council for the provision of such parking off-site'*.

Council's records indicate that the only previous approval for the subject site was for a bulk store, approved by Council on 17 February 1965. The consent issued for the establishment of the bulk store was approved without mention of any car parking requirements, nor did the approved plans indicate the provision for any car parking.

If the previous use had paid contributions for the four spaces, an opportunity would exist for the use of the off-site spaces as credit spaces for the subject site. However, this would only apply to the commercial component of the proposed development. In any event, Council records do not indicate that contributions were paid for the four spaces and the applicant has not provided any evidence to substantiate the claims that such provisions were made.

Given the limited amount of public car parking in the CBD area, it is not considered appropriate to allow the proposed development use of any of the off-site spaces, in terms of meeting the DCP 2 requirements for residential development. Council has not supported this type of parking space credit use in the past. To do so now would set an undesirable precedent, and further exacerbate the parking shortage in the Tweed CBD area. In any event, Council records do not indicate that the four on-street parking spaces are linked to the subject site in any way. Therefore, the use of these spaces as credit is not supported.

Cash Contributions

As the subject site is located within the Tweed Heads CBD area nominated within DCP 2, there is an opportunity for the applicant to pay a cash contribution (pursuant to the provisions of Section 94 Plan No 23 – Off-Site Parking) in lieu of supplying the two spaces required for customer and staff parking, in relation to the commercial component of the development.

This would further reduce the on-site car parking requirements to that of **19** spaces, which can be provided in the development. The applicant has continued to argue against Council's recommendation to require cash contributions for any spaces, stating that... *'as the site retains the credit for parking spaces, Council would be double dipping to again charge for off-site spaces already paid for.'*

As noted above, there is no record of the four on-street spaces being linked to the subject site, nor are there any records in relation to cash contributions for such an arrangement. Therefore, it is recommended that the applicant be required to pay cash contributions (pursuant to the provisions of Section 94 Plan No 23 – Off-Site Parking) in lieu of supplying the two spaces required for customer and staff parking, in relation to the commercial component of the development.

Car Parking Arrangement

Although the ground floor car parking arrangement is not desirable in terms of manoeuvrability, the proposal has provided the minimum number of residential spaces on-site. As noted above, the car wash bay / delivery space is to be combined and the applicant required to pay cash contributions in lieu of the required commercial component.

The applicant has proposed a disabled car space (allocated to Unit 10) within the area outside the security gate. This location seems reasonable in order to provide a wider, more accessible space in accordance with Australian Standard requirements. This leaves only 2 visitor spaces within the non security area of the car park. Although this arrangement is not desirable in that the remaining 3 visitor spaces (as required by DCP 2) will need to be located within the security portion of the car park.

Given that the proposed layout is similar to that already approved for the original application, it is considered reasonable to accept the proposed car parking arrangement as being satisfactory for the purposes of DCP 2 provisions.

Conclusion

As detailed above, the proposed modifications are considered to be satisfactory in terms of compliance with the provisions of DCP 2. With regard to the overall proposed interior and exterior modifications, they too are considered to be acceptable in that they result in little change to the appearance of the proposal originally approved. It appears that all proposed changes are minor amendments with little or no impact resulting on the surrounding environment.

Contributions

The applicant has requested that... *'as the use of the subject site was a single residential dwelling ... any s94 and s64 contributions for the proposed development take into account the former single dwelling that occupied the site and provide a credit for this former use'*.

An assessment of the calculation of developer contributions applied to the originally approved development (DA02/1147) indicates that credit has already been given for the previous use on the site, that being a warehouse (bulk store). Therefore, the applicant's request for further credit is not supported. Current Council contribution rates have been applied for the additional one (1) residential unit. These fees have been added to the original fees, noting that the rates and indeed contribution plans have been amended since the original fees were calculated.

Consideration of Submissions

The proposed modifications were not required to be advertised or notified. As such, no submissions were received.

Public interest

The proposed modifications to Development Consent DA02/1147 are considered to be acceptable in terms of public interest. Given the majority of the required car parking provisions are to be provided on-site, with the applicant being required to pay cash contributions in lieu of the two car spaces for the commercial component of the development, the proposed modifications are not considered to result in a negative impact upon the existing public car parking provisions in the surrounding area.

OPTIONS:

1. Approve the proposed modifications that result in one additional unit, giving a total of twelve (12) residential units, subject to the recommended amendments to Development Consent DA02/1147.
2. Refuse the application, leaving the applicant with the existing approval for a mixed-use development incorporating only eleven (11) residential units.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal if dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having regard for all of the issues raised by the proposed amendments to the previously approved mixed-use development, the proposed modifications are considered to be acceptable. The amendments generally incorporate mainly minor internal and external changes to the original design. As noted above, a detailed assessment has been conducted with regard to the car parking impacts as a result of the additional residential unit. As such, it is considered that the proposal warrants approval, subject to the recommended amendments to Development Consent DA02/1147.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P3 [PD-PC] Development Application DA05/0881 for Additions & Alterations to Church at Lot 35, 36, 37, 38, 39 DP 249808, No. 22-30 Sand Street, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA05/0881 Pt2

SUMMARY OF REPORT:

An application has been lodged which seeks consent to alter and make additions to Kingscliff Christian Church. The proposal involves the construction of a 284 seat auditorium and car park, alterations and additions to the existing building including a café, crèche, meeting rooms and an office area and a children's church room. The proposal also involves the conversion of a dwelling house into an office and consulting rooms which will be used as the primary office/administration centre for the Church. All the proposed uses are consistent with the definition of a public place of worship.

The site currently occupied by a building which is used as a place of public worship and a dwelling house. The site has frontage to Sand Street is generally flat and clear of vegetation.

The proposed place of public worship is consistent with the Tweed Local Environmental Plan 2000, State Environmental Planning Policy No. 11 and State Environmental Planning Policy No. 64. The proposed development is generally consistent with Development Control Plan No. 2 – Site Access and Parking Code.

Three (3) submissions have been received to date objecting to the proposed development. The main issue raised in the submissions included noise and car parking. It should be noted that the plans were amended after the exhibition period of the development application resulting in the deletion of all on-street car parking.

RECOMMENDATION:

That Development Application DA05/0881 for additions & alterations to the church at Lot 35, 36, 37, 38, 39 DP 249808, No. 22-30 Sand Street, Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos:

- SD101, Revision P4, 'Site Plan' prepared by Fulton, Trotter and Partners Architects and dated 13/04/2006,
- SD 104, Revision P3, 'Basement Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD102, Revision P4, 'Ground Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 13/04/2006,
- SD103, Revision P3, 'Mezzanine Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD105, Revision P3, 'Roof Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD106, Revision P3, 'Indicative Elevations and Sections' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- Geotechnical Investigation Report and Acid Sulfate Soils and Dewatering Management Report prepared by Bordertech Geotechnical Engineering Services, except where varied by the conditions of this consent.

[GEN0005]

2. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[GEN0045]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

4. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

5. The crèche kitchen shall be of commercial grade construction complying with AS4674 (no cavity walls etc).

[GENNS01]

6. The premise shall be constructed and operated in accordance with the Environmental Noise Impact Report, TTM Consulting, 15 December 2005 (refer Parts 7.2.1 and 7.2.2 of the Report). Noise levels of all plant and activities shall meet the Assessment Criteria specified under Part 5.0 of the Report and acoustic barriers shall be constructed as per sketch plan 1.

[GENNS02]

7. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act 2003* and Australian Standard *AS4674 - Design, Construction and Fitout of Food Premises*.
[GENNS03]
8. All mechanical ventilation shall comply with *AS1668.2 Ventilation Requirements*.
[GENNS04]
9. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
[GEN0065]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

11. The site is to be filled to a minimum level of RL 3.3m AHD. The fill is to be retained by perimeter structural walls with concrete lined perimeter drainage or other approved treatment. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimizing the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

12. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
 - (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 3.6m AHD.
 - (b) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.

- (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage. [PCC0705]
13. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- (a) The provision of adequate vehicular access in accordance with Council's 'Vehicular Access to Property Construction Specification' pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.
- (b) The driveway is to be constructed 6 metres wide at the property boundary and 8 metres wide at the kerb line with a uniform taper.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
 - Stormwater drainage
 - Water and sewerage works
 - Sediment and erosion control plans
 - Location of all services/conduits
 - Traffic control plan
- [PCC0895]
14. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems. [PCC1105]

15. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

16. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Tweed Shire Council PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

17. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval.

[PCC1265]

18. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

[PCC1275]

19. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

20. Prior to issue of the Construction Certificate a report shall be provided to Council by a suitably qualified person which specifies requirements for installation and noise amelioration of plant. After installation and prior to operation compliance testing shall be conducted and a validation statement provided to Council. All plant shall comply with that report.

[PCCNS01]

21. Prior to the issue of a construction certificate a construction management plan, to the satisfaction of the Director of Environment and Community Services, shall be submitted to Council. All work shall comply with the approved construction management plan.

[PCCNS02]

22. A detailed landscaping plan shall be submitted to Council for approval and shall be to the satisfaction of Council's Landscape Architect and the Director of Planning and Development.

[PCCNS03]

23. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. OSD devices including discharge control pits (DCP) are to comply with standards in *The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999"* except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP.

[PCC1165]

24. The developer shall provide 71 parking spaces including parking for the disabled in accordance with Development Control Plan No. 2, AS 2890 and Austroads Part 11.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0065]

25. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

| | |
|-----------------------------------|----------------|
| (a) Tweed Road Contribution Plan: | \$3,168 |
| S94 Plan No. 4 (Version 4.0) | |
| Sector6_4 | |

[PCC0215/PSC0175]

- 26. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.**

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

| | | |
|-------------------|--------------------|-----------------|
| Water DSP5: | 3.5576 ET @ \$4598 | \$16,358 |
| Sewer Kingscliff: | 5.9618 ET @ \$6688 | \$39,873 |

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0265/PSC0165]

27. Bicycle parking shall be provided on-site in accordance with DCP No. 2 - Site Access and Parking Code.

[PCCNS04]

28. Prior to the issue of the Construction Certificate a report shall be provided to Council by a suitably qualified person which specifies requirements for installation and noise amelioration of plant. After installation and prior to operation, compliance testing shall be conducted and a validation statement provided to Council. All plant shall comply with that report.

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

29. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

30. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and**
 - b. if necessary, underpin and support the building in an approved manner.****
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.**

[PCW0080]

31. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
32. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
33. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]

34. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and**
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and**
- (c) stating that unauthorised entry to the site is prohibited.**

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

35. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.

[PCW0575]

36. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

37. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

- (a) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and**
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and**
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-**
 - (i) the method of protection; and**
 - (ii) the date of installation of the system; and**
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and**

- (iv) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0775]

38. The proponent shall provide to the Private Certifying Authority copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

39. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

40. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

[PCW0985]

41. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

DURING CONSTRUCTION

42. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

43. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

44. Car parking spaces for people with disabilities shall be provided and constructed in accordance with the provisions of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3.5 of the Building Code of Australia and it's requirement to comply with AS2890.1.

[DUR0095]

45. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

46. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

- A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

- B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

47. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

48. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

49. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

50. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.

[DUR0415]

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

51. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

52. Sedimentation and erosion control measures shall be placed and maintained to the satisfaction of the Director of Environment and Community Services.

[DURNS01]

53. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations. [DURNS02]
54. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DURNS03]
55. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50 mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [DURNS04]
56. All works shall comply with the Erosion and Sediment Control Plan (Cozens, Regan, Williams & Prove, March 2005). [DURNS05]
57. All works shall comply with the Acid Sulfate Soils and Dewatering Assessment (Border-Tech February 2005, BT 12956). [DURNS05]
58. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
59. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works. [DUR0675]
60. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.
- Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works. [DUR0725]
61. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". [DUR0785]

62. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0805]

63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0815]

64. All fill and cut batters shall be obtained wholly within the subject land.

[DUR0825]

65. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

66. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

67. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

68. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

69. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

70. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

71. Building materials used below Council's minimum floor level of RL 3.3m AHD shall be flood compatible.

[DUR1405]

72. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.

[DUR1415]

73. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

74. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

75. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

76. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Sand Street in accordance with Councils adopted Development Design and Construction Specification.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

[DUR1735]

77. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

78. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.

[DUR1815]

79. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Council's adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

80. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Pathways, footways, bikeways - formwork/reinforcement

Water Reticulation, Sewer Reticulation, Drainage

- (a) Permanent erosion and sedimentation control measures

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

81. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

82. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR1955]

83. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

84. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR2185]

85. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

86. Internal stormwater lines are to be connected directly into road drainage pits if available along the frontage of the site. A direct connection into the adjoining drainage easement located within Lot 1 DP 748603 will not be supported.

[DUR2395]

87. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

88. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR2535]
89. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water. [DUR2595]
90. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act. [DUR2625]
91. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention. [DUR2675]
92. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main. [DUR2705]
93. The proponent shall notify Councils Engineering and Operations Division upon excavation of any disused sewer junction awaiting capping by Council. [DUR2715]
94. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by Tweed Shire Council prior to installation [DUR2735]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

95. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
96. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]

97. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

98. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

99. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.

[POC0525]

100. A survey certificate signed by a registered surveyor is to be submitted to the Private Certifying Authority at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.6m AHD.

[POC0565]

101. Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

102. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

103. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

104. Prior to commencement of operations and on completion of fit out an inspection of all food handling areas shall be arranged with Council's Environmental Health Officer for final approval.

[POCNS01]

105. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.

[POCNS02]

106. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POCNS03]

107. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

108. All landscaping work is to be completed in accordance with the plans approved by Council's Landscape Architect and the Director of Planning and Development as detailed in condition no. 22, prior to any use or occupation of the building.

[USE0735]

109. Amplified music shall be restricted to the auditorium between the hours of 7am to 10pm.

[USENS01]

110. Activities at the premise shall be restricted to the hours 6am to 10pm and be generally in accordance with Part 1.3 - Figure 1 of the Environmental Noise Impact Report, TTM Consulting, 15 December 2005 unless an alternative is approved in writing by the DECS.

[USENS01]

111. Lighting shall not spill beyond the boundary of the property or impact the amenity of any residential premise.

[USENS02]

112. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. A screened graded drained waste storage area shall be provided within the property boundary.

[USENS02]

113. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by Council's Director of Environment and Community Services.

[USENS03]

114. Practical measures to the satisfaction of Council's Director of Environment and Community Services are to be taken to acoustically

shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring or adjacent premises.

[USENS03]

115. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of Council's Director of Environment and Community Services.

[USENS04]

116. The proponent shall ensure that a maximum patronage of 284 persons including staff visit the site at any one time.

[USENS04]

117. The proposed cafe is to be available for the use of congregation members only and is not open to the general public.

[USENS05]

118. Regular services are restricted to Sundays and Friday evenings only, with other special services (such as weddings and funerals) as required.

[USENS05]

119. The crèche is to operate in conjunction with Church services and is not open to the general public.

[USENS05]

USE

120. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0125]

121. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0135]

122. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends (plus 5dBA from 7am to 10pm and not audible between 10pm and 7am).

[USE0165]

123. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The western elevation of the proposed auditorium shall comply with Level 3 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'. The remaining elevations shall comply with Level 2 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'.
2. The western elevation of the proposed church building shall comply with Level 3 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'. The remaining elevations shall comply with Level 2 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'.
3. The existing dwelling should be upgraded where possible to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.
4. The entirety of the subject shall be managed as an Inner Protection Area as outlined in Section 4.2.2(b) of 'Planning for Bushfire Protection 2001'.
5. A Bush Fire Evacuation Plan is to be submitted to the NSW Rural Fire Service - Development Control Services for approval. The evacuation plan is to detail the following:
 - a) Under what circumstances will the complex be evacuated.
 - b) Where will all person be evacuated to.
 - c) Roles and responsibilities of persons co-ordinating the evacuation.
 - d) Roles and responsibilities of persons remaining with the complex after evacuation.
 - e) A procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

GENERAL TERMS OF APPROVAL UNDER SECTION 116 OF THE WATER ACT 1912 (Licence to commence sinking a bore to enlarge, deepen or alter a bore)

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval (licence) under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.

- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
 - The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
 - A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
 - The authorised annual entitlement will not exceed 10 megalitres.
 - Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary by the Department from time to time to ensure an adequate flow remains for other water users and the environment.
 - If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
 - All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
 - Works for construction of bores must be completed within such period as specified by the Department.
 - Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
 - Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
 - Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
 - The use of water shall be conditional on no tailwater drainage being discharged into or onto -
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
 - The work shall be managed in accordance with the constraints set out in the "Acid Sulfate Soils & Dewatering Assessment" produced by Border Tech as detailed in Appendix H of the Statement of Environmental Effects dated July 2005.
 - The volume of groundwater extracted as authorised must not exceed **10** megalitres.
 - The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The licence shall lapse within **six (6)** months of the date of issue of the licence.

REPORT:

Applicant: Christian City Church Kingscliff Property Ltd
Owner: Christian City Church Kingscliff Property Ltd
Location: Lots 35, 36, 37, 38 & 39 DP 249808 No. 22-30 Sand Street, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$800,000

BACKGROUND:

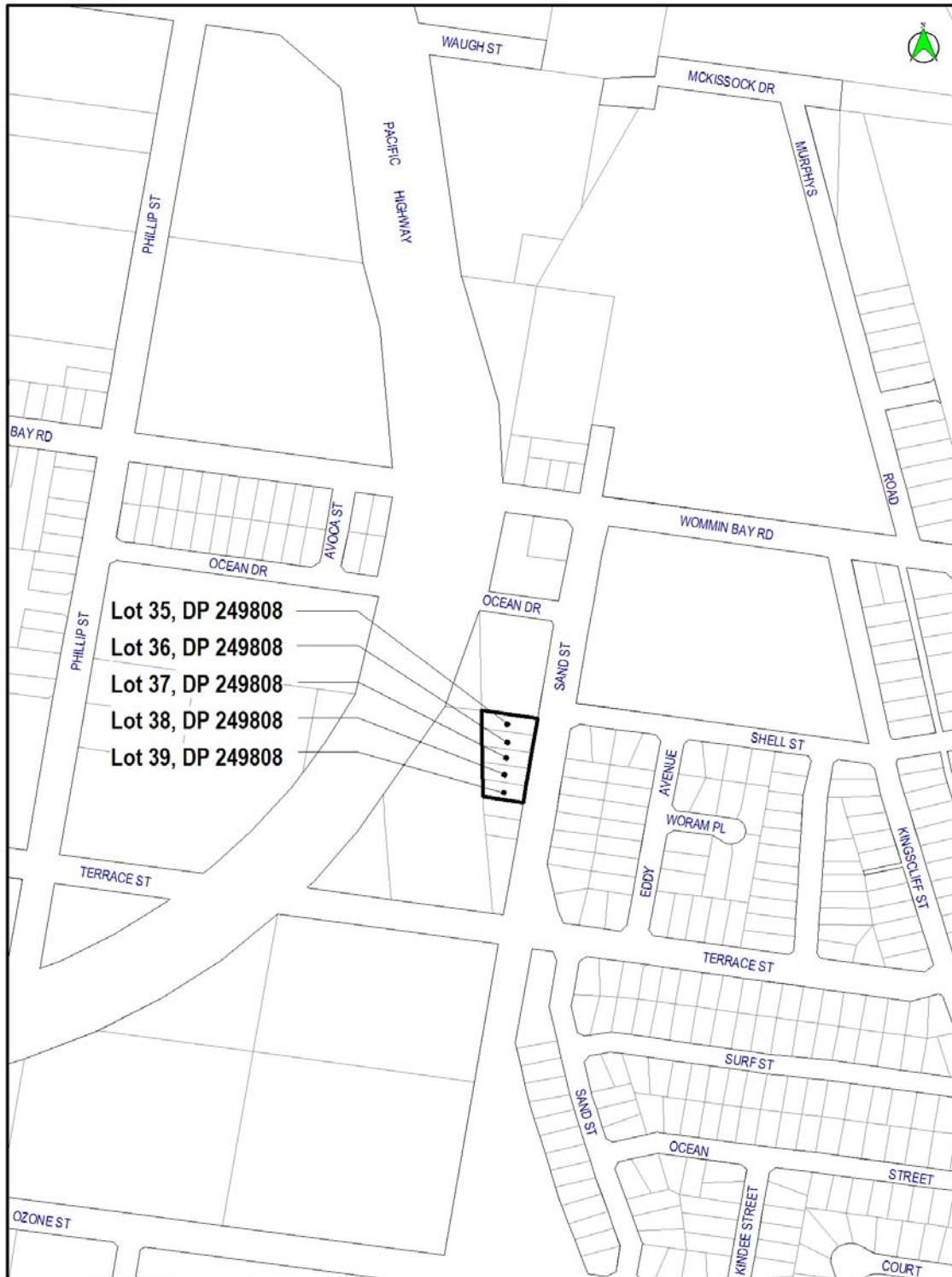
Council is in receipt of an application seeking consent to alter and make additions to the Kingscliff Christian City Church. The proposal involves the construction of an auditorium and above ground car park, additions plus alterations to the existing building including a café, a kitchen, crèche area, meeting rooms, rooms for church for children and an office area. The proposal also involves the conversion of a dwelling into an office and consulting rooms. The proposed office and consulting room are to be used as the primary office/administration centre for the Church. Both uses are ancillary to the operation of the Church and regarded as being consistent with the definition of a place of public worship.

The site is currently occupied by a building which is used as a place of public worship and dwelling house. The site has frontage to Sand Street, is relatively flat and is generally clear of vegetation.

On 2 November 1978 Council approved an application (Town Planning Permit TP 4097) to construct a church hall and welfare rooms on Lot 36 and 37. Car parking associated with this use was to be provided on Lot 39 (DP 249808), Sand Street.

On 11 December 1998 the Development Assessment Panel approved an application to modify Town Planning Permit TP 4097 to limit the number of persons able to visit the site at any one time to 170. The modification also required a minimum of 17 on-site car spaces be provided on Lots 36, 37 and Part 38 which was to be designed in accordance with DCP No. 2 and to be approved by the Director Development Services prior to any construction works commencing. The works were required to be completed within 6 months of the date of the modification or prior to the release of the linen plan for the proposed boundary adjustment between Lots 37 and 38, whichever occurred first. Lots 36 and 37 were also required to be consolidated and registered. It should be noted that the abovementioned Lots have not been consolidated and formal car parking has not been provided on-site.

SITE DIAGRAM:



Lot 35, DP 249808
 Lot 36, DP 249808
 Lot 37, DP 249808
 Lot 38, DP 249808
 Lot 39, DP 249808

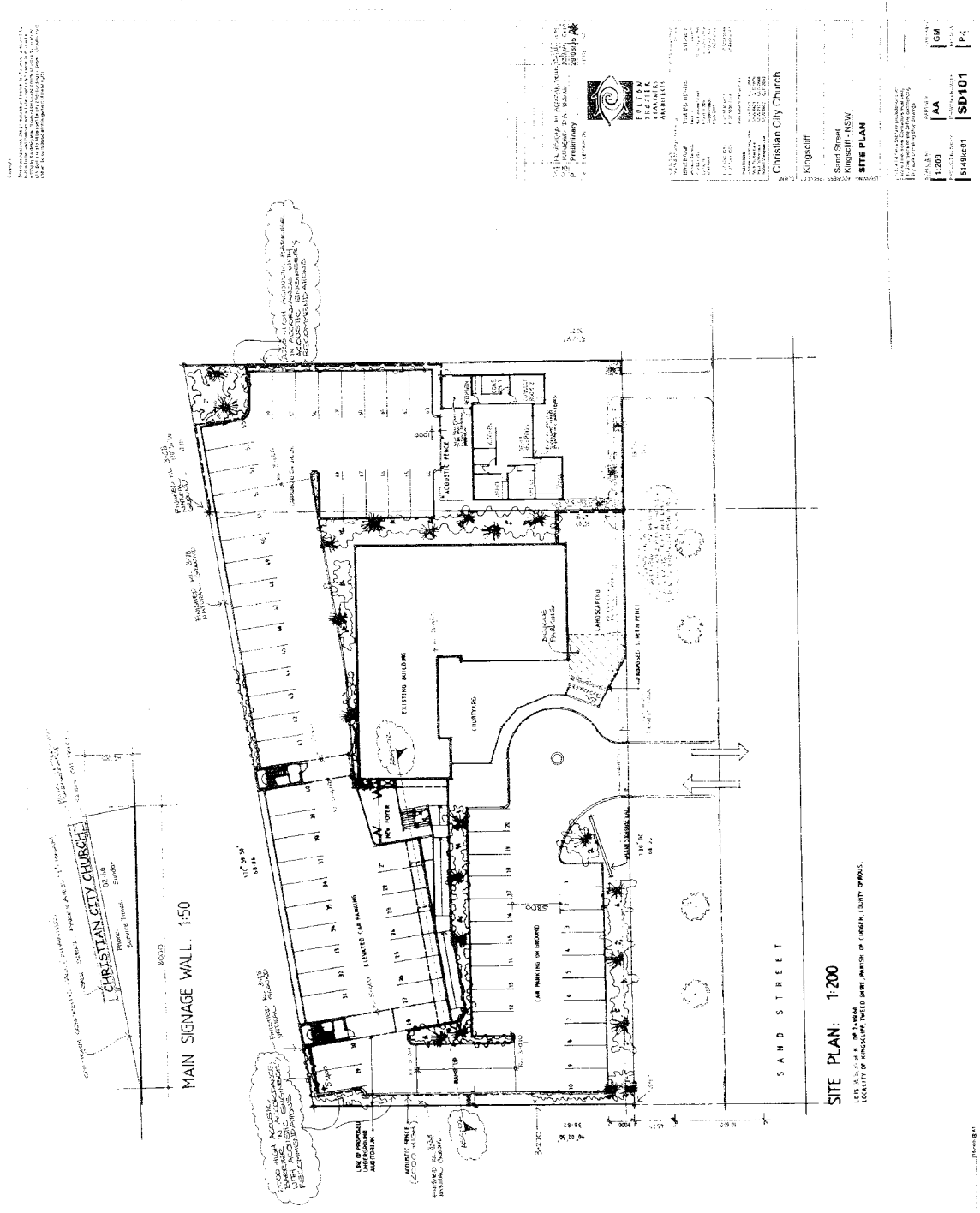
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 P O. Box 816
 Murwillumbah, NSW, 2484
 Tel: (02) 6670 2409
 Fax: (02) 6670 2483

Tweed Shire Council
 Lots 35, 36, 37, 38 & 39 DP 249808
 No. 22-30 Sand Street, Kingscliff
 File: N:\MapInfo 7...A4P Site Plan.Wor
 Author: J.Batchelor
 Date: 26/June/2006




STRATEGIC PLANNING UNIT
Site Plan
 Scale: 1:5,000
 Sheet: 1 of 1

DEVELOPMENT PLANS



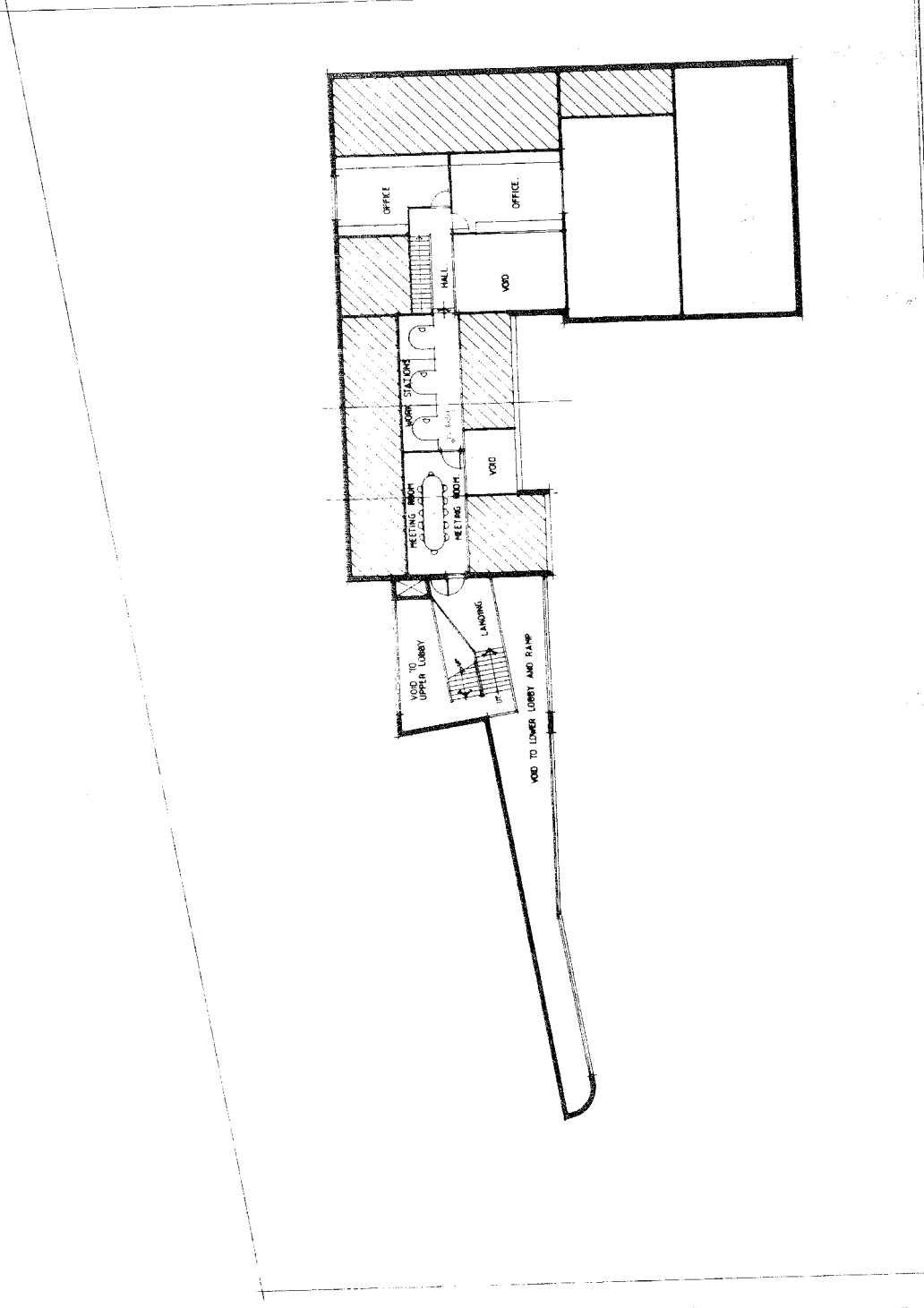
Drawn by:
 Checked by:
 Date:
 Scale:
 Project Name:
 Project No.:


FALTON TROTTER ARCHITECTS
 ARCHITECTS
 10/11 SAUNDERS ST. SEASIDE NSW 2445
 PH: (08) 9375 1111
 FAX: (08) 9375 1112
 WWW: www.falton-trotter.com.au

PROJECT: Christian City Church
 LOCATION: Seaside NSW
 DATE: 11/03/06
 DRAWING NO: SD103
 SHEET NO: 1/1

CLIENT: Christian City Church
 ARCHITECT: Falton Trotter Architects
 CONTRACT NO: 11/03/06
 PROJECT NO: 11/03/06

PROJECT NO: 11/03/06
 SHEET NO: 1/1
 DRAWING NO: SD103
 PROJECT NAME: Christian City Church
 CLIENT: Christian City Church
 ARCHITECT: Falton Trotter Architects
 CONTRACT NO: 11/03/06
 PROJECT NO: 11/03/06



PROJECT NO: 11/03/06
 SHEET NO: 1/1
 DRAWING NO: SD103
 PROJECT NAME: Christian City Church
 CLIENT: Christian City Church
 ARCHITECT: Falton Trotter Architects
 CONTRACT NO: 11/03/06
 PROJECT NO: 11/03/06

1:100
Preliminary
5/14/06

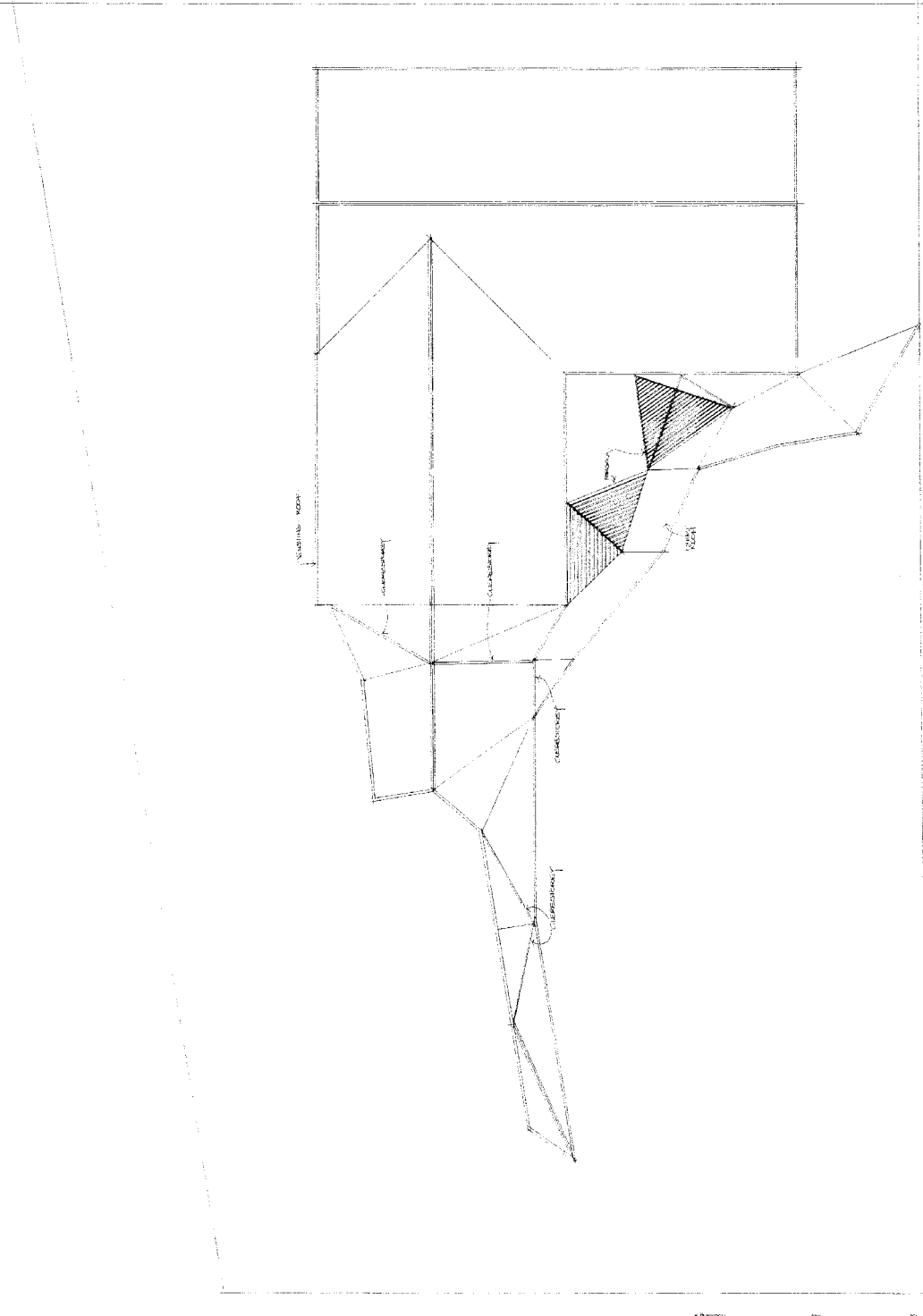
COLTON HAYMAKERS ARCHITECTS
P.O. Box 100, Tweed Shire, NSW 2479
Tel: 07 2361 1000
Fax: 07 2361 1001

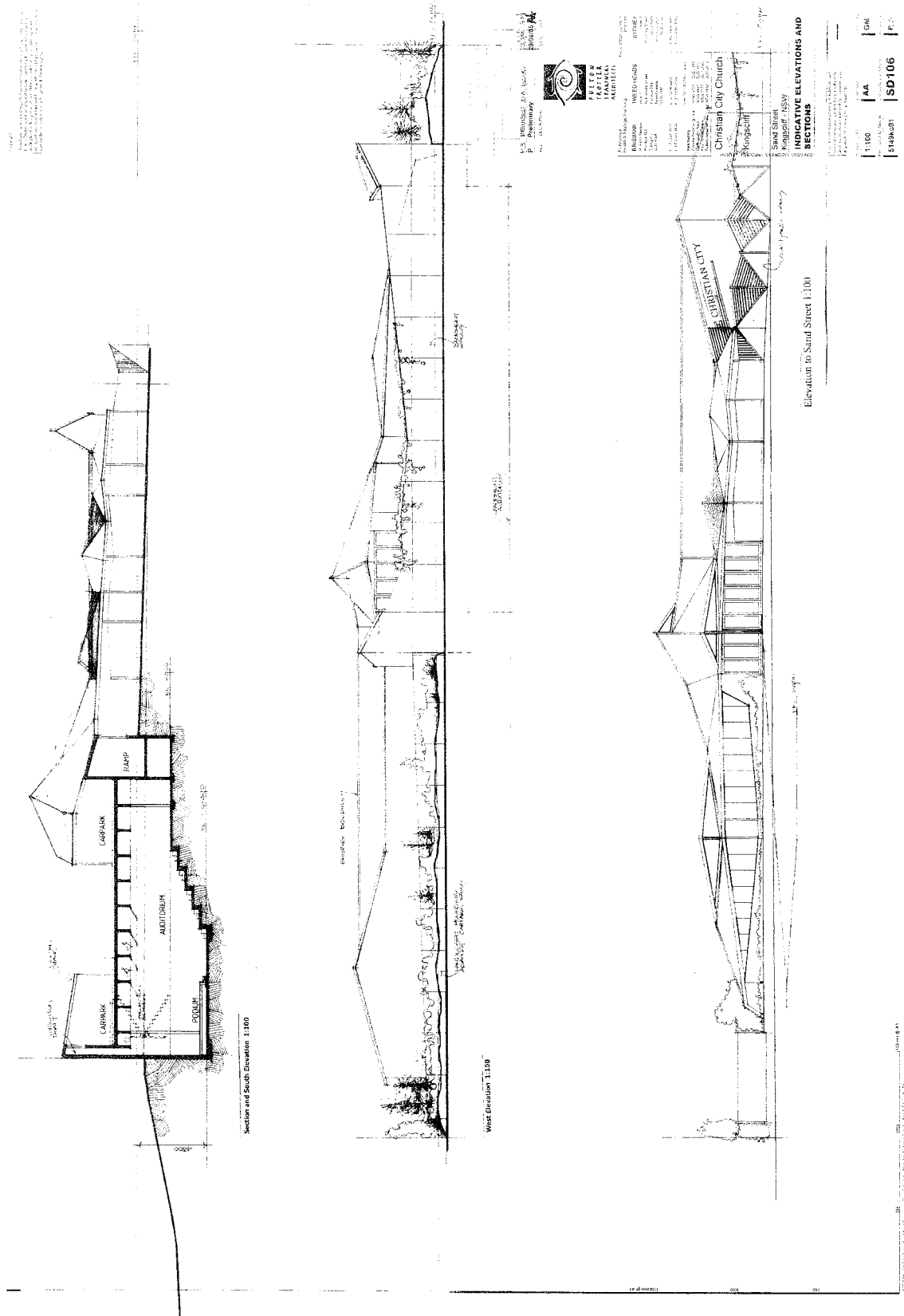


PROJECT INFORMATION
PROJECT NAME: Christian City Church
ADDRESS: Kingscliff, NSW
CLIENT: Kingscliff
DATE: 5/14/06
DRAWN BY: [Name]

ROOF PLAN
Scale: 1:100
Project Number: 5149kcl1

1:100
AA
SD105
P. 1





CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject site is located within part zone 2(a) Low Density Residential and 2(b) Medium Density Residential. The proposed office and consulting rooms are to be used as the primary administration centre for the Church. Both uses are ancillary to the operation of the Church and are regarded as being consistent with the definition of a place of public worship which is defined as: -

"a church, chapel or other place of public worship or religious instruction or a place used for the purpose of religious training".

A place of public worship is permissible with consent.

Zone 2(a) Low Density

Primary zone objective applicable to the subject site

"to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity."

Secondary objectives applicable to the proposed development

"to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone."

Zone 2(b) Medium Density Residential

The primary objective of the 2(b) zone is as follows: -

"to provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes."

The secondary objective applicable to the proposed development: -

" to allow for non-residential development which supports the residential use of the locality."

It is considered that the proposed development is consistent with Clause 8, the primary zone objectives and the applicable secondary zone objectives relating to the proposed development.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Essential services are available to the site. Council's reticulated water supply system is located within the nature strip area on the opposite side of the road from the subject site within Sand Street. The main provides demand potable water to all adjoining allotments. Council's reticulated sewage system is available to the site. Electricity, telecommunication and waste collection services are available to the site.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The site has an allowable height limit of three storeys. In accordance with the definition of a storey the proposal represents a part one and part two storey development.

Clause 35 of the TLEP requires an acid sulfate soils management plan to be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as land class 3. The Department of Natural Resources issued general terms of approval requiring that the works shall be undertaken in accordance with the submitted Acid Sulfate Soils and Dewatering Assessment.

North Coast Regional Environmental Plan 1988

Clause 32B - Coastal Lands

Clause 32B applies to this development application as the site is affected by the NSW Coastal Policy 1997.

The proposed development is considered to be consistent with the strategic actions and principles of the Coastal Policy. The proposal is consistent with the Coastline Management Manual and the North Coast: Design Guidelines. The proposal will not affect access to or overshadow the foreshore.

State Environmental Planning Policies

SEPP No. 11 – Traffic Generating Development

The Local Traffic Committee advice was sought in accordance with SEPP No. 11 as the proposal involves an enlargement/extension of an existing place of public worship, in which the enlargement/extension includes accommodation for 50 or more motor vehicles.

The Local Traffic Committee provided the following comments:

"The application proposes to extend and alter an existing place of public worship. The proposal incorporates 68 on-site car spaces and 18 on-street car spaces, within the road reserve. Please note the Statement of Environmental Effects refers to works within the road reservation, but does not detail what these works are. Council has not consented to the proposal being undertaken on Council land.

It was noted that the car parking on Sand Street must comply with Council's DCP No. 2 and Austroads Standards for on-street car parking. In regards to traffic impact, the Committee noted that the peak hour traffic would be on Sundays and not correlate with business peak hour and should not generate problems."

It should be noted that the proposed car parking layout and required number of spaces has been modified since the Local Traffic Committee commented on the proposal. On-street car parking is no longer proposed.

State Environmental Planning Policy No. 64 – Advertising Signage

The proposal involves the erection of a free standing building identification sign (approximately 5.6m²) which displays the name of the church, contact phone number and service times. The proposal is considered to be consistent with the requirements of the SEPP.

State Environmental Planning Policy No. 71 – Coastal Protection

The site is not located in a sensitive coastal location. Clause 8 of the policy details sixteen matters for consideration for land situated within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered to be compatible with the intent for the development of the locality.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no draft planning instruments which apply to this development application.

(a) (iii) Development Control Plans (DCP's)

Draft Consolidated Development Control Plan

In order to meet State Government Planning reforms Council is proposing that all the current DCPs be amalgamated into one consolidated Tweed Shire DCP. In converting these DCPs to Sections, there have been no significant amendments made to the documents. As such the proposed development is generally consistent with the draft DCP.

DCP 2 - Site Access and Parking has also been amended and Council has resolved that this amendment be exhibited with this new consolidated DCP. The changes made in the draft section of the DCP do not affect the car parking rates of the proposed development.

DCP No. 2 – Site Access and Parking Code

The proposed development has been amended since its lodgement, reducing the number of seats within the proposed auditorium from 350 to 284 seats. The amendment has also resulted in on-street car parking being deleted from the submitted plans. The on-street car spaces conflicted with a Council proposed bicycle track along the site's frontage.

An assessment of the required car parking is provided below.

As previously discussed in 1978 Council approved an application (TP4097) to construct a church hall and welfare room (approximately 628m²).

The permit required 17 on site car spaces for stages 1 and 2. Stage 2 has not been built. Therefore there is no credit available for this component. Stage 1 required 9.35 car spaces (based on 55% of the total floor area approved (340.5m²)).

The proposed ground floor has the same floor area (340.5m²) as stage 1 with similar uses in a reconfigured layout. Therefore the credit that applied to the original building still applies to the ground level of the proposed building. This part of the building needs to supply 9.35 on-site spaces in accordance with the original approval.

The proposed café is an ancillary use only to the church and therefore has not been charged as a separate café rate.

| Use | Required | Proposed |
|--|---|---|
| Proposed place of worship (auditorium) 284 seats | Staff parking: $0.5/\text{staff} = 1.6$ spaces Customer parking: 0.3 spaces to each seat or to each square metre of net floor area whichever is greater = 68.16 spaces (includes 20% ESD) | 68 on-site spaces |
| Mezzanine level 2 offices (50.4m ²), an open plan office with 3 workstations (22.4m ²) and a meeting room (20.8m ²). | 1 space/40m ² = 1.87 spaces (includes 20% ESD) | |
| Office (115m ²) Conversion of dwelling house | Staff parking: $1/40\text{m}^2 \text{ GFA} = 2.3$ spaces (includes 20% ESD) | 3 on-site spaces available in association with dwelling house |
| Existing building 340.5m ² (TP 4097) Stage 1 which has been built consists of hall, welfare centre, primary & kindergarten rooms, storage area & toilet facilities | 9.35 spaces | |
| Total | 83.28 spaces | 71 spaces |

Despite the components of the proposal requiring different rates of car parking, all the components of the site are ancillary to the operation of the Church. The car parking on site will be utilised by all components of the proposal. The site is likely to be maximised at congregation times only, being generally restricted to Friday nights and Sundays. At these times the other components of the site are unlikely to be in use. Any overflow of vehicles could park along the site's frontage (on-street). Although DCP2 requires 83.28 spaces, it allows a merit assessment to vary the minimum requirements. It is considered that the proposed 71 car spaces is adequate to accommodate the use of the site.

The applicant has provided several traffic reports justifying the on-site parking based on traffic demand. Council's Traffic and Transport Engineer has supported the on-site car parking in principle.

To ensure all uses operate in conjunction with one another, a condition of consent has been imposed requiring that the allotments be consolidated.

Bicycle parking are to be provided in accordance with DCP No. 2 and forms a condition of consent.

DCP No. 5 – Development of Flood Liable Land

Council's Development Engineer has assessed the proposal in accordance with the DCP. Council's Development Engineer has recommended that the site be filled to a minimum of 3.3m AHD as a condition of consent. Further details in this regard will be required prior to the construction certificate.

DCP No. 43 – Kingscliff

The site is identified as being within the Kingscliff North precinct and nominated as being the preferred location for neighbourhood shopping. It should be noted that the site is constrained by the existing on-site building used by the Christian City Church. A place of public worship is permissible with Council's consent in accordance with the Tweed Local Environmental Plan 2000.

The proposal is consistent with the vision for Kingscliff and the applicable precinct objectives. The design of the proposal is largely constrained by the existing building on-site. The proposal will appear as a single storey development with an activated street frontage.

The design of the proposal is sympathetic to the existing streetscape.

DCP No. 48 – Tweed Coast Building Heights

The proposal is generally consistent with the requirement of the DCP.

As places of public worship are not specifically defined in the DCP, the most appropriate height category for the development is considered to be commercial development.

| Standard | Required Acceptable Solutions / Performance Criteria | Proposed |
|------------------------------|---|---|
| Building height | <p>Acceptable solution maximum overall height: 10m.</p> <p>Acceptable solution maximum height to the uppermost ceiling/wall: 8m</p> | <p>The proposal has a maximum ceiling/wall height of 4.5m and a maximum height of 7.5m from the finished ground level and.</p> |
| Building Setbacks & Envelope | <p>Whilst the site is situated within a residential zone, the required setbacks relate to residential development only. As such the performance criteria have been used:</p> <ul style="list-style-type: none"> * The proposal is sympathetic to the scale and bulk of the existing development * The proposal is compatible with the streetscape and supports a sense of street identity * The proposed development is setback from the street so as to avoid buildings appearing overbearing to pedestrians * Visual and acoustic privacy have been key factors in the design of the proposal particularly in relation to the auditorium. * Direct overlooking from the subject site into adjoining properties is minimised by the layout of the proposed development. The main entrance and high use areas within the development are orientated towards the street or underground. | <p>Street frontage - Minimum 6.4m</p> <p>Southern side 1m to car park</p> <p>Northern side 6m to auditorium</p> <p>Rear – west 1.2m (no change to existing dwelling's setback) 1m to car park Auditorium built to boundary</p> <p>The proposal is considered to be consistent with the performance criteria</p> |

DCP No. 51 – Tweed Coast Strategy

The proposed development is consistent with the DCP.

(a) (iv) Any Matters Prescribed by the Regulations

Council's Building Surveyor has assessed the proposal and advised that the works comply with Clause 94 of the Regulations.

Clause 92(a) Government Coastal Policy

The land is identified as being affected by the Coastal Policy. The site is not affected by the Coastal Erosion Zones, is unlikely to be affected by the coastal processes, will not overshadow foreshore reserves and does not restrict public access to the coast. The proposed development is consistent with the policies and strategies contained within the coastal policy.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Noise

An Environmental Noise Impact Report has been provided for the proposal. The report identified that the main noise source associated with the indoor Church activities will be amplified music and congregational singing and the outdoor noise sources will be largely from vehicular movements, children playing and people talking. The report identified that the properties most likely to be affected by these noise sources will be the residential dwellings situated adjacent to the site's northern and southern boundaries and the dwellings directly opposite the site to the east.

The noise impact report provided recommendations regarding acoustic treatments. These treatments include factors such as erecting acoustic barriers around the outdoor crèche area and all building envelopes including doors and windows should be closed.

The report also provided recommendations regarding management principles, which includes continued enforcement of the noise control strategy. Further recommendations include restricting activities with high levels of noise to be undertaken within the auditorium, restricting hours of operation and limiting the levels of noise produced within the auditorium.

The report was amended throughout the processing of the application to the satisfaction of Council's Environmental Health officer. Council's Environmental Health officer has supported the current Environmental Noise Impact report, subject to conditions of consent. The recommended conditions require the construction and operation of the Church activities to be in accordance with the submitted Environmental Noise Impact report.

Overshadowing

The properties adjoining the site's southern and western boundaries will be affected by the proposed development by way of overshadowing.

The property to the site's southern boundary is known as 32 Sand Street, Kingscliff (Lot 40 DP 249808). 32 Sand Street is occupied by a single storey multi dwelling housing development. The setback between the existing and proposed developments results in a physical separation of approximately 4.4m. The property to the site's west is currently vacant and zoned 1(a) Rural Clause 38 (future roads). Both properties will experience some overshadowing as a result of the proposal.

The proposed development has been designed to minimise the impacts on adjoining properties. It should be noted that the allowable building height for the subject site is three storeys. The proposal incorporates a maximum of two storeys which is generally restricted to the centre of the site approximately 12m from the existing multi dwelling housing development.

The shadow currently experienced by the property to the site's immediate north will not significantly change as a result of the proposed alterations/additions.

Despite the impact on the adjoining properties, it is considered that the proposed overshadowing impact is acceptable.

There are no further impacts anticipated as a result of this proposal other than those previously discussed in this report.

(c) Suitability of the site for the development

The subject site is zoned part 2(a) Low Density Residential and part 2(b) Medium Density Residential. The proposed development is consistent with the objectives of the zone and is generally consistent with the applicable DCPs. The proposal is consistent with the desired future character of the area and is considered to be suitable for the subject site.

(d) Any submissions made in accordance with the Act or Regulations

In accordance with DCP No. 42 the development application was notified for a period of 14 days. Three (3) submissions have been received to date. It should be noted that the plans have been amended since the exhibition period. The amended plans were not re-exhibited as the amendments reduced the number of seats within the auditorium and deleted the on-street car parking.

| Issue | Comment | Assessment |
|--------------|--|--|
| Car Parking | Concern was raised regarding the number of car spaces provided. | Please refer to the DCP No. 2 assessment as detailed previously detailed in this report. This matter does not warrant refusal of the development application. |
| | The 2 storey car park would not be an eyesore if it did not cover the whole site. | The single level car park is situated above the auditorium and around the existing building. The car park does not cover the entire subject site. This matter does not warrant refusal of the development application. |
| Noise | Concern was raised regarding the potential noise impact of the band music. The objector requested that the most recent petition regarding noise be brought to Council's attention. | Council's Environmental Health Officer has assessed the submitted development application including the Environmental Noise Impact Report. The officer recommended that the proposal be supported with conditions of consent to ensure noise associated with the proposal is minimised. The most recent petition regarding noise is dated 5 December 2001. The petition was a complaint regarding band practice operating at the subject site until 11pm. The petition further states that in a residential area residents are entitled to a peaceful environment. The petition was signed by 20 persons living within proximity to the site. Council has not received any further noise complaints regarding this matter to date. This matter does not warrant refusal of the development application. |

| | | |
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| <p>Building construction standards</p> | <p>Clarification was sought regarding the submitted Clause 46 Bushfire Hazard Assessment as to whether sprinklers were proposed in the new structure.</p> | <p>Council's Building Surveyor has assessed the development application in accordance with the Building Code of Australia. The existing building was found to generally comply with these standards. No upgrading to the existing building is required.</p> <p>This matter does not warrant refusal of the development application.</p> |
| <p>Section 138 application</p> | <p>Clarification was sought regarding why a Section 138 application for works within the road reserve is not part of this development application.</p> | <p>A Section 138 application is required in accordance with the Roads Act 1993 for works within the road reserve including the construction of a driveway. It is a separate application.</p> <p>This matter does not warrant refusal of the development application.</p> |
| <p>Management of amplified noise</p> | <p>How will the amplified music be controlled?</p> | <p>A table of day-to-day operations and anticipated operating hours for the place of public worship was submitted with the development application.</p> <p>Council's Environmental Health officer has assessed the development application. The officer has recommended that the proposal be supported with conditions of consent to restrict amplified music in the auditorium to 7am to 10pm. In addition to this, the officer has recommended a condition of consent to require the operation of the place of public worship to be undertaken in accordance with the submitted environmental noise impact report.</p> <p>This matter does not warrant refusal of the development application.</p> |

| | | |
|--|---|--|
| <p>Stormwater Management Plan</p> | <p>The proposed method of collecting stormwater is not acceptable.</p> | <p>The stormwater management plan has been amended since the exhibition period of the development application. Council's Development Engineer has recommended that the proposal be supported subject to a permanent stormwater quality treatment being provided to Council requirements.</p> <p>This matter does not warrant refusal of the development application.</p> |
| <p>Support for concept</p> | <p>The concept of placing the auditorium underground is supported.</p> | <p>This matter does not warrant refusal of the development application.</p> |
| <p>Operation of the child care centre (crèche)</p> | <p>Concern was raised regarding the operation of the crèche outside of Sunday Church hours.</p> | <p>As a condition of consent the crèche is required to operate in conjunction with Church services and is not open to the general public. The crèche is not a commercial day care centre.</p> <p>This matter does not warrant refusal of the development application.</p> |

| | | |
|---|--|---|
| <p>Impacts on ground water and the use of water pumps</p> | <p>The noise from the water pumps operating 24 hours a day, seven days a week will disrupt residents.</p> | <p>The proposed dewatering requires the General Terms of Approval (GTAs) from the Department of Natural Resources as part of the development application process. The GTAs have been provided restricting the volume of groundwater to be extracted to a maximum of 10 megalitres. In addition to this restriction the applicant must also obtain a licence from the Department which lapses within 6 months of the issue of the licence.</p> <p>In addition to this a separate condition has been imposed requiring the applicant to notify adjoining land owners prior to commencement of any 24 hour pumping for dewatering operation.</p> <p>This matter does not warrant refusal of the development application.</p> |
| | <p>The groundwater level will be reduced as a result of the construction of the auditorium, which may affect the operation of local spear pumps used by local gardeners.</p> | <p>As discussed above the Department of Natural Resources have assessed the proposal with regards to the impact on ground water. The Department have issued their GTAs. Council officers have recommended that the proposal be supported accordingly.</p> <p>This matter does not warrant refusal of the development application.</p> |

(e) Public interest

Despite the matters outlined in the submissions received the proposed development is not considered to be contrary to the wider public's interests.

OPTIONS:

1. Approve the development application with conditions.
2. Refuse the development application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is recommended that the proposed place of public worship be approved subject to the attached conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P4 [PD-PC] Development Application DA05/1013 for a Three (3) Lot Subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar

ORIGIN:

Development Assessment

FILE NO: DA05/1013 Pt1

SUMMARY OF REPORT:

At the Planning Committee meeting of 13 June 2006, Council resolved as follows in relation to the abovementioned development application:-

***"RECOMMENDED** that Development Application DA05/1013 for a three (3) lot subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar be deferred to the next Planning Committee meeting to bring forward reasons for refusal."*

In accordance with the resolution, the following reason for refusal is proposed:-

"1. Pursuant to Section 79C(1)(c) the subject site is not considered suitable for the proposed development."

It is noted that should the application be refused, Council will be required to commence legal action in relation to the unlawful dwellings currently occupying the parent parcel.

RECOMMENDATION:

That Development Application DA05/1013 for a three (3) lot subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2385PR/3B prepared by N.C. White and Associates and dated 04/08/2005, except where varied by the conditions of this consent.

[GEN0005]

2. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

3. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]
4. **The western dwelling on proposed Lot 3 is to be demolished or removed from the site, under separate development consent, prior to Council linen plan release and registration of subdivision.**
[GENNS01]
5. **A Building Certificate application for each dwelling, accompanied by a certificate of structural adequacy from a Structural Engineer, is to be submitted to Council within one month of the registration of subdivision.**
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).**

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

7. **In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.**
[PCC0285]
8. **Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

Please note timber retaining walls are not permitted.

[PCC0475]

9. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.
- [PCC0865]
10. The proponent shall submit plans and specifications with an application for construction certificate for the following roadworks with associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.
- (a) Upper Burringbar Road is to be upgraded and sealed to a 'Class A' rural road. A four (4) metre seal on an 8.6 metre formation width is to be provided along the entire frontage of Lot 8 DP 618883 in accordance with Tweed Shire Council's DCP No.16 - Subdivision Manual. The road is to be located within a minimum road reserve width of 20 metres to accommodate formation, earthworks, fencing, catch drains and any other longitudinal and transverse drainage.
- (b) A turning circle with an 18 metre diameter is to be provided at the end of Upper Burringbar Road.
- (c) All driveways are to be sealed with a two (2) coat bitumen seal from the sealed road to the property boundary.
- (d) Construction of the right of carriageway serving Lot 2 to the following standard; two coat bitumen seal to a width of 3.6 metres. The easement for the right of carriageway shall be 1 metres wider than the pavement and any associated batters, catch drains or service corridors in accordance with the provisions of DCP No.16 - Subdivision Manual and Council's Development Design and Construction Specification.
- [PCC0875]
11. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - roadworks/pavement design/furnishings
 - stormwater drainage
 - sedimentation and erosion management plans

- location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.**
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.**
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.**

[PCC1105]

13. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.**
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".**

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

14. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0225]
15. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work. [PCW0815]
16. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]

DURING CONSTRUCTION

17. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0005]
18. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
- (a) Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.

- (b) Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot in accordance with Councils adopted Development Design and Construction Specifications. [DUR0045]
19. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
- Monday to Saturday from 7.00am to 7.00pm
- No work to be carried out on Sundays or Public Holidays
- The proponent is responsible to instruct and control subcontractors regarding hours of work. [DUR0205]
20. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0215]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
22. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos. [DUR0655]

23. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". [DUR0785]
24. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
25. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority. [DUR0845]
26. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council. [DUR0985]
27. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate. [DUR0995]
28. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
29. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]
30. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.

- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
[DUR1805]
31. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.
[DUR1815]
32. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
[DUR1875]
33. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-
- Roadworks
- (a) Pre-construction commencement erosion and sedimentation control measures
 - (b) Completion of earthworks
 - (c) Excavation of subgrade
 - (d) Pavement - sub-base
 - (e) Pavement - pre kerb
 - (f) Pavement - pre seal
 - (g) Final inspections - on maintenance
 - (h) Off Maintenance inspection
- Water Reticulation, Sewer Reticulation, Drainage
- (a) Backfilling
 - (b) Permanent erosion and sedimentation control measures
 - (c) Drainage channels
 - (d) Final inspection - on maintenance
 - (e) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

34. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

35. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

36. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

37. Erosion and sediment control measures shall be installed and maintained to the satisfaction of Council's Director of Environment and Community Services throughout the duration of the works.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

38. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

39. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

| | |
|---|------------|
| (a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector11_4 | \$2,590 |
| (b) Open Space (Structured): S94 Plan No. 5 | \$1,560 |
| (c) Open Space (Casual): S94 Plan No. 5 | \$334 |
| (d) Shirewide Library Facilities: S94 Plan No. 11 | \$1,376 |
| (e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13 | \$262 |
| (f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16 | \$400 |
| (g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18 | \$2,537.60 |
| (h) Regional Open Space (Structured) S94 Plan No. 26 | \$4,654 |
| (i) Regional Open Space (Casual) S94 Plan No. 26 | \$1,710 |

[PCC0215/PSC0175]

- 40. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.**

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

- 41. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.**

[PSC0725]

- 42. Submission to the Principle Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.**

[PSC0775]

- 43. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.**

[PSC0825]

- 44. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:**

- (a) Easements for sewer, water supply and drainage over ALL services on private property.**
- (b) Right of Carriage Way.**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

45. **Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".**

[PSC0845]

46. **Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.**

[PSC0855]

47. **Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.**

[PSC0865]

48. **Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.**

The following information must accompany an application:

- (a) **original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**

- (b) **all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.**

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

49. **Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-**

- (a) **Compliance Certificate - Roads**
(b) **Compliance Certificate - Drainage**

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

50. Your attention is invited to conditions of Development Consent DA05/1013. Compliance with the conditions of the development consent and the construction certificate is required prior to the issue of a subdivision certificate.

[PSC0935]

51. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

52. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

53. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) has been completed.

[PSC1175]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. A 20m Asset Protection Zone (20m IPA) shall be constructed and maintained around the existing dwellings on proposed Lots 1, 2 & 3 as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'.
2. In recognition of the substantial amount of vegetation in the vicinity of the subject site and the expected ember attack, all of the existing dwellings on proposed Lots 1, 2 & 3 should be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.

3. **Access shall be upgraded to comply with Section 4.3.2 of 'Planning for Bushfire Protection 2001'.**
4. **A minimum of 10,000 litres of water shall be provided for the exclusive use for fire fighting purposes for each of the existing dwellings. These tanks should have a 65mm storz fitting and ball gate valve installed and should be serviced by a minimum of 3kW (5hp) petrol or diesel powered pump.**

In recognition of the extenuating circumstances involved in this development, the Rural Fire Service has assessed this application using the principles of 'infill development'. However, any future developments on the proposed lots will have to fully comply with the requirements of 'Planning for Bushfire Protection 2001'.

REPORT:

Applicant: Mr LE Powell, Mr DJ Powell, Mr LW Powell & Mrs RW Shoobridge
Owner: Mr LE Powell, Mr DJ Powell, Mrs GL Powell, Mr LW Powell & Mrs RW Shoobridge
Location: Lot 8 DP 618883 No. 782-786 Upper Burringbar Road, Upper Burringbar
Zoning: 1(b1) Agricultural Protection
Cost: Nil

BACKGROUND:

Council is in receipt of an application to undertake a three (3) lot rural subdivision.

There are currently four (4) dwellings on the subject property, none of which have formal Council approval.

The proposed subdivision seeks to create three (3) parcels of land, each with a legal dwelling entitlement (pursuant to Clause 11 of the LEP) and each configured to accommodate an existing dwelling. The fourth dwelling is to be removed/demolished.

The proposed subdivision will result in the following configuration:-

Proposed Lot 1: Having an area of approximately 14.1 hectares and a frontage of approximately 155m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Lance Powell. Access to the dwelling is provided via an existing driveway from Upper Burringbar Road.

Proposed Lot 2: Having an area of approximately 44.81 hectares and a frontage of approximately 35m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Laurie Powell. Access to the dwellings is provided by an existing driveway and proposed right of carriageway from Upper Burringbar Road.

Proposed Lot 3: Having an area of approximately 24.14 hectares and a frontage of approximately 800m to Upper Burringbar Road. This lot contains two existing dwelling houses and will be retained by Mr Laurie Powell. Access to the dwelling to be retained is provided via an existing driveway. The western dwelling will be relocated or demolished.

In effect, the application has the effect of formalising a situation on the site that has existed for a number of years. Whilst the subject land is over a single title and despite the absence of any Council approvals, the site effectively functions as three (3) separate properties; each with a separate dwelling and separate associated agricultural activities.

SITE HISTORY

The subject land was created by the registration of DP 618883 in 1982. As indicated in the aerial photo, there are four existing dwelling houses on the subject property – none of which have formal Council approval. The location and status of each of these dwellings is addressed in the following table:-

| Dwelling Location | Approximate date of construction and details | Comment |
|-------------------|--|---|
| Proposed Lot 1 | <p>Approximate date of construction: 20 years old</p> <p>Foundations: Piers and beam timber floor</p> <p>Wall Cladding: Brick and weatherboard</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 2</p> <p>Number of Bedrooms: 4</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 3 x 23,000 litre</p> <p>Power: Yes</p> <p>Telephone: Yes</p> | <p>There is no evidence on Council records of any formal approval being granted for the subject dwelling. As such its current status is considered unlawful.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p> |

| | | |
|-----------------------|--|---|
| <p>Proposed Lot 2</p> | <p>Approximate date of construction: 25 years old</p> <p>Foundations: Concrete slab</p> <p>Wall Cladding: Cavity brick</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 1</p> <p>Number of Bedrooms: 3</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 2 x 23,000 litre</p> <p>Power: Yes</p> <p>Telephone: Yes</p> | <p>As with the dwelling on proposed Lot 1, there is no evidence on Council records of any formal approval being granted for the subject dwelling.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p> |
| <p>Proposed Lot 3</p> | <p>Approximate date of construction: Circa 1930's (original house) subsequent alterations and additions</p> <p>Foundations: Piers</p> <p>Wall Cladding: Weatherboard and brick</p> <p>Roofing: Galvanised iron and colourbond</p> <p>Number of Storeys: 1</p> <p>Number of Bedrooms: 3</p> <p>Effluent Disposal: Septic tank (estimated 40 years old)</p> <p>Water Supply: Gravity fed spring tank estimated 50 years plus</p> <p>Power: Yes</p> <p>Telephone: Yes</p> | <p>The subject dwelling was constructed prior to Council's planning controls coming into place and may be considered lawful under existing use rights, however no supporting information has been provided in this regard.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p> |
| <p>Proposed Lot 3</p> | <p>To be removed or demolished.</p> | |

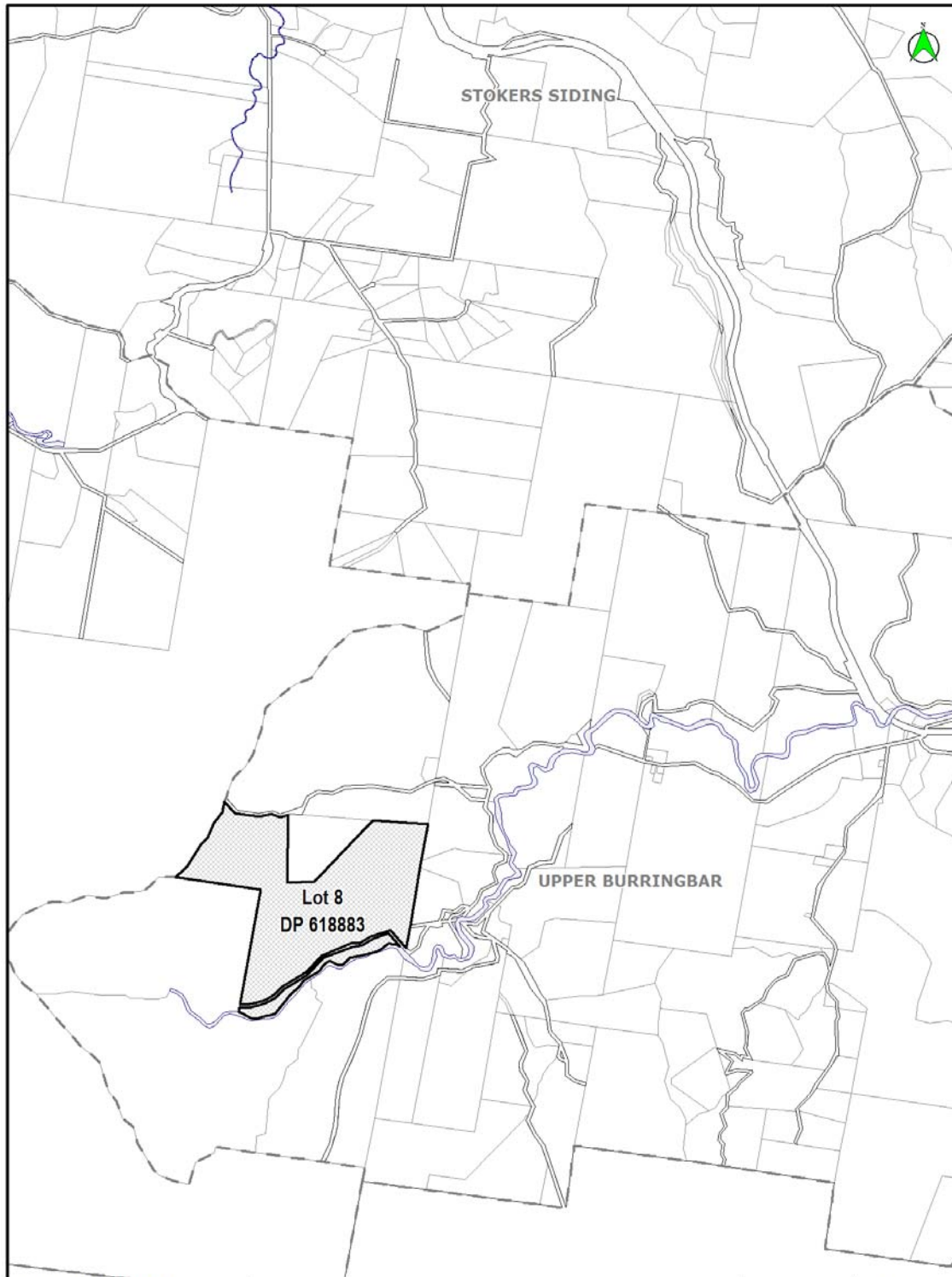
Most of the site was identified as Special Agricultural land by the Department of Agriculture in the late 1980's. This classification was then reflected in the Tweed Local Environmental Plan 1987 and confirmed by the Tweed Local Environmental Plan 2000. Under the provisions of these plans, the minimum lot size applicable is ten (10) hectares.

The beneficiaries of the will of the now deceased previous owner have been negotiating for several years in relation to the division of the land into three (3) parcels which are to be transferred to individual beneficiaries. Resolution of this issue has involved Supreme Court proceedings.

As recently as 7 December 2004, the parties reached agreement to dispose of the courts proceedings subject to approval of a three (3) lot subdivision, consistent with the current 1(b1) zoning.

As indicated on the attached aerial photograph, significant areas of the site have been used historically and remain currently used for intensive agricultural purposes, involving banana plantations and other small crops.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 8 DP 618883
 No. 782-786 Upper Burringbar Road, Upper Burringbar
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 05/June/2006 Scale: 1:30,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

Aerial Photograph

The subject land has a total area of 82.05 hectares and has extensive frontage to upper Burringbar Road which is constructed to a two (2) lane, sealed standard from Burringbar to Jowletts Road, then a two (2) lane, gravel road to Geles Road and then a narrower, nominal two (2) lane gravel road to the site.

In effect, the site has been operated as three (3) separate properties for approximately 25 years. Agricultural activities currently and previously undertaken on each proposed lot include:-

| | |
|----------------|---|
| Proposed Lot 1 | Bananas, avocados and vegetables. |
| Proposed Lot 2 | Bananas and avocados. |
| Proposed Lot 3 | Bananas, citrus fruit and finger limes (proposed). The activities will be expanded if/when tenure is secured. |

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

Under the provisions of the Plan, the subject land is zoned part 7(l) Environmental Protection (Habitat) and part 1(b1) Agricultural Protection.

The proposed subdivision is consistent with the relevant zone objectives as it will allow for the continuation of existing agricultural uses and will not adversely affect the rural character or amenity of the area.

The proposed lots comply with the minimum lot size requirement of 10 hectares for the 1(b1) land as per Clause 20(2)(b).

Proposed lot 2 does not comply with the 40 hectare development standard applicable in the 7(l) zone under Clause 20(2)(a). The applicant has lodged a SEPP No.1 Objection in this regard and is addressed later in this report.

Clause 15 – Availability of Essential Services

Existing dwelling houses are serviced by rainwater tanks and on site effluent treatment systems. Council's Environment and Health unit have indicated that as the proposal does not involve any alterations to the dwellings, no specific investigation as to the adequacy of the systems has been undertaken. Instead, it is understood the on-site systems will be reviewed via Council's on-going on-site program in due course. The dwelling that is to be demolished however must have the associated on-site sewage management system decommissioned with suitable conditions to apply in this regard. Power and telephone services are also available to each existing dwelling.

Clause 28 – Development in 7(l) Zoned Land

The applicant has provided a Plan of Management in accordance with Clause 28(4)(c). The Plan is considered satisfactory in ensuring the any wildlife habitat is protected from the impacts of the proposed development.

North Coast Regional Environmental Plan 1988

The proposed subdivision is consistent with the objectives of the REP, particularly in relation to Clause 12 pertaining to impacts on agricultural activities.

State Environmental Planning Policy No.1 – Development Standards

As established, the proposed subdivision requires a variation to the 40 hectare minimum allotment size stipulated under Clause 20(2)(a) of the LEP.

Clause 20(2)(a) states:-

(2) Consent may only be granted to the subdivision of land:

(a) within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of each allotment created is at least 40 hectares

The variation is required in relation to proposed Lot 2 which despite being in excess of 40 hectares in size, incorporates an area of land zoned 7(l) approximately 15 hectares in size.

As such, a variation to the development standard is required.

The underlying objectives of the development standard are to prevent the fragmentation of rural land, ensure the scenic and natural environments are protected and maintain agricultural viability.

In this regard, the applicant has provided the following matters for consideration in support of a variation:-

- There is only approximately 15 hectares of 7(l) land in the property;
- The whole of the 7(l) land will be contained in one lot;
- No change in the use of the 7(l) land is proposed;
- No fragmentation of the 7(l) land will occur;
- It is impossible to comply with the 40 hectare development standard because of the split zoning on the property.

Given the size of the variation sought, the application required concurrence from the Director General of the Department of Planning.

Concurrence was subsequently provided in a letter dated 4 November 2005 for the following reason:-

“Concurrence was granted in this instance as the proposed subdivision is unlikely to result in an adverse impact on protected habitat.”

In light of the findings of the Department and having regard to the matters raised by the applicant, it is considered that strict compliance with the 40 hectare minimum lot size requirements is both unnecessary and unreasonable in the circumstances of the case.

It is therefore concluded that the variation sought under SEPP No.1 warrants support in this instance.

(a) (ii) **The Provisions of any Draft Environmental Planning Instruments**

Draft Local Environmental Plan No.21 – Vegetation Management

Draft Local Environmental Plan No.21 proposes to rezone virtually all of the site to 1(a1) Rural (Steep Land/Escarpment). This change in zoning would have significant implications to the development potential of the site. Particularly, the draft plan would only allow for the erection of a dwelling house on land that has an area of 40 hectares or more.

The objectives of the proposed 1(a1) zone are:

Primary Objectives

- *to identify and protect soils on steep land in the rural areas of Tweed Shire that are susceptible to land degradation and excessive soil erosion.*
- *to protect significant natural areas and environmentally sensitive ecosystems on steep land from developments that are likely to have a significant adverse impact on ecological, scenic and/or aboriginal cultural values.*
- *to enable rural land to be continued to be used for agricultural, forestry and natural resource utilisation.*
- *to protect rural character and amenity.*

Secondary Objectives

- *to provide opportunities for certain types of development that are compatible with the primary objectives of the zone.*

Council's Strategic Planning Co-ordinator has provided the following comments on the status of the LEP amendment in the context of the proposed subdivision: -

“Timing

The timing for completion of the draft LEP 21 process is uncertain. Due to a lack of resources (officers) this project has stalled and hasn't progressed too far since the public exhibition of the document. If Council is able to employ more resources or reshuffle current work programs to accommodate draft LEP Amendment 21 it may be possible to have the Plan finalised with 6+ months.

Alternatively, Council is looking to undertake a major review of its LEP in the near future to align with a standard LEP Template provided by the Department of Planning. Depending on timing, draft LEP 21 may be encapsulated within this major LEP Review.

Draft Plan

Draft LEP 21 is still considered a draft document. It has been publicly exhibited and Council has received numerous submissions to the draft Plan. Council has to review the draft Plan whilst considering the submissions received. This will entail in house review as well as possibly engaging Ecograph to ground truth certain sites. The draft Plan recommended to the Council and the Minister may, or may not, be different to the current Plan.

LEP Template

The zones and some of the provisions proposed by draft LEP 21 are inconsistent with the standard LEP Template exhibited by the Department late last year. It is understood that the Departments final LEP Template is to be released soon and this may have some bearing on the recommended draft LEP 21 provisions.”

The comments go on to say that the application should be assessed on its merits adding that ‘on the face of it, the proposed subdivision simply has the effect of formalising what already exists on site.’

With regard to the zone objectives, the followings observations are made:-

- The subject land does not appear excessively steep nor subject to significant erosion or landslip;
- The scenic amenity, ecological values and cultural heritage of the area are not detrimentally impacted upon through the existing dwelling sites and access tracks. These values can be preserved;
- Farming activity is evident on the flatter areas of the surrounding land. The proposed subdivision is not envisaged to impact on these farming practices.

In conclusion, whilst the current Tweed LEP 2000 provides for the proposed subdivision application, the provisions of draft LEP 21 would prohibit the erection of a dwelling house on an allotment less than 40 hectares – thereby removing the opportunity for the applicant to retain three (3) of the four (4) existing dwellings on the subject land, each on a separate title. However, given the uncertainty surrounding draft LEP Amendment No 21, concerning timing, resourcing and what the final provisions of the Plan are actually going to be, the draft LEP is not considered sufficient grounds to warrant refusal.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.16 – Subdivision Manual

Council's Development Engineer has reviewed the application with respect to the provisions of DCP No.16. The application is considered satisfactory, provided certain road upgrading works are undertaken along Upper Burringbar Road. Suitable conditions of consent are proposed in this regard.

(a) (iv) Any Matters Prescribed by the Regulations

Satisfactory.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

There are no detrimental impacts envisaged as a result of the proposed subdivision. The dwellings, whilst unlawful, are pre-existing, therefore removing any associated impacts that would otherwise arise from constructing necessary access roads/driveways or establishing a suitable building envelope.

The subdivision represents an opportunity to formalise the existing uses on the subject land, with each proposed allotment to retain an existing dwelling and provide for the continuation of agricultural uses.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed subdivision. The parent parcel already provides for four (4) dwellings sites, with the proposal seeking to formalise three (3) of them and remove/demolish the fourth.

The application required an Integrated Referral to the NSW Rural Fire Service due to the bushfire prone nature of the land. In a response dated 9 November 2005, a Bushfire Safety Authority was granted subject to certain conditions of consent.

Provided the bushfire conditions are met, and the necessary road upgrade works are carried out (as per the requirements of DCP No.16), the proposed subdivision represents a sensible outcome, formalising the presence of the existing dwellings and preserving the agricultural use of the land.

(d) Any submissions made in accordance with the Act or Regulations

The application did not require notification under Council's policy. As such, no submissions were received.

(e) Public interest

The proposed subdivision is considered consistent with the public interest.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the development application and commence action against the unlawful dwellings on the subject property.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right of appeal to the Land and Environment Court should they be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed subdivision is relatively minor in nature and is not likely to result in any significant adverse environmental impacts. No physical work is proposed as part of the application and no change would occur to the nature or use of the land.

The proposal will enable the beneficiaries of the estate to obtain title to those parts of the land which they have occupied and farmed for many years and on which their dwelling houses and other improvements exist. In view of the above and having regard to the findings of the report, the application is considered suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P5 [PD-PC] Development Application DA05/0852 for Illumination of a Bowling Green at Lot 468 DP 755701, Marine Parade, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA05/0852 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the Kingscliff Bowls Club to illuminate an existing bowling green for evening recreational activities, between the hours of 5:00pm and 9:30pm, seven (7) days per week. The proposal involves the installation of four (4) lighting devices and support poles (12 metres in height) around the existing central bowling green.

Fifteen (15) letters of objection were received during the exhibition period and are addressed in this report.

RECOMMENDATION:

That Development Application DA05/0852 for an illumination of bowling green at Lot 468 DP 755701, Marine Parade Kingscliff be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 0502/EWD/01 (B), 0502/EWD/01/1 (1), 0520/EWD/01/2 (2), 0520/EWD/01/3 (2) prepared by Rubicon Design & Construct Pty Ltd and dated May 2005, except where varied by the conditions of this consent.**

[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]
- 4. Illumination of the centre bowling green shall comply with the Report on Proposed Floodlighting to Kingscliff Bowls Central Green prepared by Cushway Blackford & Associates Pty Ltd dated 11 November 2005 (Project No: 138-63/1).**

[GENNS01]

5. Illumination of the site for twilight bowls will be limited to the centre green and between the hours of 5:00pm and 9:30pm Monday to Sunday. Play shall cease by this time.

[GENNS02]

6. The operation of the Club shall be in accordance with the 'Noise Management Plan for Night Bowls' prepared by the Kingscliff Bowls Club Ltd trading as Kingscliff Beach Club dated 27 March 2006.

[GENNS03]

PRIOR TO COMMENCEMENT OF WORK

7. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

8. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

9. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

10. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

DURING CONSTRUCTION

11. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm
No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

12. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

13. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

14. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

15. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

16. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

[POC0805]

USE

17. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0125]

18. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

REPORT:

Applicant: Rubicon Design & Construct Ltd
Owner: Kingscliff Bowls Club Ltd
Location: Lot 468 DP 755701 Marine Parade, Kingscliff
Zoning: 6(b) Recreation
Cost: \$30,000

BACKGROUND:

The application proposes the installation of lights at the Kingscliff Bowls Club, to provide for the illumination of one (1) existing bowling green after daylight hours, up until 9:30pm, seven (7) days a week.

The bowling greens are currently unusable after daylight hours. It is proposed to provide on-site lighting to enable the illumination of the central bowling green, thereby allowing the club to extend the operational hours of the bowling green after daylight.

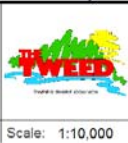
The Kingscliff Bowls Club is located on the north-eastern side of Marine Parade, near the northern fringe of the town centre. The site is roughly rectangular in shape, incorporating an area of approximately 8000m². The site incorporates a frontage width of approximately 136 metres to Marine Parade, with a depth of approximately 60 metres. The topography of the site is relatively flat. The club provides for three (3) bowling greens near the frontage of the site along Marine Parade. A clubhouse incorporating a bar, restaurant and gaming facilities is located behind the greens. A mix of existing low to medium density residential development is present on the opposite side of Marine Parade.

SITE DIAGRAM:



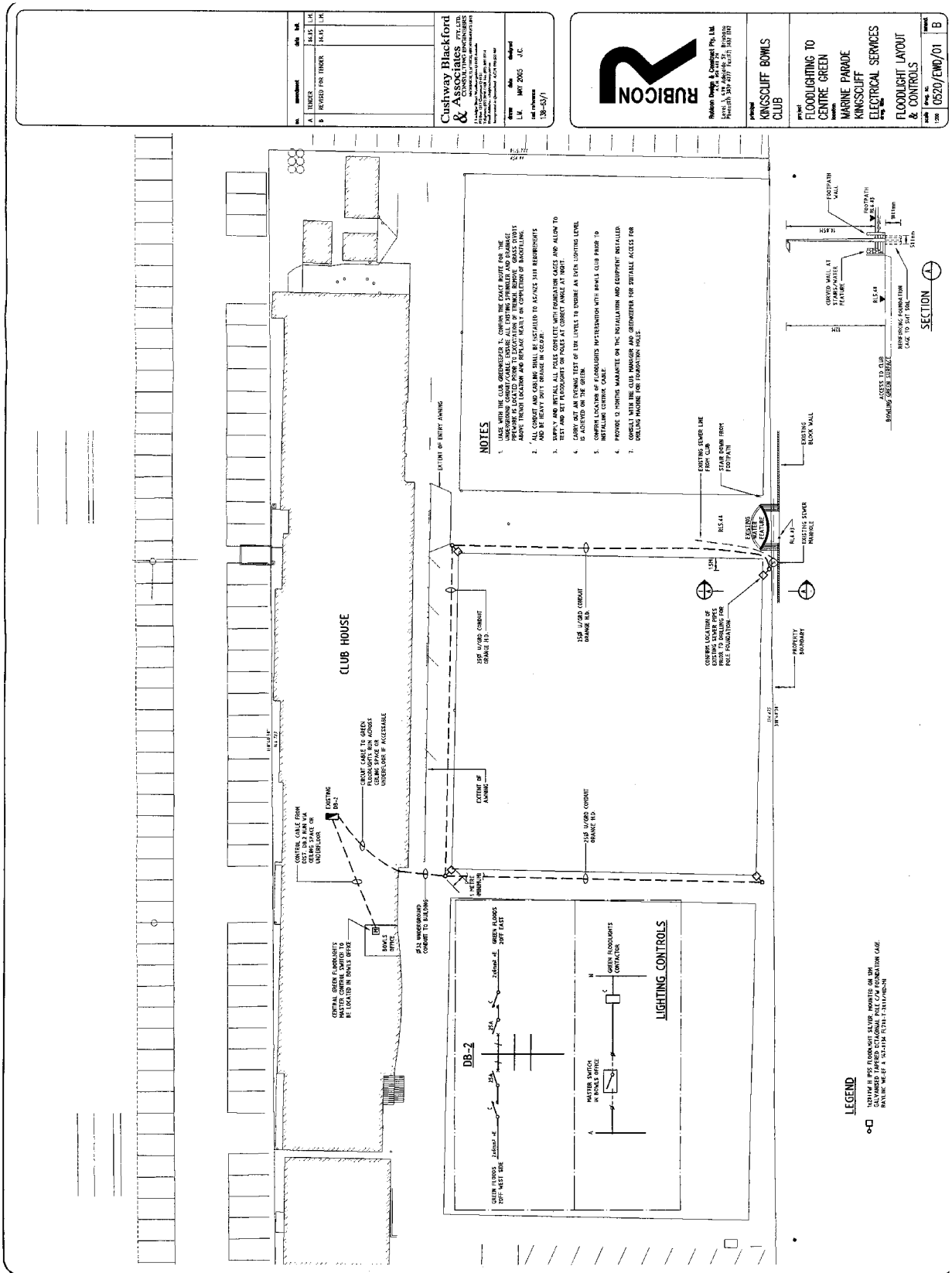
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Tweed Shire Council
 Lot 468 DP 755701
 Marine Parade, Kingscliff
 File: N:\Mapinfo 7...\A4P Site Plan.Wor Author: J.Batchelor Date: 21/June/2006 Scale: 1:10,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

Plans



Luminaire Schedule
 SPECIES ALL FIXTURES
 SYSTEM 1
 LUMEN 147-0036
 ARRANGEMENT SINGLE
 LUMEN 170000
 L/200
 SPACING 1.1
 RATIO 1.0
 187-0326 1753

Fixture Summary

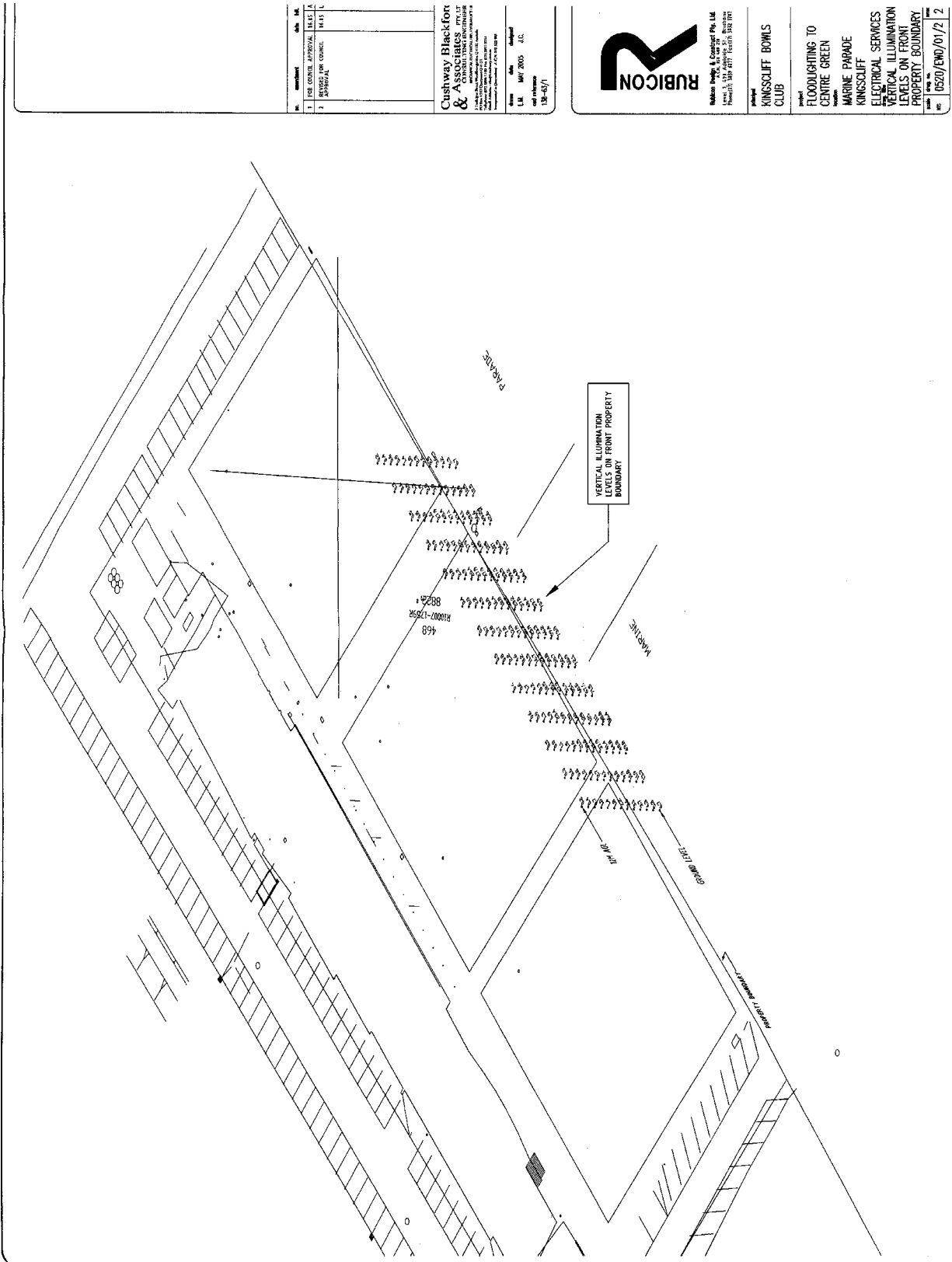
| Fixtures | ARRANGEMENT | LUMEN | SPACING | RATIO | FIXTURES | ARRANGEMENT |
|----------------------|-------------|--------|---------|-------|----------|-------------|
| RESIDENTIAL BOUNDARY | 1.0 | 170000 | 1.1 | 1.0 | 187-0326 | 1753 |

Project: Kingscliff Bowls Club
 1 FEB 06/06 APPROVAL 1515

Cushway Blackitt & Associates Pty Ltd
 25/26-28/30-32/34-36/38-40/42-44/46-50/52-56/58-62/64-68/70-74/76-80/82-86/88-92/94-98/100-104/106-110/112-116/118-122/124-128/130-134/136-140/142-146/148-152/154-158/160-164/166-170/172-176/178-182/184-188/190-194/196-200/202-206/208-212/214-218/220-224/226-230/232-236/238-242/244-248/250-254/256-260/262-266/268-272/274-278/280-284/286-290/292-296/298-302/304-308/310-314/316-320/322-326/328-332/334-338/340-344/346-350/352-356/358-362/364-368/370-374/376-380/382-386/388-392/394-398/400-404/406-410/412-416/418-422/424-428/430-434/436-440/442-446/448-452/454-458/460-464/466-470/472-476/478-482/484-488/490-494/496-500/502-506/508-512/514-518/520-524/526-530/532-536/538-542/544-548/550-554/556-560/562-566/568-572/574-578/580-584/586-590/592-596/598-602/604-608/610-614/616-620/622-626/628-632/634-638/640-644/646-650/652-656/658-662/664-668/670-674/676-680/682-686/688-692/694-698/700-704/706-710/712-716/718-722/724-728/730-734/736-740/742-746/748-752/754-758/760-764/766-770/772-776/778-782/784-788/790-794/796-800/802-806/808-812/814-818/820-824/826-830/832-836/838-842/844-848/850-854/856-860/862-866/868-872/874-878/880-884/886-890/892-896/898-902/904-908/910-914/916-920/922-926/928-932/934-938/940-944/946-950/952-956/958-962/964-968/970-974/976-980/982-986/988-992/994-998/1000-1004/1006-1010/1012-1016/1018-1022/1024-1028/1030-1034/1036-1040/1042-1046/1048-1052/1054-1058/1060-1064/1066-1070/1072-1076/1078-1082/1084-1088/1090-1094/1096-1100/1102-1106/1108-1112/1114-1118/1120-1124/1126-1130/1132-1136/1138-1142/1144-1148/1150-1154/1156-1160/1162-1166/1168-1172/1174-1178/1180-1184/1186-1190/1192-1196/1198-1202/1204-1208/1210-1214/1216-1220/1222-1226/1228-1232/1234-1238/1240-1244/1246-1250/1252-1256/1258-1262/1264-1268/1270-1274/1276-1280/1282-1286/1288-1292/1294-1298/1300-1304/1306-1310/1312-1316/1318-1322/1324-1328/1330-1334/1336-1340/1342-1346/1348-1352/1354-1358/1360-1364/1366-1370/1372-1376/1378-1382/1384-1388/1390-1394/1396-1400/1402-1406/1408-1412/1414-1418/1420-1424/1426-1430/1432-1436/1438-1442/1444-1448/1450-1454/1456-1460/1462-1466/1468-1472/1474-1478/1480-1484/1486-1490/1492-1496/1498-1502/1504-1508/1510-1514/1516-1520/1522-1526/1528-1532/1534-1538/1540-1544/1546-1550/1552-1556/1558-1562/1564-1568/1570-1574/1576-1580/1582-1586/1588-1592/1594-1598/1600-1604/1606-1610/1612-1616/1618-1622/1624-1628/1630-1634/1636-1640/1642-1646/1648-1652/1654-1658/1660-1664/1666-1670/1672-1676/1678-1682/1684-1688/1690-1694/1696-1700/1702-1706/1708-1712/1714-1718/1720-1724/1726-1730/1732-1736/1738-1742/1744-1748/1750-1754/1756-1760/1762-1766/1768-1772/1774-1778/1780-1784/1786-1790/1792-1796/1798-1802/1804-1808/1810-1814/1816-1820/1822-1826/1828-1832/1834-1838/1840-1844/1846-1850/1852-1856/1858-1862/1864-1868/1870-1874/1876-1880/1882-1886/1888-1892/1894-1898/1900-1904/1906-1910/1912-1916/1918-1922/1924-1928/1930-1934/1936-1940/1942-1946/1948-1952/1954-1958/1960-1964/1966-1970/1972-1976/1978-1982/1984-1988/1990-1994/1996-2000

RUBICON
 Rubicon Design & Contract Pty Ltd
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Project: KINGSCLIFF BOWLS CLUB
Task: FLOODLIGHTING TO CENTRE GREEN
Client: MARINE PARADE KINGSCLIFF
Task No: ELECTRICAL SERVICE
Task Name: ILLUMINATION LEVEL ON GREEN
Date: 05/30/EWO/01/1



| No. | Description | Date | By |
|-----|----------------------|----------|----|
| 1 | FOR COUNCIL APPROVAL | 18.05.06 | A |
| 2 | REVISED FOR COUNCIL | 18.05.06 | L |

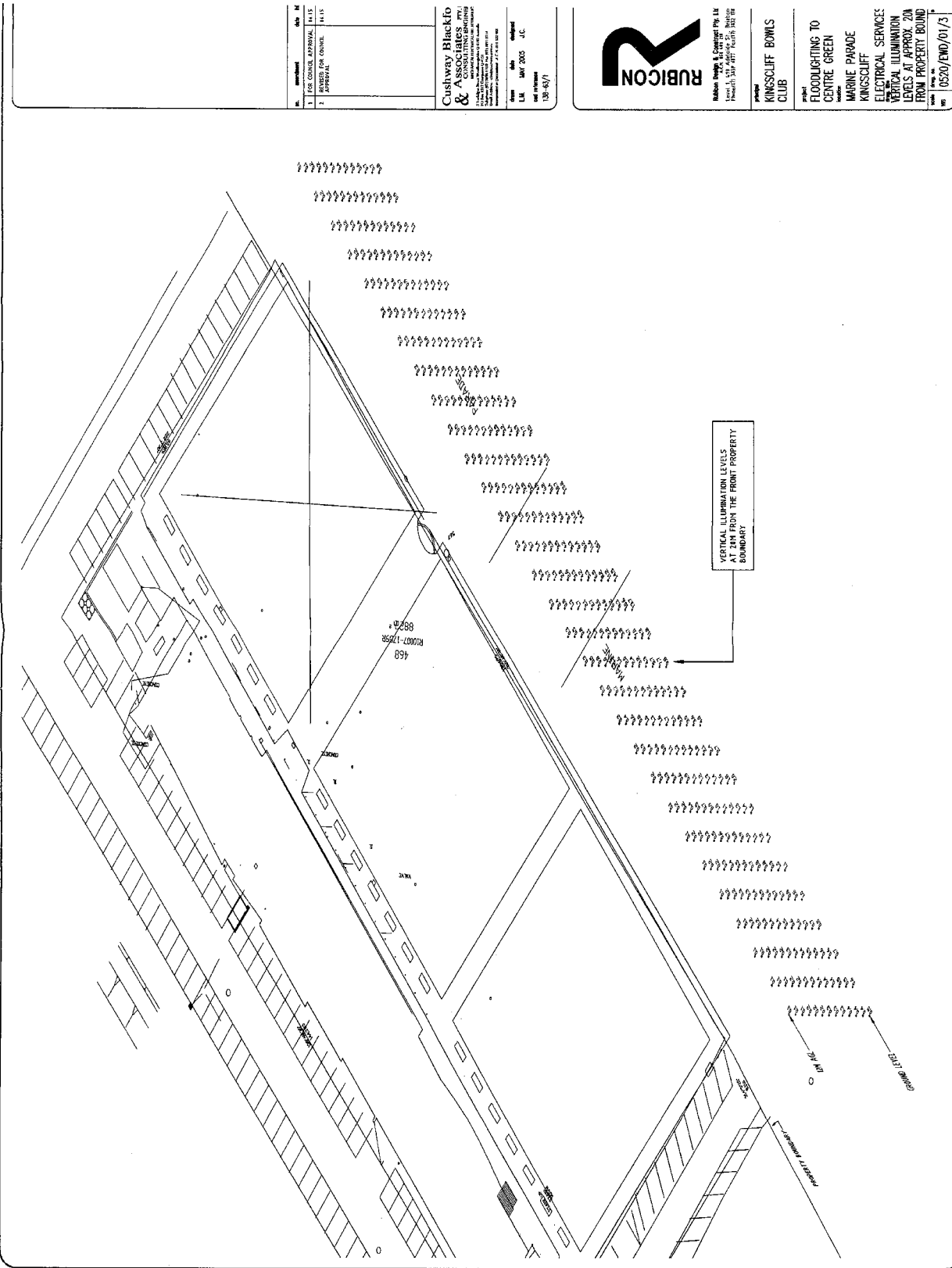
Cushway Blackfort & Associates Pty Ltd
CONSULTANTS
15/17 CUSHWAY DRIVE
PACIFIC CREEK QLD 4215
TEL: 07 5545 1300
FAX: 07 5545 1301
WWW.CUSHWAYBLACKFORT.COM.AU

DATE: 18 MAY 2006
JOB NO: J.C.
JOB REFERENCE: 138-05/1



Robicon Lighting & Electrical Pty Ltd
12/15-17 CUSHWAY DRIVE
PACIFIC CREEK QLD 4215
TEL: 07 5545 1300
FAX: 07 5545 1301

| Project | Client | Date | Page No. | Rev |
|-----------------------|--|----------|----------|-----|
| KINGSCLIFF BOWLS CLUB | FLOODLIGHTING TO CENTRE GREEN MARINE PARADE KINGSCLIFF ELECTRICAL SERVICES | 18/05/06 | 01/2 | 2 |



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject site is zoned 6(b) Recreation under Clause 11 of the Tweed LEP. The proposed illumination is permissible with consent within the 6(b) zone.

The primary objective of the 6(b) zone is:-

'To designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.'

The existing bowls club (defined as a 'recreation area') is consistent with the above objective, in that it is exclusively utilised for recreational purposes by members and guests. The proposed illumination is intended to enhance the existing use, by allowing evening recreational activities to occur on the site. The proposed illumination complements the existing recreational use of the site and is compatible with the relevant zone objectives.

North Coast Regional Environmental Plan 1988

The proposed lighting is consistent with the objectives of the NCREP, particularly in relation to Clauses 81 and 82 pertaining to development adjacent to the ocean and specialised recreational facilities.

State Environmental Planning Policy No.71 – Coastal Protection

The proposed development is satisfactory with regard to the matters outlined in Clause 8 and is considered to be in accordance with the intent of the Policy.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

No draft EPI's applicable.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.43 – Kingscliff

The proposed illumination of the central bowling green is not likely to compromise any of the strategic objectives or visions for Kingscliff as outlined in the DCP. The subject site is located in the Kingscliff North Precinct for the purposes of the plan. The majority of the precinct objectives relate to the desired nature of residential development and are not strictly relevant to the proposal. The applicant has reported that the proposal will improve streetscape quality by providing increased illumination of the public footpath along Marine Parade. As the proposal does not relate to a new building, guidelines relating to building design are not applicable. Overall, the proposal is considered compatible with the intent of the Plan.

(a) (iv) Any Matters Prescribed by the Regulations

Satisfactory.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The impacts of most significance to the proposed light poles relate to light spillage, glare and noise generation.

On each these matters the applicant has noted that, as the proposal involves illumination of the central bowling green only, the evening recreational activities are contained to the centre of the site – away from the northern and southern property boundaries. Consequently, the potential impacts of noise and light spill toward the public open space and caravan park areas adjoining the site are minimised.

In terms of light spill, glare and associated impacts, the applicant has provided a report by a consulting engineer, outlining the relative light intensities at different locations in and around the central bowling green and demonstrating compliance with the relevant Australian Standards. Given the technical nature of the data provided, the supporting report was reviewed by Council's Environment and Health Officer with the following comments provided in response:-

'The floodlighting has been designed to AS2560.2.8 (1994) Guide to Sports lighting – Specific Recommendations for bowling greens.

In accordance with the requirements of the Australian Standard, the applicant has provided a plan with a vertical plane of calculation points (demonstrating relative levels of luminosity) up to a height of 14 metres at the boundary and also approximately 20 metres from the bowls club (toward the existing residential properties on the opposite side of Marine Parade).

The Australian Standard allows a maximum of 25 lux (measurement for luminosity) during pre-curfew hours on the boundary of nearby residential properties. The proposed illuminance will be at 15 lux at 20 metres from the site, which complies with this maximum limit.

The luminare (light fitting) will be installed with no tilt, with all light output directed below horizontal. No further light spill control devices are considered necessary by the consultants report. Unless looking up into the lights from directly below, it is stated that there will be no glare problem. Low glare optics will be used in the proposed luminaries that will minimise the effect of direct glare on road users.

The green itself is grass, which is considered to have a highly diffused and non-reflective surface and thereby a low reflected illuminance. It is unlikely that any direct reflection will occur.'

Based on the comments above, and having particular regard to the proposal's compliance with the relevant Australian Standards, the impacts associated with light spillage are not considered significant enough to warrant refusal of the application. The lighting has been deliberately designed to minimise the impact of light spill and glare and should not significantly detract from the amenity of adjoining residents.

In addressing the issue of noise, the applicant has engaged an acoustic consultant to prepare an Environmental Noise Impact Report.

The report outlines that a 9:30pm finish time is proposed and that the green will be used for practice by club members and for limited competition.

The main noise sources associated with the bowls are players talking, players clapping and the sound generated from the bowls hitting each other. As such, the bulk of the noise impacts are dependent on the behaviour of the players.

To better ensure the issue of noise was properly addressed, Council's Environment and Health Unit required a Noise Management Plan (subsequently provided) which details the protocol for managing any noise generated by bowlers or on-lookers, handling any complaints and generally mitigating any impacts on adjoining residents.

Subject to a condition of consent relating to the enforcement of the Noise Management Plan, the associated noise impacts are considered within reasonable limits.

Further discussion on the potential impacts is provided in Section (d) of this report relating to public submissions.

(c) Suitability of the site for the development

The proposal represents an extension of the existing recreational use of the site and is considered suitable given; the long term operations of the club, the locations amongst an extensive public open space corridor and the absence of any significant impacts to adjoining residents.

(d) Any submissions made in accordance with the Act or Regulations

The application was notified for a two (2) week period in accordance with Council's Notification Policy. During this period, fifteen (15) submissions were received and can be generally be grouped under the headings of Visual Amenity, Noise, Parking and Traffic and Residential Amenity. A discussion on each of these issues is provided below:-

Issue: Visual Amenity – the proposed light poles will have an adverse visual impact when viewed from the existing residential units along Marine Parade.

Comment: The proposed lighting of the central bowling green will involve the installation of four (4) light support poles and the associated lighting fixtures. The support poles are relatively slim line, with a shallow light fitting directed downward toward the surface of the green. The poles incorporate a maximum height of 12 metres above the surface of the green and 10.85 metres above the level of the adjacent pedestrian footpath.

It is considered that the characteristics of these relatively narrow support poles are not of a nature that will adversely interrupt views from surrounding residential properties. To further diminish the visibility of these poles in comparison to that of a raw metal finish, the applicant has suggested the use of a black finish to the pole supports and light fixtures. A suitable condition of consent is proposed in this regard.

Noise Impact: There would be increase noise (from patrons, traffic, green keeping equipment) as a result of evening usage.

Comment: An Environmental Noise Impact Report has been prepared by Jay Carter Acoustical Consultant with regard to the proposed illumination of the central bowling green. The assessment finds that the bulk of the noise impacts associated with the play on the green will be compliant with the relevant noise criteria. The applicant has prepared a Noise Management Plan to further mitigate any potential noise impacts. All the supporting information was reviewed by Council's Environment and Health Officer and found to be satisfactory subject to conditions of consent. Overall, it is considered that the likely increase in noise impacts is not considered significant enough to warrant refusal of the application.

Parking and Traffic Impact: The proposal will result in a further increase in traffic to/from the club in the evenings resulting in increased noise and further strain on existing car parking availability.

Comment: In response to the matters raised by the objectors, the applicant commissioned a Traffic Impact Assessment by a suitably qualified consultant. The assessment considers the proposed operations in the context of the existing club operations and the capacity of the central bowling green to determine the maximum number of patrons associated with the proposal.

The assessment finds that the proposed use will generate an additional eleven (11) vehicles visiting the club premises during the evening hours, proposed. It is noted that this information was also incorporated into the Noise Impact Report.

With regard to the capacity of on-site car parking available to the club, it is relevant to note that the proposed evening use involves the central bowling green only. The site occupied by the bowling club incorporates entry and exit driveways from Marine Parade, and in conjunction with the adjoining public car park along the beachfront, provides access to a total of 148 on-site car parking spaces.

It is understood that the existing on-site parking adequately accommodates parking demand generated by both the club premises and the bowling greens during daylight hours – even when all three bowling greens are in operation. In this regard, the supporting traffic report indicates that during peak periods of club operations, around 80 cars were recorded as parking on the site. This would indicate that the current car parking capacity for 148 spaces is capable of accommodating the additional 11 cars anticipated with the proposed evening bowls – particularly given only one green will be available for use.

Lighting Impact: The increased illumination associated with the proposed light poles will detrimentally impact the residential units opposite the club.

Comment: The Report on Proposed Floodlighting submitted with the application, provides detail with regard to the proposed illumination devices and includes an assessment of the impacts of the proposed lighting. The Report considers the effective light spill beyond the boundaries of the subject site in the context of the relevant Australian Standards. The Report finds that the level of illumination occurring at the boundary of the nearest affected residential properties is well within the requirements set by the relevant Standard.

The report provides the following detail with regard to the proposed illumination devices:-

'The optical system in this luminaire has been designed to provide excellent glare restriction and minimum light spill. The light distribution is asymmetric forward throw which essentially throws all light in front of the fitting at a peak vertical intensity of 57 degrees. The luminaire will be installed with no tilt, with all the light output directly below the horizontal. Because of the optical system employed in the luminaire, no further light spill control devices should need to be used. Therefore, unless looking up into the luminaire from directly below, then there will be no glare problem.'

With regard to potential impacts in terms of reflection of light glare from illuminated surfaces on the site, The Report also provides the following discussion:-

'The likelihood of reflections off the bowling green surface is hard to quantify however the fact that the surface is grass means that the surface will be highly diffused (textured, not mirror like) and not of a highly reflective colour, therefore the reflected illuminance will be low and it is unlikely that any direct reflection will occur.'

'The other factor which reduces the glare, the fact that the green is in the region of one metres below the road level.'

In consideration of these issues it is also relevant to note that there is existing street lighting along Marine Parade immediately opposite the bowls club site and adjacent to the existing residential properties.

The findings of the supporting report have been supported by Council's Environment and Health unit, concluding that the proposed illumination of the bowling green will not create any significant adverse impact to surrounding residents due to the type, intensity and direction of lighting proposed, with illumination levels outside the site being well within acceptable standards.

Residential Amenity – The proposed light poles and extended operating hours of the central bowling green will have a negative impact on privacy and the quiet enjoyment of adjacent residential properties.

Comment: The above discussions relating to the propose illumination demonstrate that, based on the supporting reports and assessment by Council's Environment and Health Officer, the proposal will not result in any significant adverse impact to the living environment of surrounding residents.

With regard to privacy concerns, it is pertinent to note that the living areas of the affected residential buildings are situated at a higher level than that of the level of the existing bowling green. It is also relevant to note that the subject buildings are generally of a design which incorporates private open space balconies oriented toward Marine Parade with primary indoor living spaces set back beyond the balcony areas. The feature of the buildings provides depth from the building edge to the indoor living spaces and assists in limiting views from the ground and street levels adjoining the site.

Given these factors, it is reasonable to conclude that the proposal is unlikely to result in any significant adverse impact to the privacy of surrounding residents.

(e) Public interest

Subject to the draft conditions of consent included in this report, the proposed light poles for the Kingscliff Bowls Club are considered consistent with the public interest.

OPTIONS:

1. Approve the development subject to conditions of consent.
2. Refuse the development and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed illumination of the central bowling green of the Kingscliff Bowls Club has been intentionally designed to minimise the associated impacts on adjoining residential properties.

The application provides for a significant amount of supporting information by way of specialist reports in the areas of traffic management, acoustical engineering and lighting design. Relevant Council staff have reviewed these reports and concluded that any impacts associated with the proposal are within reasonable limits.

The proposal is compliant with the relevant planning controls and Australian Standards applicable and is seen to provide increased social and recreational opportunities for members of the local community. Concerns raised in public submissions have been suitably addressed. On the basis on the above assessment, the application is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

P6 [PD-PC] DA06/0574 Temporary Use of Norries Head Reserve, Car Park & Beach South of Norries Headland for Feature Film Prod'n Inc Use of Helicopter at Lot 7033 DP755701, Lot 7009 & 7011 DP1055324, Tweed Coast Rd & Pandanus Pde, Cabarita Beach

ORIGIN:

Development Assessment

FILE NO: DA06/0574 Pt1

SUMMARY OF REPORT:

Council is in receipt of a Development Application, which seeks consent for a temporary filming proposal (total 5 days), which would include the temporary use of various parts of Norries Headland at Cabarita Beach.

The feature film (Condemned) is primarily being shot at the Warner Roadshow Production facilities on the Gold Coast. However, Cabarita Beach has been nominated as an ideal filming location for the critical closing scenes of the feature film. Filming will involve use of a helicopter and pyrotechnic special effects to simulate a mid air explosion of the helicopter.

The Development Application was publicly advertised and adjoining owners notified. During the two-week notification period, Council received four submissions in relation to the proposal. Two of the submissions were in support of the proposal while the remaining two letters were objecting to the proposal. The issues raised in these submissions are discussed in the following report.

The primary issues in regards to this application include the potential impact on the Endangered Ecological Community – *Themeda Grasslands*, maintaining public access to the reserve, maintaining a reasonable level of amenity for local residents, and the availability of parking.

On review of these issues the application is considered to warrant conditional approval.

Please note that for this development to proceed on the nominated dates (24- 28 July 2006) Council must determine this application at the Council Meeting of 4 July 2006.

RECOMMENDATION:

That Development Application DA06/0574 for temporary use of Norries Head Reserve and car park and the beach south of Norries Headland (24-28 July 2006 inclusive) for feature film production including the use of a helicopter at Lot 7033 DP 755701; Lot 7009 & 7011 DP 1055324, Tweed Coast Road and Pandanus Parade, Cabarita Beach be approved subject to the following conditions:

- 1. The development shall be completed in accordance with;**
 - The Statement of Environmental Effects and the enclosed proposed site layout plan; and**
 - The Targeted Assessment of Significance and associated amelioration measures prepared by Aspect North dated 13 June 2006;**

except where varied by the conditions of this consent.

[GEN0005]

- 2. On erection of the temporary marquee's a certificate signed by a practising structural engineer is to be submitted to Tweed Shire Council to certify the structural adequacy of the structures.**

[GENNS01]

- 3. Prior to commencement of the use the applicant is to submit to Tweed Shire Council a Traffic Control Plan for approval. The plan is to detail the notification process for emergency services.**

[GENNS01]

- 4. Access to the public amenities building and hilltop parking area is to remain open to the public at all times.**

[GENNS01]

- 5. All signage and fencing is to be reinstated after the five day filming period.**

[GENNS01]

- 6. The site is to be inspected after the activities and any damage to the parks, headland or infrastructure is to be repaired to the satisfaction of the Manager Recreation Services.**

[GENNS01]

- 7. Should the development cause significant damage to the Themeda Grassland community at Norries Headland, the proponent will be responsible for restoration of areas affected, following completion of the development.**

[GENNS01]

8. **A bond to the value of \$10,000 is to be lodged with Council prior to commencement of the use of the site. Such bond is to be held to ensure the site is rehabilitated to the satisfaction of Council's Manager Recreational Services. Failure to reinstate the site adequately will result in the bond being used to repair/restore damage that may occur as a result of the activities and that are not rehabilitated in an acceptable timeframe.**

[GENNS01]
9. **Any activities on the headland are to be restricted to grassed areas.**

[GENNS01]
10. **Existing access tracks are to be utilised with no activity within the vegetated dunal areas.**

[GENNS01]
11. **The applicant is to individually communicate with the Cabarita Residents Association and erect signage notifying the public of the site activities and any temporary access restrictions from 22 July 2006.**

[GENNS01]
12. **No hazardous substances are to be stored on Norries Headland. Any hazardous substances are to be stored in secure bunded areas away from waterways**

[GENNS01]
13. **Emergency response planning should incorporate potential hazardous substance spills.**

[GENNS01]
14. **The existing boardwalk is to be used where possible to transport equipment up to Norries Headland and personnel are to use this route to access Norries Headland rather than the western face of the headland. It is understood the boardwalk will be unavailable for use when it is covered. When it is available, it is to be used in preference to travel across grassland areas of the headland;**

[GENNS01]
15. **All material is to be secured at the site so as not to cause wind blown rubbish or materials leaving the area**

[GENNS01]
16. **Operation of the helicopter is required to comply with normal air traffic control requirements and CASA regulations at all times.**

[GENNS01]
17. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:**

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- [PCW0255]*
18. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

19. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

20. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

21. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

22. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal a waste transporter licensed by the EPA.

[DUR2215]

23. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like. [USE0125]
24. All activities associated with the occupancy of the structure are to comply with the Protection of the Environment Operations Act, 1997. [USE0135]
25. Hours of operation of the helicopter and pyrotechnics are restricted to the following hours: -
- * 6am to 6pm - Mondays to Fridays (only) [USE0185]
26. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises. [USE0205]
27. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate. [USE0875]
28. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW. [USE1035]
29. The erection of any structures to comply with NSW WorkCover requirements and be carried out by NSW WorkCover licensed personal. [GENNS01]
30. Provision shall be made for adequate crowd control and security measures for the venue. Security shall be provided before, during and after the event and be effective in controlling public access and ensuring public safety. [GENNS01]
31. Any use of fireworks shall comply with the requirements of NSW WorkCover and relevant permits shall be obtained. [GENNS01]
32. Adequate provision shall be made for emergency medical and first aid services. [GENNS01]
33. Vegetation shall not be lopped, damaged or removed. [GENNS01]
34. The entire site shall be left in a clean and safe condition at the completion of the activity. All wastes shall be collected on site and disposed to an approved waste facility. [GENNS01]
-

35. An adequate number of temporary toilet facilities shall be provided to the satisfaction of the DECS. Toilets shall be maintained in a clean and healthy state at all times.
[GENNS01]
36. All food handling, storage and preparation shall comply with the Food Act, 2003 and the North Coast Regional Code For Sale of Food At Markets & Temporary Events. Food preparation areas shall be maintained in a clean and healthy state at all times.
[GENNS01]
37. Food preparation and storage areas shall be provided with an adequate and clean supply of potable water to the satisfaction of the DECS.
[GENNS01]
38. Not less than 7 days prior to any event Council shall be supplied in writing with the names and contact details of the persons responsible for event organisation.
[GENNS01]
39. All approaches and departures by the helicopter shall be over water and at no time shall the helicopter fly over any public gatherings or dwellings. The helicopter shall be operated so as to minimise potential disturbances to local residents.
[GENNS01]
40. The number of vehicles which access the beach shall be limited to five. All drivers shall hold relevant NSW Drivers Licenses. Vehicle access shall be generally restricted to the immediate filming areas.
[GENNS01]

REPORT:

Applicant: Condemned Productions Australia Pty Ltd
Owner: Tweed Shire Council and Department of Lands
Location: Lot 7033 DP 755701, Lot 7009 & Lot 7011 DP 1055324 Tweed Coast Road & Pandanus Parade, Cabarita Beach
Zoning: 6(a) Open Space & Uncoloured
Cost: \$50,000

BACKGROUND:

The filming proposal includes the temporary use of various parts of the site including part of the car parking area, sections of the beach located to the south of Norries Headland, the grassed reserve area in proximity to the amenities block, and on the headland itself.

The temporary development will require one day to occupy and prepare the site, two filming days, a day to remove equipment and one contingency day to allow filming from the second production unit (which is a reduced crew to obtain any missed footage).

A "Unit Production Area" will be established on the level area adjoining the amenities block. This will involve the erection of two 20m x 10m marquees with portable toilets provided for the crew.

The areas to be occupied other than the "Unit Production Area" will vary depending on the actual filming on the day. During filming the applicant intends to control public access to maintain public safety with the use of the helicopter.

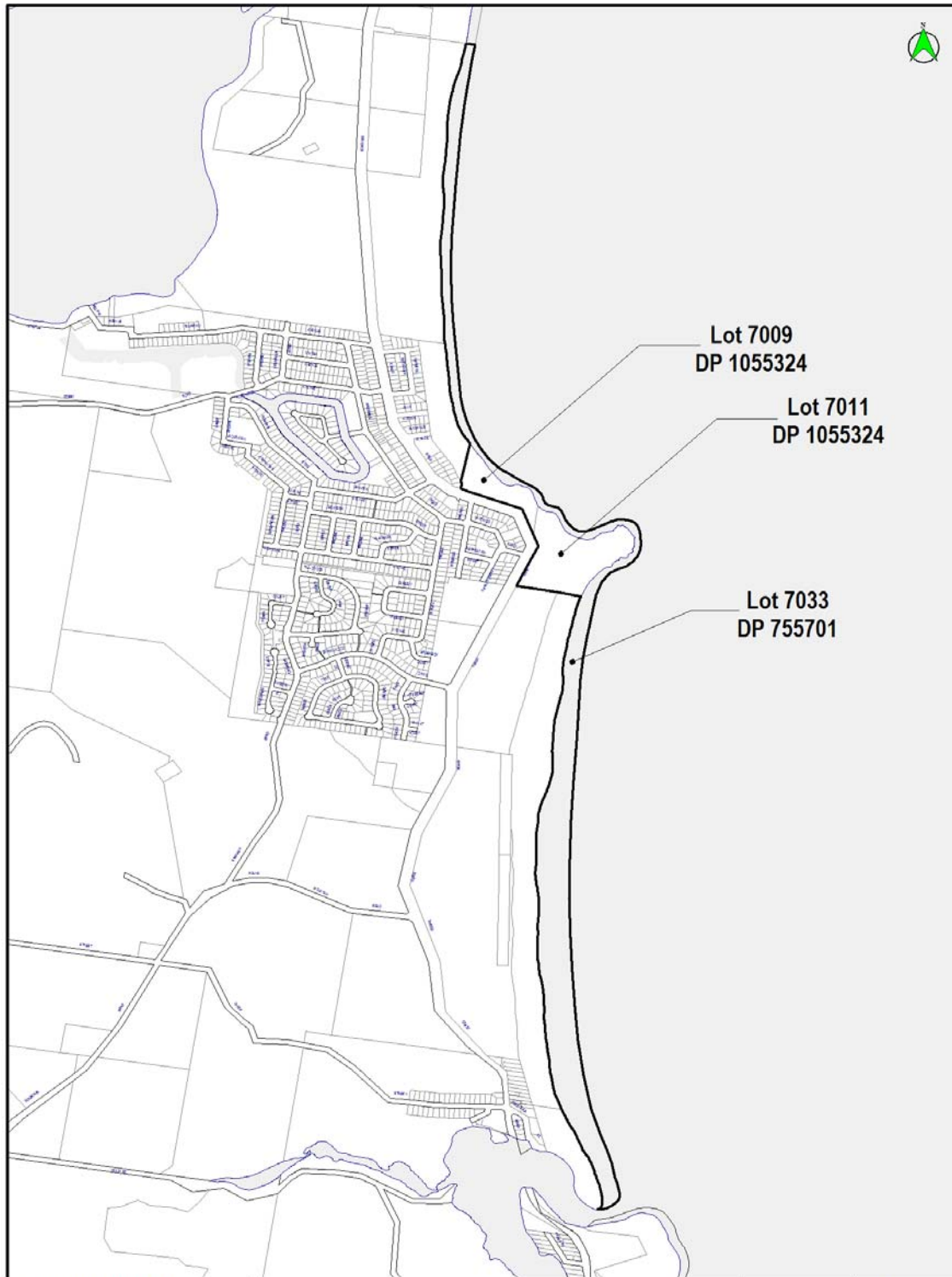
The production will involve approximately 80 crew, 3 cast, 8 trucks, 7 buses, 3 vans and 4 four wheel drive vehicles to be established on site. Unit call times will commence at 4.00am with filming finishing by 6.30pm. The helicopter will not be on site prior to 6.00am and will leave by 6.00pm.

Other work required to prepare the site for filming includes covering of the walkway on the headland, the temporary removal of signage and the temporary removal of approximately 6m of fencing, and installation of vehicle access at the end of the existing vehicular beach access track to facilitate access to the beach. One picture vehicle and four quad bikes or four-wheel drive vehicles will be required to access the beach.

The applicant has obtained owners consent from the Department of Lands and Tweed Shire Council as required.

In addition the applicant is aware of the need for a license from the Department of Lands in accordance with the provisions of the Local Government Act.

SITE DIAGRAM:



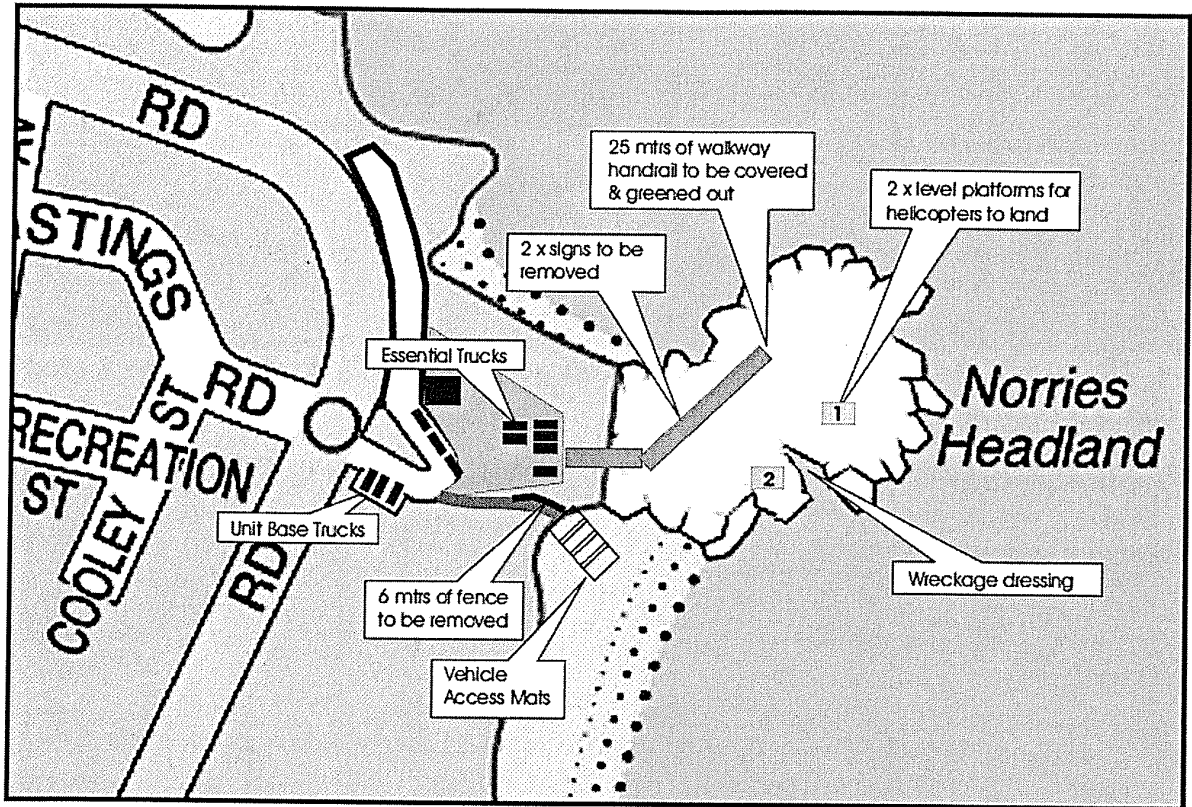
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Tweed Shire Council
 Lot 7033 DP755701, Lot 7009 & 7011 DP1055324,
 Tweed Coast Road & Pandanus Parade, Cabarita Beach
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 27/June/2006



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

SITE LAYOUT PLAN



Proposed Site Layout Plan For Temporary Filming On Norries Head, Cabarita Beach

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The land to which this application relates is mainly zoned 6(a) Public Open Space and partly "uncoloured land" under the provisions of this Plan. The objectives of the 6(a) Zone are stated inter alia:

"Primary objective

- *to identify existing public land, and land that is proposed to be acquired for public ownership, to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land.*

Secondary objective

- *to allow other development that is compatible with the recreational use of the land."*

For the purpose of land use definitions in the Tweed Local Environmental Plan 2000, development for the purposes of temporary film production (incorporating all ancillary activities) is not specifically defined and is therefore an innominate use.

In accordance with Clause 11 of the Local Environmental Plan 2000 the innominate use is prohibited in the 6(a) zone. However Clause 12 of Tweed Local Environmental Plan 2000 relates to Temporary Development of Land and states inter alia:

"(1 Objective

- *to enable the temporary development of land for a purpose that would otherwise be prohibited in the zone.*
- (2) *Consent may be granted to development (other than designated development) for any purpose that is elsewhere prohibited by a provision of this plan for a maximum period of 14 days, whether consecutive or not, in any one year. "*

Therefore the proposed temporary filming (total 5 days) is permissible within the 6(a) Zone pursuant to Clause 12 of Tweed Local Environmental Plan 2000.

In addition the proposal is considered to be consistent with the zone objective in that the use of the public land for up to 5 days in a non-peak period (mid week – mid-winter – non school holidays) does not adversely affect the normal recreational use of the land.

Clause 13 of the Tweed LEP 2000 requires development consent for any proposed development on uncoloured land. The proposed temporary development is permissible within the adjacent zones by virtue of Clause 12 of the LEP and is considered consistent with the adjoining zone objectives.

Clause 15 requires adequate essential services for all developments. In this regard the production unit will provide adequate electricity (generators) and toilet facilities (portable toilets). These services are considered adequate for the temporary nature of the development.

Clause 17 requires Council to consider the potential social impact associated with the development. In this regard the temporary nature of the development and the imposition of the recommended conditions of consent are sufficient to ensure local residents retain a reasonable level of amenity during the five days.

Clause 31 relates to developments adjoining water bodies and focuses on protecting and enhancing quality of the natural environment, and to provide adequate public access to waterways. The proposed temporary development will not contravene the objectives of this Clause. Reasonable access will be maintained and no negative impact to the natural environment is envisaged as a result of the temporary use of the headland area.

Clause 39A relates to the minimisation of bushfire risk to built assets and people. Whilst the subject site is located within a nominated bushfire prone area the proposed temporary use of the site to facilitate the production of a feature film will not create any threat in regards to bushfire. All emergency services will need to be notified in accordance with Tweed Shire Council Policies.

North Coast Regional Environmental Plan 1988

The details of this Clause are stated as follows and addressed in the paragraphs below:

“In determining an application for consent to carryout development on land to which the Coastal Policy applies, the Council shall take into account –

The NSW Coastal Government Policy; The Coastline Management Manual; and The North Coast Design Guidelines.

- *The Council shall not consent to the carrying out of development which would impede public access to the foreshore area;*

- *The Council shall not consent to the carrying out of development on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3 pm mid-winter (standard time) or 6.30 pm mid-summer (daylight saving time); or Elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 4 pm mid-winter (standard time) or 7 pm mid-summer (daylight saving time)."*

NSW Coastal Policy, 1997

The maps accompanying the Coastal Policy indicate that the site falls within the area to which the Policy applies.

Table 2 of the Coastal Policy contains a number of strategic actions relevant to development control. Those specifically relevant to this proposal are addresses below:

- Stormwater Quality: The temporary development does not involve the erection of any permanent structures and involves only five days in total. In this instance it is considered that a Stormwater Management Plan is not required.
- Coastal Hazards: The temporary development is suitable for the location having regard to the hazards that apply to this site.

In summary, approval of the application would not be inconsistent with the Coastal Policy.

Coastline Management Manual, 1990

In accordance with the requirements of this Manual, Tweed Shire Council has prepared a Coastline Hazard Definition Study, but the preparation of a Coastline Management Plan is yet to be completed. Given the temporary nature of the proposed use it is considered that the filming would not be inconsistent with those Plans.

North Coast Design Guidelines

The proposed filming does not involve the erection of any permanent structures and therefore the North Coast Design Guidelines are not particularly relevant to this application.

Overshadowing

The proposed temporary development does not involve the erection of any permanent structures and therefore this Clause is not particularly relevant to this application.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The site falls within the area to which the Policy applies. The application is generally consistent with the provisions of State Environmental Planning Policy No. 71 specifically Clause 8 which requires an assessment of matters for consideration. Subject to the recommended conditions of consent the application is considered to adequately satisfy this SEPP.

State Environmental Planning Policy – Major Projects 2005

The Major Projects SEPP was gazetted on 25 May 2005. This State Environmental Planning Policy nominates a range of developments for which the Minister is the consent authority depending on the class of development (type of use and value) and certain developments on specified sites.

Clause 6 of the State Environmental Planning Policy identifies State Significant Development as development described in Schedule 1 or 2.

Schedule 2, Subsection 1 relates to Coastal Areas and includes buildings or structures greater than 13m in height.

The proposed temporary filming on the subject site is not caught by any other elements described in Schedule 1 or 2. In this case the Tweed Shire Council is the Consent Authority for this development application.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

Draft Tweed Coast Reserve Plan of Management

The Tweed Coast Reserve Plan of Management was prepared by the former Department of Land and Water Conservation in 1997, and remains in draft form. Under that Draft Plan the site is located within Precinct 5 – Cabarita Beach/ Norries Head.

Figure 14 of that Plan indicates that the site is located within the Recreation, Environmental Protection Management Unit and partially within the Foreshore Management Unit.

The objectives of these management units, as stated in Section 5 of the Plan, are directed towards environmentally responsible uses which may be considered on a case by case basis. Although not specifically mentioned it is considered that the use of the subject site for a temporary filming location is consistent with the objectives of each of the management areas.

Accordingly it is considered that the proposed development is not inconsistent with the draft version of the Tweed Coast Reserve Plan of Management.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No. 2 – Car Parking Code

Development Control Plan No. 2 does not specify a rate of car parking spaces to be provided for temporary developments such as the proposed filming.

However based on the estimates provided by the applicant approximately 40 car parking spaces will be required for the crew.

In this regard it is submitted that adequate car parking is available within the public car park located adjacent to the filming location. While the proposed filming may consume a significant number of those spaces, it is considered that the public demand during that non-peak period will not be high and that the greater benefit from this development will override any minor temporary inconvenience to those who would normally visit this car park area.

Furthermore, Council's Traffic & Transport Engineer has reviewed the proposal and recommended conditions of consent to ensure all signage is reinstated and general public access is available at all times to the amenities building and car parking area.

Tweed Development Control Plan No. 51 – Tweed Coast Strategy

The Tweed Coast Strategy contains a number of principles and planning objectives relating to development within the coastal villages.

While no specific planning controls apply to the proposed temporary filming use, the proposal is considered to be in general accordance with the key policy principles identified in the Plan, in particular 3.3.4 Public Open Space and 3.3.7 Natural Environment.

In this regard the proposed temporary filming will allow public access to be maintained where possible to the foreshore, except for limited periods where exclusion is required to maintain public safety. In addition the proposed filming is to showcase the natural features of the locality with a priority placed on minimising any disturbance to the site.

(a) (iv) Any Matters Prescribed by the Regulations

The proposed temporary development is considered satisfactory subject to the recommended conditions of consent.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Flora & Fauna

Upon initial review of the application Council staff identified that the subject site accommodates an Endangered Ecological Community – *Themeda Grasslands*. Council requested additional information from the applicant to address flora and fauna having specific regard to Part 5A of the Environmental Planning & Assessment Act 1979.

Council's Environmental Scientist then reviewed the submitted Flora & Fauna Assessment and provided the following comments:

"I have reviewed additional information provided to accompany the Development Application for proposed temporary filming at Norries Head, Cabarita Beach, namely Targeted Assessment of Significance (Aspect North 13 June 2006).

The methodology for assessment of the proposed development on Themeda Grassland, threatened flora on Norries Headland and threatened fauna appears sufficient given the short-term and temporary nature of the proposed development.

A single Significance Assessment (7 part test) has been conducted for the Endangered Ecological Community - Themeda grasslands, and threatened shorebirds Osprey, Sooty and Pied Oystercatchers. Assessment of the potential impact of the proposed development on threatened species and Themeda grasslands appear sufficient and conclusion that the development will not significantly impact threatened species, populations or ecological communities justified, provided recommended mitigation measures are employed.

Section 6.2 provides amelioration measures to minimise potential impacts of the development. All mitigation measures are relevant in the reduction of potential impacts. However, several further mitigation measures (outlined below) should be additional to conditions of consent provided by Aspect North in Section 6.2 of Targeted Assessment of Significance:

- No hazardous substances are to be stored on Norries headland. Any hazardous substances are to be stored in secure bunded areas away from waterways;*
- Emergency response planning should incorporate potential hazardous substance spills;*
- The existing boardwalk is to be used where possible to transport equipment up to Norries Headland and personnel are to use this route to access Norries Headland rather than the western face of*

the headland. It is understood the boardwalk will be unavailable for use when it is covered. When it is available, it is to be used in preference to travel across grassland areas of the headland;

- All material is to be secured at the site so as not to cause wind blown rubbish or materials leaving the area;*
- Should the development cause significant damage to the Themeda Grassland community at Norries Headland, the proponent will be responsible for restoration of areas affected, following completion of the development. Therefore a monetary bond should be secured from the proponent."*

The above recommendations have been incorporated as conditions of consent and therefore the application is considered to have adequately addressed Flora and Fauna.

Noise

It is likely that some localised disturbances or inconveniences could be anticipated from the proposal.

Noise will be associated with the use of the helicopter and pyrotechnics. Such activities will be restricted to 6.00am to 6.00pm with all approaches and departures for the helicopter to be over the water and at no time will the helicopter fly over any public gatherings or dwellings.

However due to the very brief nature of the activity it is anticipated that the general community would accept such minor disturbances.

(c) Suitability of the site for the development

Subject to compliance with the recommended conditions of consent the subject site is considered suitable for the proposed temporary use for filming.

(d) Any submissions made in accordance with the Act or Regulations

The application was advertised and notified to adjoining land owners, who were given fourteen days to make a submission on the proposal. In addition to this Council independently contacted the Cabarita Ratepayers Association, Cabarita Surf Life Saving Club, and Gold Coast Airport Limited. During this period Council received four submissions. Two letters were received in support of the proposal and the process of assessment being undertaken for this event with a further two submissions in objection to the proposal on the following grounds;

- We should not close off public land without a benefit to the Shire;
- The estimated cost for the film (\$50,000) is unrealistic and it should be more like \$200,000 per day.

In specific regard to use of public land for a private benefit the application has been reviewed by Council's Manager Recreation Services Unit who provided no objection subject to the imposition of the following conditions:

1. *The site is to be inspected after the activities and any damage to the parks, headland or infrastructure is to be repaired to the satisfaction of the Manager Recreation Services*
2. *An appropriate bond (\$10,000) is lodged to allow for any repair/restoration works that may occur as a result of the activities and not undertaken in an acceptable timeframe.*
3. *Any activities on the headland are to be restricted to grassed areas*
4. *Existing access tracks are to be utilised with no activity within the vegetated dunal areas.*
5. *In addition to the statutory notification of the Development Application, individual communication with the Residents Association and signage notifying of the limited access be placed at the headland access tracks from 22 July 2006.*

One of the queries from the Cabarita Residents Association related to whether Council could require the applicant to make a donation to a local facility for use of public land. In this regard Council explained to the Association that Council cannot impose such a condition on the applicant and any previous donations by other companies have been a voluntary act of good will to the community.

In this instance use of public land for a private purpose such as filming will result in a public benefit through exposure and potential tourism benefits.

In regard to the applicants estimated cost for filming there is no way for Council to determine the accuracy of the submitted estimate of \$50,000 and therefore the DA fees was determined on this estimate.

(e) Public interest

The application is not considered contrary to the general public interest. The temporary nature of the filming over a five day no peak period is considered reasonable subject to compliance with the recommended conditions of consent.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent
2. Refuse the application

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the application be refused the applicant would have a right to Appeal to the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is considered to be suitable for the proposed development. The environmental attributes of the site have made it desirable as a location for the proposed filming. These attributes are valued by the applicant and as such will be protected through environmental management measures within a plan for the site.

The remediation of the land following completion of the development will be of benefit. It is considered that the addition of activity in the Norries Headland area will be able to be undertaken in a manner to limit nuisance to other residences.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.
