

**P10 [PD-PC] Development Application DA06/0099 for a Mixed Use Development Comprising Two Commercial Premises and 4 x 2 Bedroom Units at Lot 9 Section 5 DP 4043, No. 35 Beryl Street, Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/0099 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a development application for a three (3) storey mixed use building over a property in Beryl Street, Tweed Heads, comprising the following:-

- Ground Level – Two (2) Office Tenancies (Office 1 – 50.6m<sup>2</sup> & Office 2 – 133m<sup>2</sup>);
- First Floor Level – 2 x 2 bedroom units;
- Second Floor Level – 2 x 2 bedroom units; and
- Basement Car Park comprising nine (9) car parking spaces, one of which is a tandem space.

The main issues associated with the application relate to the following matters:-

- Proposal's non-compliance with elements of the Tweed Heads Masterplan;
- Variation sought to Floor Space Ratio identified in Clause 50 of the LEP (SEPP No.1 Objection lodged in this regard);
- Performance of the application against elements of SEPP No.65 – Design of Residential Flat Buildings, pertaining to Context, Scale, Built Form and Aesthetics; and
- Urban Design/Streetscape concerns – Is the design of the proposal suitably compatible with the existing streetscape along Beryl Street in light of the identified heritage/special character value of the area?

Each of these matters is addressed within the body of the report.

**RECOMMENDATION:**

**That Development Application DA06/0099 for a mixed use development comprising two commercial premises and four x 2 bedroom units at Lot 9 Section 5 DP 4043, No. 35 Beryl Street Tweed Heads 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. DA0.00, DA0.01, DA1.01, DA1.02, DA1.03, DA1.04, DA1.05, DA2.01, DA2.02, DA3.01 & DA4.01, prepared by

Lightwave Architects and dated December 2005, 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]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0945]

6. 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]

7. Egress from the basement carpark shall comply with either the deemed-to-satisfy provisions of part D1.2 of the Building Code of Australia or a fire engineering report containing an alternate solution which addresses Performance Requirement DP4 in Volume 1 of the Building Code of Australia. Details of one of the above alternatives shall be submitted to

and approved by the Principal Certifying Authority prior to the issue of the construction certificate.

[PCCNS01]

8. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

9. Prior to the issue of a construction certificate hydraulics plans of the proposed sewerage drainage system, prepared by a suitably qualified consultant, shall be submitted to and approved by Tweed Shire Council.

[PCCNS02]

10. The developer shall provide ten (10) parking spaces including parking for the disabled, plus a loading bay and provision for bicycle parking in accordance with DCP2, 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]

#### 11. 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: | \$7,624 |
| S94 Plan No. 4 (Version 4.0)      |         |
| Sector1_4                         |         |

(b) Open Space (Structured): S94 Plan No. 5	\$1,260
(c) Open Space (Casual): S94 Plan No. 5	\$269
(d) Shirewide Library Facilities: S94 Plan No. 11	\$1,112
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$229
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$324
(g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,555.36
(h) Cycleways S94 Plan No. 22	\$568
(i) Regional Open Space (Structured) S94 Plan No. 26	\$3,757
(j) Regional Open Space (Casual) S94 Plan No. 26	\$1,381
(k) Tweed Heads Master Plan: S94 Plan No. 27	\$4,188.00

[PCC0215]

12. 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 DSP4:	2.1344 ET @ \$4598	\$9,814
Sewer Banora:	3.1016 ET @ \$2863	\$8,880

---

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]

13. 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]

14. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.6m AHD in accordance with DCP5 - Development of Flood Liable Land. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.

[PCC0685]

15. 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]

16. 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) Reconstruction of the existing vehicular footpath crossing; and

- (b) Provision of concrete path paving for the full site frontage to extend 2.3m from the property boundary towards the kerb.

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]

17. 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
  - stormwater drainage
  - water supply works
  - sewerage works
  - landscaping works
  - 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]

18. 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]
19. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils adopted Development Design and Construction Specification - Stormwater Quality.
- [PCC1125]
20. Stormwater
- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
  - (b) All roof water is to be directed towards Beryl Street. No roof stormwater is to be directed towards the rear of the site or adjoining properties without a registered easement first being created over the adjoining property.
  - (c) Surcharge overflow from any rubble pits or infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
  - (d) Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
  - (e) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
  - (f) All rubble pits and infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
  - (g) All rubble pits and infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the

footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.

- (h) Any surcharging/rubble pit system located in the rear yard must only accept stormwater volumes that are equal to or less than the pre-development flows from the relevant portion of the property and will require a level spreader system for dispersal of surcharging stormwater to mimic the original lot's stormwater discharge patten via dispersed sheet flow. [PCC1135]
21. 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]
22. 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, Revision 2, June 2004"* 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]
23. The front section of the driveway up to the loading bay will need to be widened to 5.5m (per AS2890.1) to allow two-way traffic movement. [PCCNS03]
24. A detailed plan of landscaping is to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. [PCC0585]

**PRIOR TO COMMENCEMENT OF WORK**

25. 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]
26. 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]
27. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being

the council) has given the council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

- \* in the name and licence number of the principal contractor, and
- \* the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

- \* the name of the owner-builder, and
- \* if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

28. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) 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]

29. 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]

30. 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.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0985]

31. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

32. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

33. 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]

34. 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.

[PCW0125]

35. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve.

[PCW0705]

36. 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]

37. 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]

38. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

39. 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]

40. 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]

41. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0245]

42. 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]
43. 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]
44. 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]
45. 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]
46. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]
47. 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]
48. 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]
49. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.

- (d) completion of work and prior to occupation of the building. [DUR2485]
50. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
51. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
52. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
53. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]
54. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*). [DUR2615]
55. Excavation
- (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]

56. 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]

57. 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]

58. 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]

59. 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.

[DUR1715]

60. 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]

#### **DURING CONSTRUCTION**

61. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

[DUR0015]

62. 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]

63. The driveway is to be constructed 5.5 metres wide at the property boundary and 7.5 metres wide at the kerb line with a uniform taper. This will require reconstruction of the existing footpath crossing.

[DUR0075]

64. 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]

65. Any pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring residential areas. Such location is to be to the satisfaction of the General Manager or his delegate.

[DUR0225]

66. All pumps used for any onsite dewatering operations shall be acoustically shielded to the satisfaction of the General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.

[DUR0235]

67. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the General Manager or his delegate.

[DUR0255]

68. Provision to be made for the designation of a durable and pervious car wash-down area. The area must be identified for that specific purpose



and be supplied with an adequate water supply for use within the area. Any surface run-off from the area must not discharge directly to the stormwater system. In this regard the disabled parking space shall also be utilised as a car wash bay.

[DUR0975]

69. 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]

70. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

71. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.

[DUR2415]

72. 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 50mg/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.

[DUR2435]

73. 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]

74. Dewatering of the site shall be carried out in accordance with the Dewatering Management Plan provided within Section 6.0 of the Acid Sulfate Soil & Dewatering Assessment and Management Report for 35 Beryl Street, Tweed Heads prepared by Border-Tech and dated November 2005 (Job No: BT15266).

[DURNS01]

75. The names and contact details of person's responsible for the appropriate management of dewatering operations shall be supplied to Council prior to the commencement of dewatering operations.

[DURNS02]

76. A visual inspection of discharge waters for suspended sediments shall be carried out daily with corrective action undertaken immediately as required.

[DURNS03]

77. The burning off of trees, associated vegetation felled by clearing operations and builders waste is prohibited.

[DURNS04]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

78. 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]

79. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

80. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

81. 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]

82. 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]

83. 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]

84. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised, notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive noise.

[USE0175]

85. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

**GENERAL TERMS OF APPROVAL UNDER SECTION 10 OF THE WATER ACT 1912 (Licence to construct and use a work and to take and use water if any conserved or obtained by the work and to dispose of the water for the use of occupiers of the land)**

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval 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.
- 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 Soil and Dewatering Assessment and Management" document produced by Border-Tech dated November 2005 for the site, presented as Appendix D in the "Statement of Environmental Effects" produced by Planit Consulting dated January 2006.
  - The volume of groundwater extracted as authorised must not exceed 5 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:** Kenvic Homes  
**Owner:** Mr KE Jamieson and Mrs VI Jamieson  
**Location:** Lot 9 Section 5 DP 4043, No. 35 Beryl Street, Tweed Heads  
**Zoning:** 3(b) General Business  
**Cost:** \$1,200,000

**BACKGROUND:**

The section of Beryl Street where the subject site is located is nominated in the Tweed Heads Masterplan as possessing special character value – primarily for its distinctive mix of older style, two (2) storey timber cottages, all of a similar architectural appearance and all sited near to the Beryl Street frontage.

Photos of the area are provided as an addendum to this report.

To ensure preservation of this area, the Masterplan recommends the establishment of a 'Special Character Zone' on Beryl Street with the principal objective of reducing building heights along the street frontage and ensuring the character, scale and built form of the area is preserved.

As the subject site is geographically at the centre of the most valuable character buildings in the street, any redevelopment will have a critical role in determining the special character qualities of the whole area.

Regrettably, the existing dwelling on the subject site was approved for demolition on 11 January 2006 (DA05/1519). Council's Building Services Unit have acknowledged the decision to grant consent for demolition was an oversight, advising that they were not aware of the special character identification given to the site.

Given the existing building now has approval to be demolished, the critical issue becomes determining whether the design of the proposed redevelopment is sympathetic to the character of the area. In this respect, both Council's Strategic Planner (Urban Design) and the Project Co-ordinator of the Tweed Heads Masterplan have provided comment indicating that the current design fails in this sense.

When looking at these design and character area issues, the question of how much weight Council is required to give to the Masterplan is also pertinent. It is understood that the Masterplan may be required to undergo a substantial review in the New Year. Should this occur, the role of the document in the assessment process may alter. At present, the Masterplan has been adopted by Council and endorsed by the Minister for Planning but has not yet been translated into any formal amendment to the LEP or DCP.

Despite the uncertainty regarding the future the Masterplan and its lack of statutory weight, it is considered the concepts underpinning the Masterplan are largely well-founded and worthy of review when looking at the subject application.

Issues related to the Masterplan need to be further looked at in the context of the current statutory controls for the subject site and in particular in relation to building heights. As discussed later in this report, the subject land is currently designated for twelve (12) storey development. In contrast, the Masterplan identifies a 2/4 storey height limit for the site (the first 20 metres from the property boundary designated for two (2) stories and the area behind identified for four (4)). Whilst twelve (12) storeys may not be achievable given the available land area, the issue of compatibility with the low-rise, special character area surrounding the development and the recommendations of the Masterplan needs to be looked at with this in mind. Should Council elect to refuse the current three (3) storey proposal on the grounds of building height, non-compatibility with surrounding development and conflict with the recommendations of the Masterplan, there remains a possibility for the applicant to propose a taller, even less-sympathetic building, still within the current statutory building height controls applicable to the site.

All the above issues are addressed further within the body of the report. It is noted that whilst the recommendation is for approval, the merit of the proposal is largely dependent on the emphasis Council places on the heritage/special character value of the area and the recommendations of the Tweed Heads Masterplan.


The subject site has a primary frontage to Beryl Street, is regular in shape, and has an area of approximately 597m<sup>2</sup>. The land is generally flat with a slight crossfall from east to west, ranging in height from approximately 4.51m AHD to 3.93m AHD.

The site is surrounded adjoined to the north and south by single dwelling houses with those adjoining along Beryl Street identified in the Tweed Heads Masterplan as having a distinctive style and character.

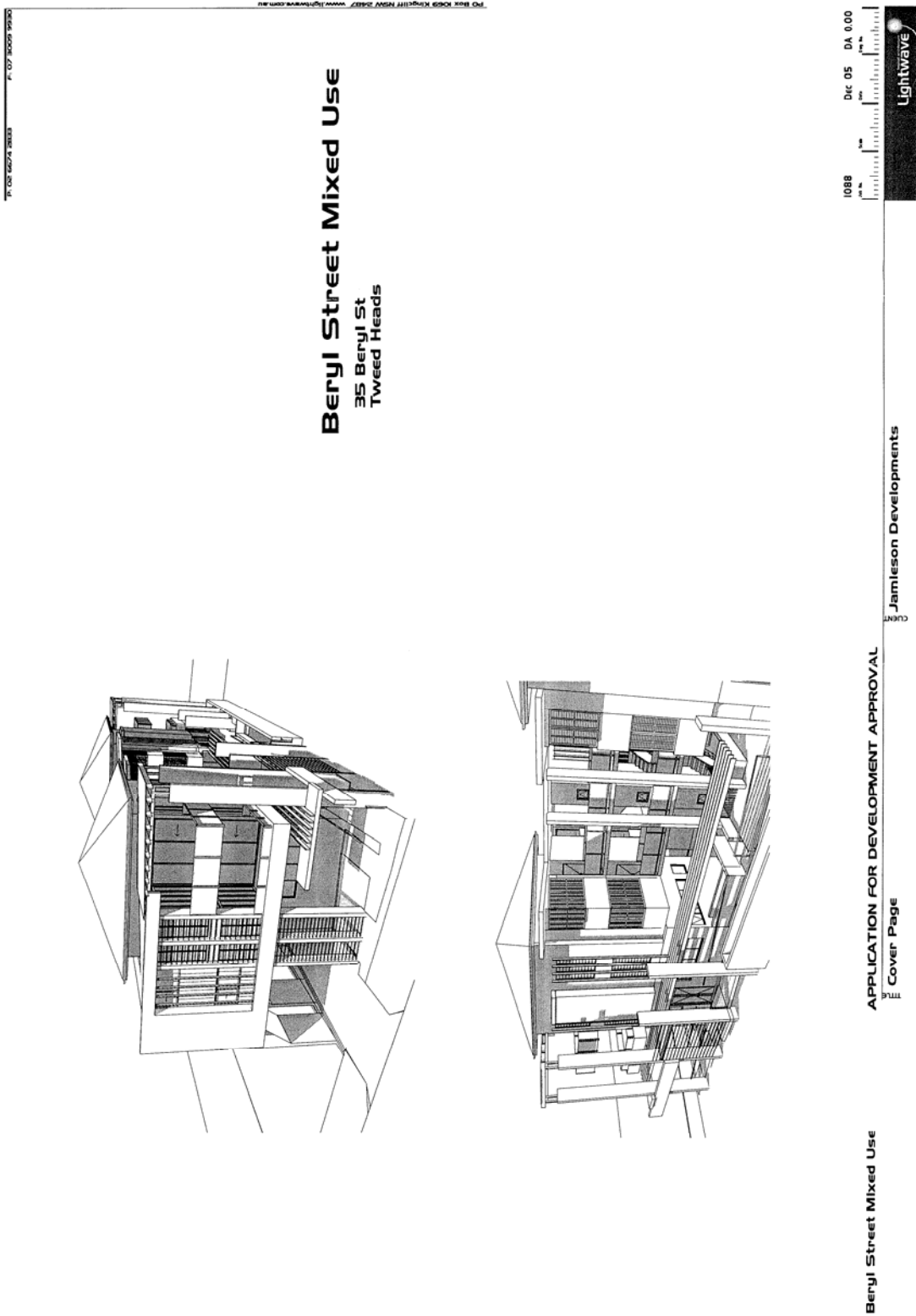
Little existing vegetation is evident on site with existing ornamental plantings scattered throughout the property. In terms of existing improvements, the site possesses an existing dwelling house. As established, Council has previously granted development consent for the demolition of this dwelling.

**SITE DIAGRAM:**



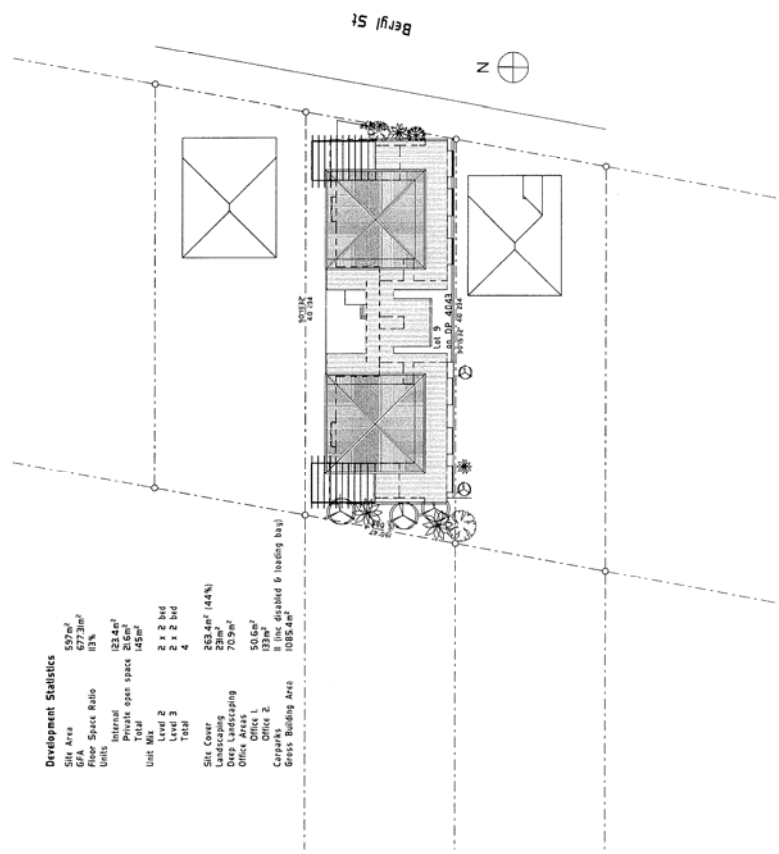
<p>© TWEED SHIRE COUNCIL 2006                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.                  DO NOT SCALE                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumbah, NSW, 2484                  Tel: (02) 6670 2409                  Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p><b>Lot 9 Section 5 DP 4043</b>  <b>No. 35 Beryl Street, Tweed Heads</b></p>	 <p>TWEED SHIRE COUNCIL</p>	<p>PLANNING REFORMS UNIT</p> <p><b>Site Plan</b></p>
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>		<p>Author: J.Batchelor</p>	<p>Date: 15/Nov/2006</p>
<p>Scale: 1:5,000</p>		<p>Sheet: 1 of 1</p>	

DEVELOPMENT PLANS:





P. 102 46274 2888 P. 107 3009 19190



**Development Statistics**

Site Area	597m <sup>2</sup>
Site Coverage	17.3%
Floor Space Ratio	0.31
Units	12
Internal	124m <sup>2</sup>
External	50m <sup>2</sup>
Total	174m <sup>2</sup>
Unit Mix	2 x 2 bed
Level 3	2 x 2 bed
Level 4	4
Total	8
Site Cover	263.4m <sup>2</sup> (44%)
Landscaping	23m <sup>2</sup>
Deep Landscaping	70.9m <sup>2</sup>
Office Area	50.6m <sup>2</sup>
Level 1	139m <sup>2</sup>
Office 2	139m <sup>2</sup>
Carparks	11 (inc disabled & loading bay)
Gross Building Area	1085.4m <sup>2</sup>

1088 1500 @ N Dec 05 DA D.01  
 1400 @ A3  
 100m 50m 25m  
 Lightwave

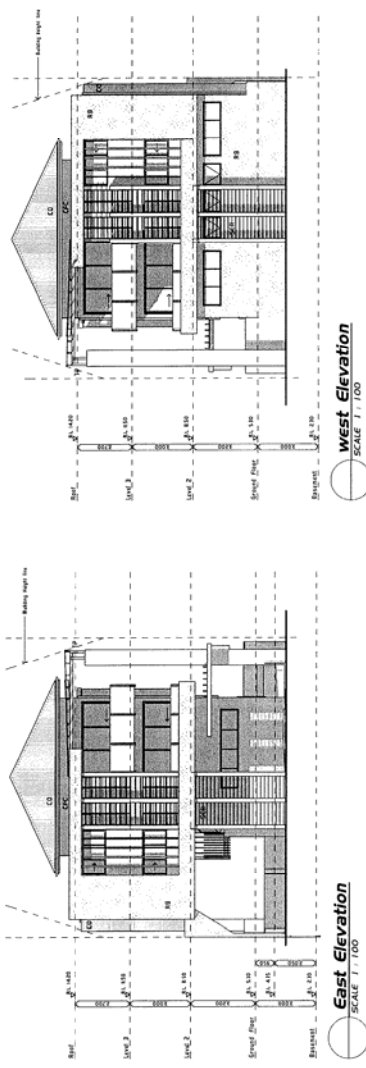
Beryl Street Mixed Use  
 APPLICATION FOR DEVELOPMENT APPROVAL  
 Site Plan  
 CLIENT Jamieson Developments





P:\03\62574\0003 P:\03\30005\9999

- Legend**
- CO - Commercial Centre Use
  - RE - Residential Medium Density
  - RI - Residential Medium Density (Residential Medium Density)
  - SP - Street Use
  - SC - Street Use (Street Use)
  - SA - Street Use (Street Use)
  - SC - Street Use (Street Use)

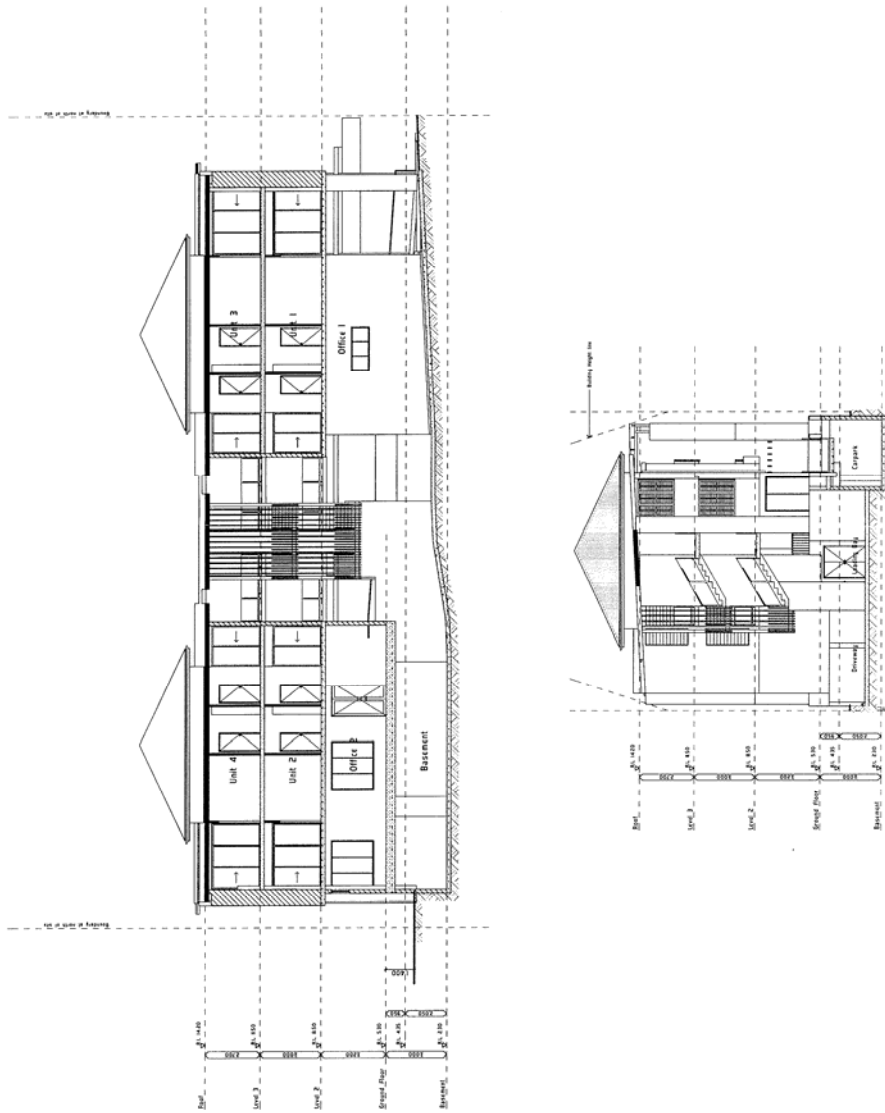


1088 1005 @ A1 Dec 05 DA 2.02  
1200 @ A3

**Beryl Street Mixed Use**      **East & West Elevations**      **Jamieson Developments**      **CLIENT**

**APPLICATION FOR DEVELOPMENT APPROVAL**

P. 027 66294 10883 P. 027 30025 10880

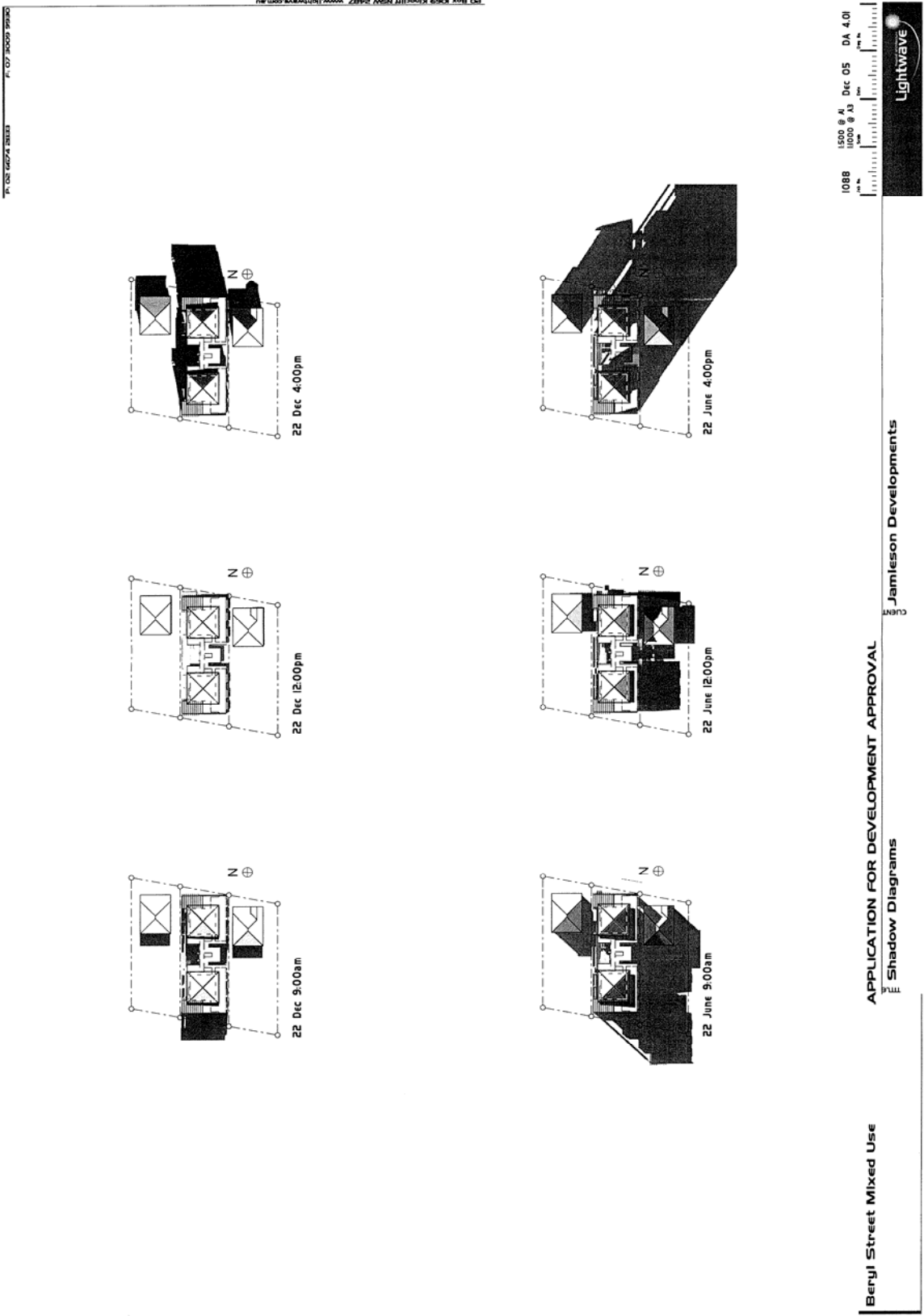


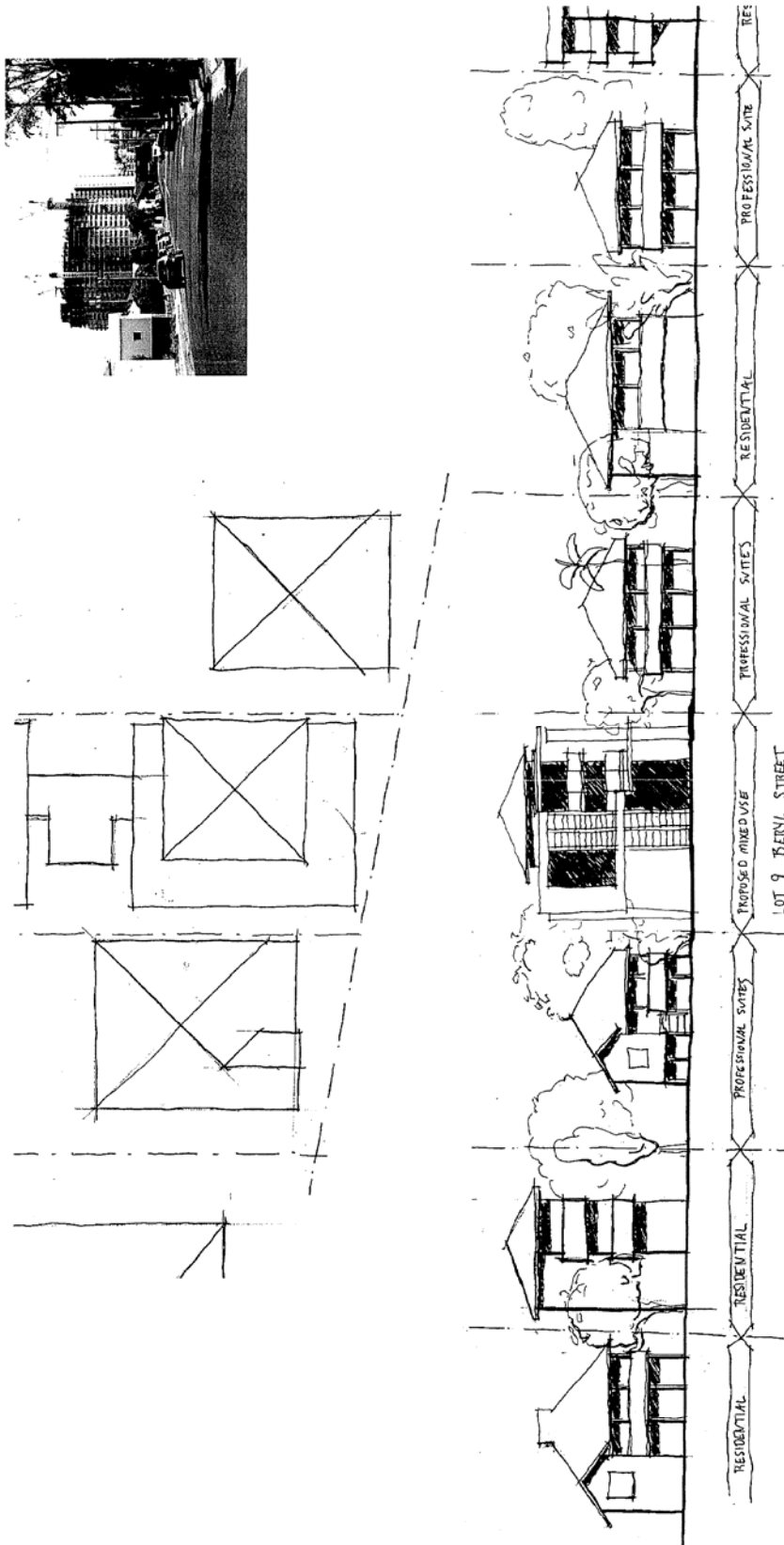
Prof Ross Kingzett NSW State www.lightwave.com.au

1088 100 @ N Dec 05 DA 2.01  
1200 @ AS



Beryl Street Mixed Use  
**APPLICATION FOR DEVELOPMENT APPROVAL**  
 Sections A & B  
 CLIENT Jamieson Developments





**Streetscape**  
**Beryl Street Mixed Use**  
 Jamieson Developments  
 APPLICATION FOR  
 DEVELOPMENT APPROVAL  
 LOT 9 ON DP4043

JOB NO. 1088  
 PAGE NO. P08



**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 land is zoned 3(b) General Business under the Tweed Local Environmental Plan 2000. The proposed mixed-use development is permissible with consent in the subject zone.

The proposal is generally consistent with the relevant zone objectives and specific requirements of the LEP pertaining to:-

- Clause 15 – Availability of Essential Services;
- Clause 16 – Height of Buildings;
- Clause 17 – Social Impact Assessment; and
- Clause 35 – Acid Sulfate Soils.

The proposal does however exceed the prescribed floor space ratio of 1:1 identified in Clause 50 (by a margin of 0.13:1) and a SEPP No.1 Objection has been lodged in this regard.

State Environmental Planning Policy No.1 – Development Standards

Pursuant to the provisions of SEPP No.1, the applicant is seeking a variation to the provisions of Clause 50 of the LEP which reads:-

***Clause 50 – Floor space ratios in Zones 3(a) and 3(b) at Tweed Heads***

***(1) Objective***

- *to control by floor space ratio the intensity of retail uses in Zone 3(a) (the Sub-regional Business zone) and certain part of Zone 3(b) (the General Business zone), and encourage the consolidation of lots.*

*(2) This clause applies to land within Zones 3(a) and 3(b) at Tweed Heads*

*(3) Buildings proposed to be erected on land to which this clause applies must not exceed the floor space ratios (FSR's) in the following Table:*

<b>Floor space ratios</b>			
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
Zone	Maximum FSR for sites <sup>2</sup> less than 2,000m	Maximum FSR for sites <sup>2</sup> 2,000m or more, without bonuses	Maximum FSR for sites <sup>2</sup> 2,000m or more, with bonuses
3 (a)	2:1	2:1	4:1



3 (b)	1:1, including not more than 0.25:1 for retail or refreshment rooms	1:1, including not more than 0.25:1 for retail or refreshment rooms	2:1
-------	---	---	-----

- (3) *Buildings proposed to be erected on land to which this clause applies must not exceed the flood space ratios (FSR's) in the following Table:*
- (4) *In order to achieve the maximum floor space ratio contained in Column 4 of the Table, a development must provide bonuses as specified in Development Control Plan No 18—Tweed Heads, as in force on the appointed day.*

The proposed development has a floor space ratio of 1.13:1 which exceeds the prescribed floor space ratio of 1:1 as identified above. In this regard, the property has an area of 597m<sup>2</sup> whilst the building itself will have a gross floor area of 677m<sup>2</sup> and will exceed the prescribed FSR by 80m<sup>2</sup>.

The applicant has included the following points in support of the proposed departure from the development standard:-

- *The increase will not result in any significant additional bulk or scale of the final development;*
- *Considering that the current LEP has a maximum height limit in this area of 12 storeys, it is reasonable to expect larger building in the area. The proposal will be of a relatively small scale having regard to the development potential of the site;*
- *The additional 80m<sup>2</sup> of floor area will not detract from the rejuvenation of the 3(a) or 3(b) zoned areas of Tweed Heads.*

Having regard to the twelve (12) storey height limit currently applicable to the subject land and in light of the submission prepared by the applicant, it is considered that a variation to the FSR be supported in this instance.

The level of variation is minor in nature amounting to approximately 80m<sup>2</sup> of floor area and will not adversely impact of the amenity of the area or the future redevelopment and revitalisation of the Tweed Heads CBD.

#### State Environmental Planning Policy No.65 – Residential Flat Buildings

Clause 30 of SEPP No.65 requires the consent authority to consider each of the ten (10) design quality principles when determining a development application for a residential flat building.

In this regard, the applicant has provided a comprehensive assessment of the proposal against the relevant design quality principles.

A summary of the applicant's assessment is provided below:-

### **Design Principle 1 – Context**

- *Proposal addresses the street, manipulating the different floor plan levels, providing balconies and overlooking opportunities to activate this interface;*
- *The fundamental objective of the proposal is to revitalise the Tweed Heads Town Centre by way of suitable design and the creation of an attractive defined character while having regard to the special character precinct identified by the Masterplan.*

### **Design Principle 2 – Scale**

- *The site currently has a height limit of 12 storeys under Tweed LEP 2000. The proposal is for a three (3) storey building which is in keeping with the scale of existing buildings in the immediate area.*

### **Design Principle 3 – Built Form**

- *The proposal has been designed so as to be broken into a number of smaller elements. For example, the proposal comprises what could be described as two (2) separate building linked by a walkway. A pitched colourbond roof is proposed which is consistent with the general “border theme” adopted by older cottages in the area.*

### **Design Principle 4 – Density**

- *The density demonstrated incorporates desired uses and in no way corresponds to an overdevelopment of the site.*

### **Design Principle 5 – Environmental Issues**

- *The credentials of the proposal in this regard are demonstrated within the attached NatHERS documentation and the simple design basics (such as orientation) exhibited within the attached plans.*

### **Design Principle 6 – Landscaping**

- *The attached plans feature significant detail in accordance with the desired future character of the area.*

### **Design Principle 7 – Amenity**

- *Each of the apartments has been designed so as to maximise available sunlight, space and ventilation. In this regard, each dwelling opens out onto sufficient open space balcony areas accessed from living areas.*
- *All apartments have been designed and positioned to ensure visual and acoustic privacy for the residents.*

- *Public areas are landscaped and open with access to sunlight and shade as required.*

### **Design Principle 8 – Safety and Security**

- *The building and landscape design will adopt CPTED (Crime Prevention through Environmental Design) principles.*

### **Design Principle 9 – Social Dimensions**

- *The proposed development will contribute to the revitalisation of the area consistent with the Masterplan while providing some commercial opportunities generating employment in the area within easy walking distance of local residents.*

### **Design Principle 10 – Aesthetics**

- *The proposal has been designed and sited so as to address the adjacent streetscape. The proposal has been designed to promote a high level of visual interest and appeal.*

### Assessment

In light of the assessment provided by the applicant, the proposed development is considered to satisfactorily achieve the majority of design principles in the Policy.

Design Principles relating to Scale, Built Form, Density, Environmental Issues, Amenity, Safety and Security, Social Dimensions and Aesthetics are all considered suitably addressed.

However, the performance of the proposal against the principles Context, Scale, Built Form and Aesthetics is considered less convincing.

The concern with each these design principles is again related to the question of compatibility with the existing streetscape and the identified special character/heritage value of the area.

While there are elements of the design that have clearly been included to assist in achieving better integration (such as the pitched colourbond roof), it could be argued that general appearance of the proposal fails to pay suitable regard to the existing built form.

One aspect of particular concern with the design is the failure of the proposed development to effectively address the Beryl Street frontage. The subject land is zoned for commercial uses at ground level, a land-use that benefits from an active and visually interesting streetscape.

The proposed driveway and handicapped car park adjacent to the street frontage fails to achieve any such activation and may also be seen to compromise the integrity of the existing streetscape provided by the older style cottages in the vicinity.

State Environmental Planning Policy No.71 – Coastal Protection

The subject site is within the Coastal Zone and is affected by the provisions of SEPP No.71. In this regard, the proposal does not exceed 13m in height, is not in a sensitive coastal location and does not contain any land uses which trigger the Minister as the consent authority. The application is considered satisfactory with respect to the matters outlined in Clause 8.

North Coast Regional Environmental Plan 1988

The proposed development is consistent with the provisions of the REP relating to:-

- Clause 32B – Coastal Lands;
- NSW Coastal Policy;
- Coastline Management Manual;
- North Coast Design Guidelines;
- Overshadowing;
- Clause 33 – Coastal Lands;
- Clause 51 – Tall Buildings; and
- Clause 81 – Development Adjacent to the Ocean or a Waterway.

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

Draft LEP Amendment No.64

Draft LEP No.64 seeks to update the building height controls to reflect the recommendations of the Tweed Heads Masterplan.

Due to certain errors/inconsistencies being identified between the exhibited version of the amendment and the intended version, the draft amendment has been put on hold pending further review.

Advice from Council's Planning Reform Unit suggests that the draft amendment will require re-exhibition once the anomalies are corrected.

Irrespective, the subject site and Beryl Street area falls outside the area nominated for change under the previously exhibited version of the draft LEP.

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

Development Control Plan No.2 – Car Parking Code

The proposed development incorporates a total of ten (10) car parking spaces including the disabled space at street level and the tandem space.

The following table outlines the requirements of the development pursuant to DCP No.2:-

<b>DCP 2 Analysis</b>		
<b>Development Type</b>	<b>Generation Rate</b>	<b>Total Requirement</b>
Residential Units	4 units @1.5 spaces per dwelling	6 spaces
Office	30% of 1 space per 40m <sup>2</sup> (as per Clause 4.8)	2 spaces
Delivery/Service vehicle parking	1 space per 200m <sup>2</sup> office space	1 space
Bicycle Parking	1 space per 100m <sup>2</sup> of office space	2 bays
<b>Total Required</b>		<b>8 car parking spaces 1 loading bay 2 bicycle bays</b>
<b>Total Provided</b>		<b>8 car parking spaces + 1 tandem space 1 loading bay 2 bicycle bays</b>

Based on the assessment outlined above, the proposed development satisfies the car parking requirement of DCP No.2.

Development Control Plan No.18 – Tweed Heads

Under the provisions of DCP 18 the subject site is identified within the 'Southern Precinct'. The objectives of this Precinct include:-

- *Cater for businesses that reinforce the local economy;*
- *Provide for tourism support businesses that reinforce the local economy;*
- *Reinforce the commercial role of Wharf Street;*
- *Provide development incentives that result in a high standard for mixed use commercial and residential development;*
- *Encourage a local building aesthetic that responds favourably to the sub-tropical climate, retains important view corridors and reflects the maritime location and history of the locality.*

The proposal is consistent with the objectives as it provides for a high quality mixed-use development that will cater for local businesses.

For the southern precinct, a height limit of three (3) storeys is prescribed for sites less than 2000m<sup>2</sup>. The proposed has a site area of 597m<sup>2</sup> and a maximum height of three (3) storeys and is therefore consistent with this provision.

The following table identifies the proposed developments' compliance with all other relevant provisions of DCP No.18:-

<b>REQUIREMENT</b>	<b>COMMENT</b>
Section 9.3 - Building Envelopes	The proposed building exhibits substantial encroachments into the 72° building envelope applicable to development in business zones that adjoin residential zones. The envelope provided on the plans by the applicant is considered drawn incorrectly as it provides for an 8 metres podium level which is not proposed as part of the current application. In the context of the objectives behind the building envelope requirement the proposal is considered reasonable as it will not result in any adverse impacts on adjoining properties, is only three (3) stories in height and provides for articulation along both the vertical and horizontal plane.
Clause 10 – Commercial Facades <ul style="list-style-type: none"> <li data-bbox="325 1335 528 1368">• Facades</li> <li data-bbox="325 1738 647 1771">• Design Elements</li> </ul>	<p>The proposal fails to provide a commercial premise with immediate frontage to Beryl Street at ground level. Instead, the proposed commercial tenancy is setback behind a handicapped car park. The applicant has defended this aspect of the design on the basis that the proposed commercial tenancies will likely provide for offices and not shops – thereby reducing the advantages of having the tenancy right on the street frontage.</p> <p>This Clause refers to the provision of active ‘shop fronts’. It is considered that a commercial use as opposed to a shop may be more appropriate in this locality. Given the existing variation in land uses and setbacks in the immediate vicinity, it is unlikely that a continuity of shop fronts with awning would be</p>

REQUIREMENT	COMMENT
	achievable in the locality.
<p>Clause 11 - Residential Design Guidelines</p> <ul style="list-style-type: none"> <li data-bbox="325 376 603 414">• Building Mass</li> <li data-bbox="325 600 651 638">• Energy Efficiency</li> <li data-bbox="325 779 624 817">• Wind Mitigation</li> <li data-bbox="325 936 624 974">• Overshadowing</li> <li data-bbox="325 1384 539 1422">• Rooflines</li> <li data-bbox="325 1637 507 1675">• Privacy</li> </ul>	<p>The design of the proposed building mass achieves the objectives of the building mass provisions by articulating external walls and the inclusion of balconies such that continuous unbroken lengths do not exceed 15m.</p> <p>A NatHERS Certificate has been supplied with the application demonstrating that each proposed unit achieves or exceeds the minimum 3.5 star rating.</p> <p>The proposed building is considered unlikely to create any adverse wind effects at ground level.</p> <p>Whilst the proposed development will result in a considerable amount of overshadowing over the property to the south, the twelve (12) storey height limit currently applicable to the subject site suggests that a certain degree of overshadowing is inevitable. No objections were received on the grounds of overshadowing and on balance, the shadow impacts are considered reasonable – particularly given the height controls applicable to the site.</p> <p>The proposed roof design provides a visually interesting skyline and is considered to be consistent with the objectives of this provision. Pitched colourbond roofs are proposed to assist in maintaining the existing character of the area.</p> <p>The proposed building is not considered likely to present a significant risk of overlooking. The proposed balconies are offset and oriented in different directions to mitigate any potential adverse privacy issues internally. In terms of adjoining development, appropriate screening could be incorporated into the design to provide privacy screening of rear unit balconies.</p>

REQUIREMENT	COMMENT
<ul style="list-style-type: none"> <li>• Security and Surveillance</li> </ul>	<p>Street level casual surveillance is achieved by designing the units to address the street frontages. Security measures will be implemented to limit access to basement car parks, lift foyers and open space areas. In addition, security lighting will be provided within the grounds together with intercom access to screen and admit guests to the building.</p>
<ul style="list-style-type: none"> <li>• Material and Colours</li> </ul>	<p>Materials and colours for the proposed development will generally be of a non-reflective nature and are generally sympathetic to the heritage character of the street.</p>
<ul style="list-style-type: none"> <li>• Access, Car Parking and Car Wash bays</li> </ul>	<p>A basement car park is to be provided as part of the proposed development. The car park is sufficient in meeting the relevant generation rates outlined in DCP 2. With regard to a car wash bay, Council's Development Engineer has recommended the handicapped car space proposed at ground level be amended to provide for wash down facilities. Suitable conditions to apply. The car parking arrangements are generally considered to be satisfactory.</p>
<ul style="list-style-type: none"> <li>• Open Space and Balconies</li> </ul>	<p>The proposed building comprises four (4) large units as defined by the DCP. Accordingly the proposal is required to provide a total of 100m<sup>2</sup> of landscaped open space.</p> <p>The proposal incorporates approximately 70m<sup>2</sup> of deep soil landscaping and at ground level with planter boxes and other non-deep soil landscaping also provided. In addition, approximately 88m<sup>2</sup> is provided as useable private open space (in the form of a balcony), attached to the main living area of each dwelling.</p> <p>Accordingly it is submitted that the proposal exceeds the landscaped open space requirements of the DCP.</p>



It is considered that the proposed development is generally consistent with the provisions of DCP 18 and the desired outcomes for the 'Southern Precinct'. The proposal generally complies with all development controls of the DCP as detailed above and is unlikely to result in any significant adverse impacts.

Development Control Plan No.39 - Energy Smart Homes Policy

The applicant has undertaken a NatHERS assessment of the proposed development pursuant to the provisions of the DCP. The assessment indicates that each of the units achieves or exceeds the minimum requirement of 3.5 stars.

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

NSW Coastal Policy 1997

The proposed development is consistent with all relevant strategic objectives of the 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**

Context and Setting

Given its prominent location in Beryl Street relative to the surrounding cottages, the proposed development is likely to have a significant impact on the local streetscape and the future preservation of the area.

Comments from Council's Strategic Planner (Urban Design) concur:-

*"As the site is at the centre of the most valuable character buildings in the street, the removal of one of these buildings will compromise the special character qualities of the whole area. This group of buildings gives a perspective and proportion to the streetscape that is reinforced through repetition and harmony and provides a character anchor to the whole of the area. The subsequent impact that a new building amongst the group will be considerable. It is therefore essential that any infill development that occurs must be of a high quality and be designed with respect for its context, fit well and support the adjoining building in a character sense as well as in bulk and scale."*

While the applicant maintains that the proposed design incorporates elements in the design that are intended to integrate the development with the existing cottages, the three (3) storey height, use of rendered masonry and fibro cement and strong modernist influence in the façade is not considered to reflect the lightweight simplicity of the cottages surrounding it.

The presentation to the street at ground level comprising a car space across the face of the building, concrete car entry and a ramp, further reduces the visual qualities of the streetscape.

While the impacts on the streetscape are a concern, the extent to which they compromise the merits of the application depends on the value that is placed on the existing streetscape and its preservation.

Other potential impacts relating to overshadowing (of the property to the south), privacy and overlooking are considered to be within reasonable limits.

**(c) Suitability of the site for the development**

The suitability of the site is again linked to the questions of whether the existing streetscape is considered worthy of retention and whether the proposed development is of a suitable design.

Comments from the Project Co-ordinator of the Tweed Heads Masterplan provided the following points in this regard:-

- *“The proposed 3 storey replacement building fronting Beryl Street would detract from the existing (border-style) cottages and dominate the streetscape. The Heritage Office recommends a maximum of 2 storeys for new cottages and buildings within the 20m curtilage area to ensure that new development would not dominate the existing cottages.*
- *Beryl Street has an intimate feel due mainly to the predominantly 2 storey cottages located on the property frontage and despite the range of architecture styles currently represented on the street there is a feel of uniformity of predominant styles, materials, façade elements and pedestrian scale which gives the street its character. Clearly the proposed Beryl Street mixed use 3 storey development does not interpret these elements and does not contribute to the character of the area as recommended by the Masterplan and the Heritage Office.*
- *In all character areas new buildings are encouraged to locate on the property frontage to be consistent with existing buildings and the streetscape. Taller buildings are usually permitted only if they are not visible from the street frontage and do not affect the amenities of the surrounding residential properties.*
- *Beryl Street elevation is a particular concern in terms of height, ground level, setbacks, architecture elements, treatments, design and materials. If the existing building must be demolished the Beryl Street elevation of the new development should be designed to comply with the new guidelines to maintain and enhance the existing and identifiable character of Beryl Street.”*

There are no natural constraints affecting the site such as bushfire or flooding. The proposal will require dewatering to provide for the basement car park with the Department of Natural Resources raising no objection subject to General Terms of Approval.

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

The application was advertised for thirty (30) days in accordance with Council's Notification Policy. During this period, one submission was received. A copy of the submission was forwarded to the applicant with the applicant subsequently advising that no response would be provided as the issues raised did not warrant further discussion. Despite no response being provided by the applicant, the issues raised in the submission are addressed below:-

**Issue: When Council approved demolition of the existing character building, was it aware of the recommended 'Special Character' zoning of Beryl Street nominated in the Tweed Heads Masterplan?**

**Comment:** Council's Building Services Unit approved the demolition of the existing dwelling on-site on 11 January 2006. The relevant officers have since acknowledged that the decision was an unfortunate oversight. There is no opportunity for Council to retract the decision to approve the demolition.

**Issue: The 'Special Character' provides a two (2) storey height limit for the front of the blocks with four (4) stories at the rear. The application to construct a modern three (3) storey building with very little set-back will break up the current streetscape and undermine the future preservation of the special character zone.**

**Comment:** The subject land is identified for twelve (12) storey development under Clause 16 of the Local Environmental Plan. The building height recommendations of the Masterplan have not yet been implemented as part of an LEP Amendment. The proposed three (3) storey structure is not considered unreasonable in the context of the current building height limit applicable to the site and given the presence of other three (3) storey development in the vicinity. Given these factors, enforcement of the two (2) storey height limit proposed under the Masterplan is considered unreasonable at the current time. The issue of compatibility with the existing streetscape has been discussed above with the various concerns acknowledged.

**Issue: The applicant states that the colourbond pitched roof is sympathetic to the recommendations of the Masterplan. The roof will be barely visible from the street with building frontage inappropriate for the street.**

**Comment:** The pitched colourbond roof is considered consistent with the roof style on the adjoining character buildings. The three (3) storey height reduces the opportunity for the roof to be viewed from the street however, when viewed in elevation or from a greater distance, the pitched roof is considered to provide an important addition to the proposal.

**Issue: The proposed development exceeds the required FSR under DCP No.18.**

**Comment:** As discussed, the proposed development incorporates a minor variation to the 1:1 floor space ratio specified under the DCP. The applicant has lodged a SEPP No.1 Objection in this regard, which is reviewed earlier in this report. Given the minor nature of the variation and the arguments presented with the SEPP No.1, a variation is considered acceptable in this instance.

**(e) Public interest**

With the exception of concerns relating to the preservation of the identified special character area along Beryl Street, the proposed development is not considered to significantly compromise the public interest.

**Options:**

1. Approve the application in accordance with the recommendation.
2. Refuse the application for the following reasons:-
  - Pursuant to Section 79C(1)(e), the proposed development, in unnecessarily compromising the integrity of the Tweed Heads Masterplan, is not considered to be in the public interest.
  - Pursuant to Section 79C(1)(a)(i) the proposed development is inconsistent with certain design principles identified in State Environmental Planning Policy No.65 – Design of Residential Flat Buildings pertaining to Context, Scale, Built Form and Aesthetics.
  - Pursuant to Section 79C (1)(a)(i), the proposed development does not comply with the Floor Space Ratios identified in Clause 50 of the Tweed Local Environmental Plan 2000.
  - Pursuant to Section 79C(1)(c) and in light of the ‘Special Character Zone’ identified in the Tweed Heads Masterplan, the subject site is not considered suitable in accommodating the proposed development.
  - Pursuant to Section 79(1)(b) the proposed development is considered likely to have an adverse impact on the existing streetscape and character of the area as identified in the Tweed Heads Masterplan.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the application be refused, the applicant has the right of appeal in the Land and Environment Court. Appeal rights also apply to any conditions of approval.

**POLICY IMPLICATIONS:**

Approval of the application may undermine the recommendations of the Tweed Heads Masterplan.

**CONCLUSION:**

The proposed development has been subject to significant review against the recommendations of the Tweed Heads Masterplan and the special character designation identified for the Beryl Street area. Council's Strategic Planner (Urban Design) and the Project Co-ordinator of the Tweed Heads Masterplan have both reviewed the proposed and raised serious concern with regard to how effectively the proposed design integrates with the existing streetscape and the associated impacts it may have on the character of the wider area.

All these issues and comments need to be weighed up against the current statutory framework. At three (3) stories, the proposal is well below the twelve (12) storey height limit currently applicable to the site, the design is predominantly compliant with the other planning controls applicable to mixed-use development and the proposal will contribute to revitalisation of the Tweed Heads CBD.

On balance, it is considered that given the uncertainty surrounding the future of the Tweed Heads Masterplan, its current lack of statutory weight and uncertainty about the 'real' character value of Beryl Street and the cottages therein (the subject properties are not identified in draft LEP Amendment No. 76 as a significant heritage site, the proposal 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](http://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. Panorama photos of Beryl Street (DW 1497531)
-

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

**P11 [PD-PC] Development Application DA06/0808 for Alterations and Additions to the Pottsville North Caravan Park at Lot 1 & 2 DP 731761; Lot 522 DP 822808 & Lot 7016 DP 1055269 Tweed Coast Road, Pottsville (Department of Planning ID 05-0192)**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/0808 Pt1**

**SUMMARY OF REPORT:**

The application is a Major Project and is required to be assessed in accordance with Part 3A of the Environmental Planning & Assessment Act. The Minister has delegated the assessment of the application to Council. A draft assessment report and conditions has been prepared by Council to send to the Minister. The Minister remains the consent authority.

The site currently has approval for 41 long term (LT) sites, 96 short term (ST) sites and 35 tent sites. The application requests approval to create an additional 20 long term (LT) sites and the deletion of 8 short term (ST) sites resulting in a total of 61 LT and 88 ST sites. Eighteen (18) of the twenty (20) LT sites will revert to ST sites once the initial tenants vacate the sites (the 18 sites are described as Area 'G'). Council has been granted all assessment powers in relation to the assessment of the project application from the Department of Planning. No public submissions were received for the proposal.

The proposal involves the following:

- Area A: This area currently contains an amenities block, this block is to be demolished and replaced by two (2) new long term (LT) sites.
- Area B: This area currently is vacant, with the site proposed for the location of the new amenities building. Parallel to the proposed amenities building to the east adjacent to Tweed Coast Road is the proposed location of ten (10) visitor car spaces to accommodate for the increase in sites.
- Area C: This area is currently vacant, two (2) new LT sites are proposed in the area.
- Area D: This area currently contains four (4) LT sites, a reconfiguration of the area proposes a net yield of three (3) sites. This is a reduction of one (1) LT site.
- Area E: This area currently contains two (2) existing structures over three (3) sites, a reconfiguration of these sites is proposed to conform to the two existing structures therefore a loss of one (1) LT site.
- Area F: This area currently contains one (1) large cabin, which accommodates three (3) units for ST accommodation. The proposal seeks to remove the cabin and create two (2) new LT sites.

Area G: This area is generally underdeveloped land apart for a sealed, fenced off area to the north adjacent to the Bowling Club for the storage of caravans. This area proposes eighteen (18) LT sites all serviced by road, water, power and sewer.

**RECOMMENDATION:**

**That the attached draft report and conditions be sent to the Minister for Planning for consideration.**



**REPORT:**



NSW GOVERNMENT  
**Department of Planning**

***MAJOR PROJECT ASSESSMENT:***

**Department of Planning Reference Pottsville North Holiday Park  
File 9041328**

**Report on the Assessment of Development Application DA06/0808 under Part 3A  
of the Environmental and Planning and Assessment Act, 1979.**

**Application prepared by Darrel Anderson Consulting on behalf of Tweed Coast  
holiday Parks Reserve Trust, for the proposed alteration and additions to  
Pottsville North Holiday Park, Tweed Shire Local Government Area.**

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

**November 2006**

© Crown copyright 2006  
Published **Month Year**  
NSW Department of Planning  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

**Disclaimer:**

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document

## EXECUTIVE SUMMARY

Tweed Coast holiday Parks Reserve Trust (applicant) has lodged an application seeking approval for the alteration and additions to the Pottsville North Holiday Park, Pottsville, Tweed Shire Local Government Area.

The proposed development seeks to rationalise the existing layout of the site and to assist in achieving compliance with the Local Government Caravan Parks Regulation, 2005. The proposal will optimise the site and provide additional long-term accommodation to the site. The development will generally result in an additional 20 long term (LT) sites and the deletion of 8 short term (ST) sites resulting in a total of 61 LT and 88 ST sites. Eighteen (18) of the twenty (20) LT sites will revert to ST sites once the initial tenants vacate the sites (the 18 sites are described as Area 'G').

Pottsville North Holiday Park is located between the Tweed Coast Road and Cudgera Creek, north of the intersection between Coronation Avenue and Tweed Coast Road and south of the intersection between Centennial Drive and Tweed Coast Road, Pottsville, northern New South Wales.

To the south and east, the site adjoins primarily detached one and two storey residential dwellings and residential flat buildings. To the north is the Pottsville Bowling Club and associated car parking.

Key Issues relating to the proposal are;

### Bush fire

The subject site is identified as Bush Fire Prone Land as detailed within the Bush Fire Prone Land Map Dated February 2004, therefore the development is required to comply with the "Planning for Bushfire Protection" (Rural Fire Service, 2001. Accordingly a Bushfire Threat Assessment has been prepared pursuant Section 79BA of the Environmental Planning and Assessment Act, 1979 in regards to Sites A to F. A Bushfire Threat Assessment under Section 100B of the Rural Fires Act of 1997 regarding Area G has also been undertaken.

The proposed development is considered to comply with Planning for Bushfire Protection subject to asset protection zones being provided.

### Flora and Fauna (Vegetation management)

The Department of Natural Resources raised concerns about the potential impact of the development on the existing vegetation, in particular the requirement of Asset Protection Zones (APZ). Section 6.2 of Annexure B of the report recommends amelioration measures such as 'all other native vegetation within Area A to G to be retained where possible', 'an ecological restoration program is implemented for the vegetation communities occurring at the site in proximity of Cudgera Creek' and 'any future landscape planting at the site to include food tree species for the Koala and Glossy Black-Cockatoo'.

### Creek Buffer

The proposed development is located adjacent to Cudgera Creek, as such the Estuary Management Plan is required to be taken into consideration. Part of the plan requires a minimum 50-metre buffer zone of riparian vegetation to remain in tact on new development sites. A balance between the buffer and bushfire asset protection zone has been established and reinforced with conditions.

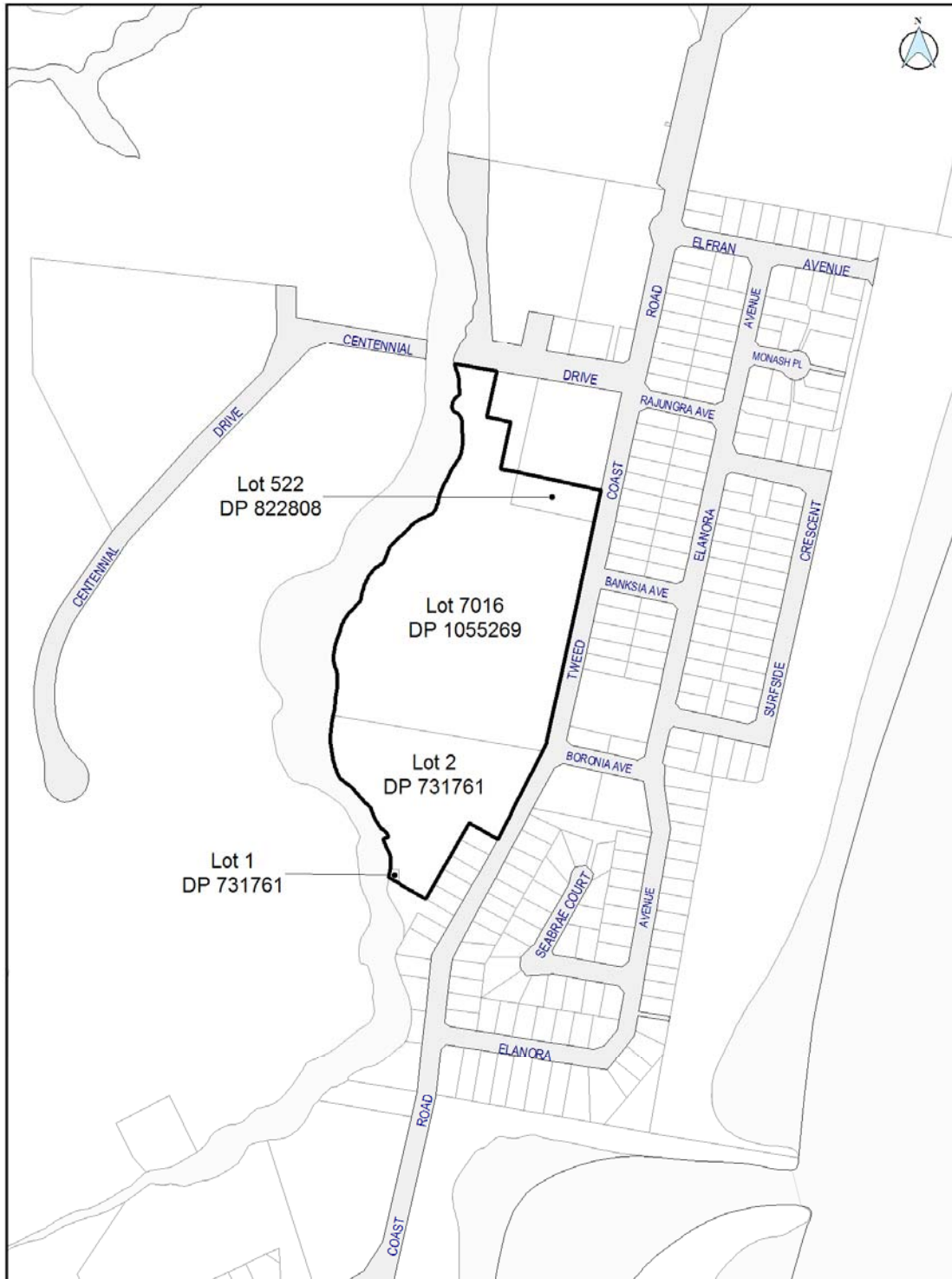
### BACKGROUND

Tweed Coast Holiday Parks Trust lodged an application for alterations and additions to the Pottsville North Caravan Park located at Tweed Coast Road, Pottsville. The application is a Major Project and is required to be assessed in accordance with Part 3A of the EP&A Act. The Minister has delegated the assessment to Council.

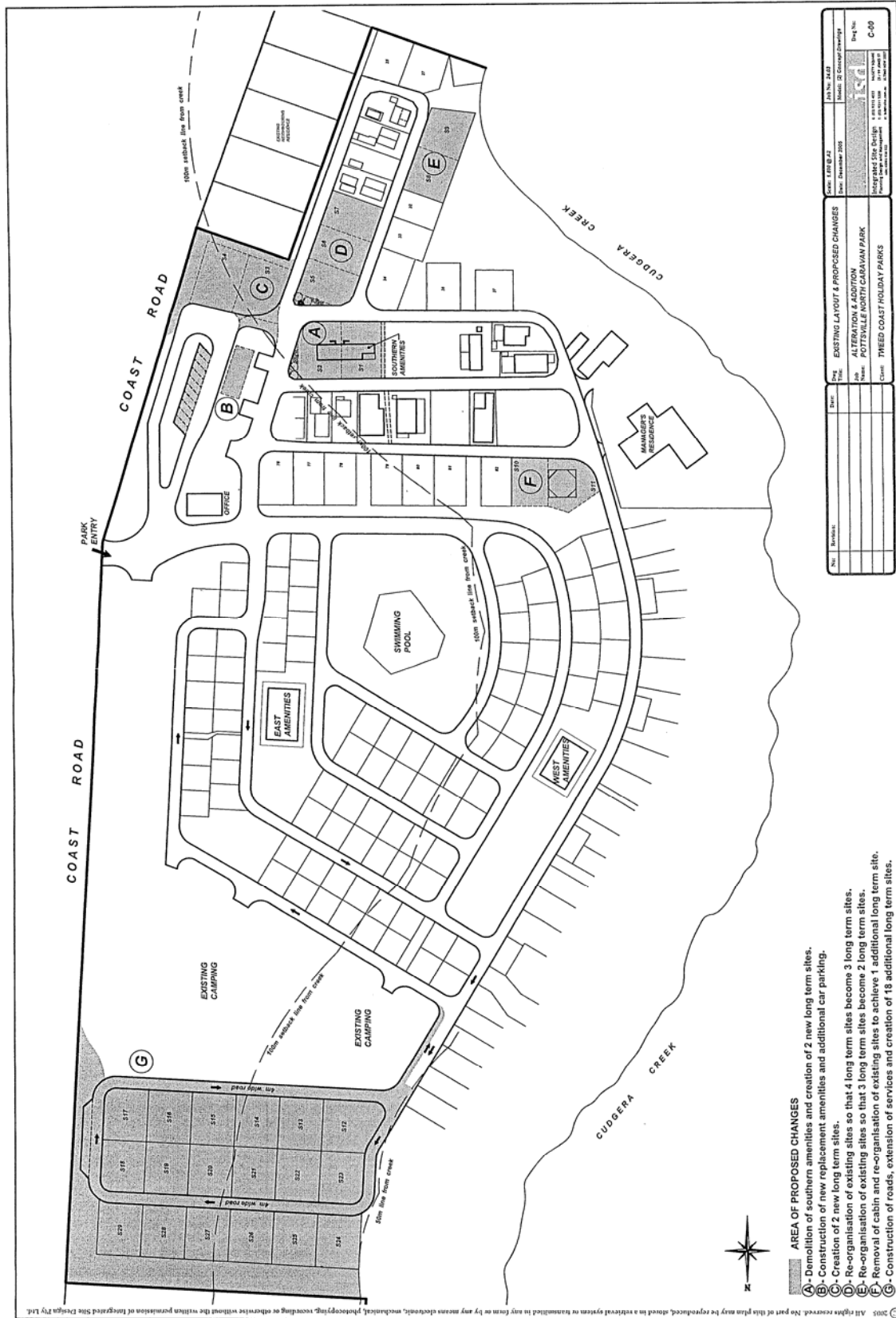
The park currently comprises a number of sites and is used for both short term and long term accommodation. A current Section 68 approval exists to operate the park for some 41 long term and 96 short term sites and 35 camp sites.

The application proposes to rationalise the site layout and numbers of several existing sites within the park. The application also seeks to demolish an existing amenities building and construct a new one and to create an additional eighteen new sites at the northern end of the site. These sites are initially for long term use and are to revert to short term sites once they are vacated by the initial tenants.

**SITE DIAGRAM:**



<p>© TWEED SHIRE COUNCIL 2006                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 522 DP822808, Lot 7016 DP1055269,                  Lot 1 &amp; 2 DP731761                  Coast Road, Pottsville</p>		<p>PLANNING REFORMS UNIT  <b>Site Plan</b>                  File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Batchelor Date: 11/Oct/2006 Scale: 1:5,000 Sheet: 1 of 1</p>
--	--	---	--



## PROPOSED DEVELOPMENT

### **Approval Sought**

Council is receipt of an application requesting approval to create an additional 20 long term (LT) sites and the deletion of 8 short term (ST) sites resulting in a total of 61 LT and 88 ST sites. Eighteen (18) of the twenty (20) LT sites will revert to ST sites once the initial tenants vacate the sites (the 18 sites are described as Area 'G'). Council has been granted all assessment powers in relation to the assessment of the project application from the Director-General of the Department of Planning.

The site currently comprises accommodation used for both short-term and long-term accommodation. This application seeks to rationalise the existing sites located at the southern end of the park so that the park can operate more efficiently and compliance with the current Caravan Parks Regulation can be achieved.

In addition to the rationalisation of the existing sites, the application seeks to create eighteen sites located at the northern end of the park. The new sites are to be initially utilised for long-term accommodation up until the initial long-term tenants vacate the sites, then the sites become short-term.

The proposal involves the following:

- Area A: This area currently contains an amenities block, this block is to be demolished and replaced by two (2) new long term (LT) sites.
- Area B: This area currently is vacant, with the site proposed for the location of the new amenities building. Parallel to the proposed amenities building to the east adjacent to Tweed Coast Road is the proposed location of ten (10) visitor car spaces to accommodate for the increase in sites.
- Area C: This area is currently vacant, two (2) new LT sites are proposed in the area.
- Area D: This area currently contains four (4) LT sites, a reconfiguration of the area proposes a net yield of three (3) sites. This is a reduction of one (1) LT site.
- Area E: This area currently contains two (2) existing structures over three (3) sites, a reconfiguration of these sites is proposed to conform to the two existing structures therefore a loss of one (1) LT site.
- Area F: This area currently contains one (1) large cabin, which accommodates three (3) units for ST accommodation. The proposal seeks to remove the cabin and create two (2) new LT sites.
- Area G: This area is generally underdeveloped land apart for a sealed, fenced off area to the north adjacent to the Bowling Club for the storage of caravans. This area proposes eighteen (18) LT sites all serviced by road, water, power and sewer.

## STATUTORY CONTEXT

### **Major Project**

On the 8 March 2006, the Director General of the Department of Planning issued an Instrument of Delegation to Tweed Shire Council. All assessment powers in relation to the assessment of the project application under Part 3A of the Environmental Planning and Assessment Act, 1979 and Part 1A of the Environmental Planning and Assessment Regulations 2000 have been delegated to Council. The Minister retains the consent authority role.

### **Permissibility Tweed Local Environmental Plan 2000**

#### **Clause 11 zones**

The subject sites are zoned 6(b) – Recreation within the Tweed Local Environmental Plan 2000 (Tweed LEP 2000). The development is defined as “Caravan Park” being an item 3 matter being allowed only with consent and must satisfy the provisions of clause 8(2) – consent considerations.

#### **Clause 8(2) – consent considerations**

- (2)
  - (a) The proposal is identified as an urgent community need as the proposed additions are to cater for other caravan park residents at parks elsewhere in the Tweed Shire who are being displaced as a result of closure of those sites, and
  - (b) The proposal is best suited to the subject site and locality in which it is proposed due to the existing function of the site and the significant undeveloped portion located to the north of the site, and
  - (c) The proposed development is to provide an additional 20 long-term sites resulting in a total of 61 LT and 88 ST sites. The development will be generally consistent with the scale and character of existing and future development in the immediate area, and
  - (d) The development is consistent with the aims of this plan and the objectives of the zone in which it is proposed, as the development is compatible with the primary function of the zone.
- (3) Development referred to in subclause (2) is identified as advertised development. The application was advertised for a period of 30 days from 16 August 2006 until 15 September 2006.

The proposal is consistent with the provisions of this clause.

#### **Clause 15 – Essential Services**

The subject property is serviced by water supply and facilities for the removal or disposal of sewage and drainage, power and telecommunications are available.

The proposal is consistent with the provisions of this clause.

### **Clause 16 – Height of Buildings**

The subject sites are affected by a two-storey height limit. The objectives of clause 16 are to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

The proposal is for additional sites and not for the structures at this stage, the structures are subject to separate approval.

The proposal is therefore considered to comply with the provisions of Clause 16.

### **Clause 17 – Social Impact Assessment**

The objectives of clause 17 are to ensure proper consideration of development that may have a significant social or economical impact. The proposal seeks to reorganise the existing layout of sites A to F to achieve more efficient layouts and achieve compliance with the current Caravan Park Regulations. The reconfiguration of the sites does not result in the displacement of any existing long-term tenants and therefore is unlikely to create any significant adverse social impacts.

Area G is proposed to be utilised initially as long term accommodation for residents that have been displaced by closure of other caravan sites within the Tweed Shire. These sites will revert to short-term accommodation once the displaced tenants vacate the sites. The use of these sites will help meet an urgent social need in the Tweed community.

### **Clause 22 – Development near designated roads**

The subject site has frontage to the Tweed Coast Road, which is identified as a Council designated road. The application was referred to Council's Traffic Engineer and the Local Traffic Committee and no issues were raised with the local road network considered adequate to cope with the increase from the proposal. The proposed additions will utilise the existing entrance, with a second entrance on to Tweed Coast Road considered an option for emergency vehicles only.

The proposal is consistent with the provisions of this clause.

### **Clause 28 – Development in zone 7 (I) Environmental Protection (Habitat and on adjacent land**

The proposal is considered to consistent with the provisions of this clause as the application includes a Flora and Fauna Assessment by Aspect North, which identifies any likely potential impacts to Flora and Fauna and provides appropriate amelioration measures.



### **Clause 31 – Development adjoining waterbodies**

The proposal is considered to be consistent with the provisions of this clause as the application includes a Flora and Fauna Assessment by Aspect North, which identifies any likely potential impacts to the vegetation within the site in particular within the riparian zone. The report also provides for appropriate amelioration measures to be carried out.

### **Clause 34 – Flooding**

Councils Infrastructure Engineer provided the following comments:

*“Design Flood Level = 2.4m AHD*

*Minimum habitable floor level = 2.7m AHD*

*All new sites need to be filled to DFL to comply with DCP5. This will require up to 1m of fill on Sites 58 and 59 (Area E). This additional fill is not expected to cause any adverse impacts on flooding behaviour. All other new sites within the development are well above flood level.”*

### **Clause 35 – Acid Sulphate Soils**

The site is affected by Class 1, 2 and 3 acid sulphate soils as such the report contains a preliminary acid sulphate soil assessment prepared by HMC Environmental Consulting Pty Ltd. The report concludes that acid sulphate soils are unlikely to be disturbed by the development.

The proposal is consistent with the provisions of this clause.

### **Clause 39A – Bushfire Protection**

The subject site is identified as Bush Fire Prone Land as detailed within the Bush Fire Prone Land Map Dated February 2004. As such a Bushfire Threat Assessment has been prepared pursuant Section 79BA of the Environmental Planning and Assessment Act, 1979 in regards to Sites A to F. A Bushfire Threat Assessment under Section 100B of the Rural Fires Act of 1997 regarding Area G has also been undertaken. The proposed development complies with Planning for Bushfire Protection requirements subject to an asset protection area being provided.

The proposal is consistent with the provisions of this clause.

### **North Coast Regional Environmental Plan 1988**

#### Clause 15 – Wetland or Fishery Habitat

The proposed development is considered not to contravene the objectives of Clause 15 or create any significant adverse effects to the water quality or fishery habitat, as the development proposes water quality control measures.

Clause 32B Development control—coastal lands

The details of this Clause are addressed in the assessment comments below.

NSW Coastal Policy, 1997

Assessed below;

Stormwater quality – The application proposes adequate stormwater management.

Coastal Hazards – The subject site is not subject to coastal hazards.

Development adjacent to estuaries must minimise potential impact – The application consists of a Flora and Fauna Assessment by Aspect North, which identifies any likely potential impacts to the vegetation within the site in particular within the riparian zone. The report also provides appropriate amelioration measures.

Acid Sulphate Soils - The site is affected by Class 1, 2 and 3 acid sulphate soils as such the report contains a preliminary acid sulphate soil assessment prepared by HMC Environmental Consulting Pty Ltd. The report concludes that acid sulphate soils are unlikely to be disturbed by the development.

North Coast Design Guidelines – Addressed below.

Design and Location Principles – The proposal will not over shadow the beach or foreshore open space. The height of the building is consistent with the planning controls and strategies relating to the site.

Provisions of public facilities and equitable access to estuary foreshores – The proposal will not alter the existing arrangements regarding access to the foreshore.

Coastline Management Manual, 1990

The site is not located in the coastal erosion zone and is not visible from any beach, accordingly the Coastline Management Manual is considered not relevant to this proposal.

North Coast Design Guidelines

The design, construction materials and landscaping of the proposed alterations and additions to the caravan park are considered consistent with the North Coast Design Guidelines.

Overshadowing

The proposed development is considered not to contravene the objectives of Clause 32B by creating any significant adverse effects to the public access to the foreshore, create overshadowing to beaches, waterfront open space before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

Clause 33 – Coastal Hazard Areas

See comments relating Clause 32B above.

Clause 43 – Residential Development

The proposed development is considered to comply with the requirements of the clause, as each of the requirements have been addressed within the report and considered satisfactory.

Clause 66 – Adequacy of community and welfare services

This clause applies to subdivision of land intended for residential or rural residential purposes.

Clause 81 – Development adjacent to the ocean or a waterway

The proposal is located within 100 metres of the ocean or waterway, but it is considered that there is no foreshore open space accessible to the public. The development will not detract from the amenity of the waterway and the development is consistent with the foreshore management plan applying to the area.

**State Environmental Planning Policy No. 11 – Traffic Generating Developments**

The application is not listed within either schedule one or two of SEPP No. 11 however, the application was referred to the Local Traffic Committee. No issues were raised as it was mentioned that the development is serviced by an existing roundabout which has adequate capacity to cater with the additional traffic generated by the proposal.

**State Environmental Planning Policy No. 14 – Coastal Wetlands**

The site is not affected by SEPP No.14 Coastal Wetlands.

**State Environmental Planning Policy No. 21 – Caravan Parks**

Clause 10 Matters to be considered by Council.

A Council may grant a development consent required by this Policy only after it has considered the following:

- (a) *whether, because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence,*

The existing caravan park is already catering for both short term and long term accommodation and it is evident from the long-term success of the operation that its location and character are well suited to this purpose.

- (b) *whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,*

The existing tourist accommodation within the park is to be retained and forms an essential element of the park's operation. In the longer term, the new long term dwelling sites created by the proposal in the area adjoining the bowling club are to revert to short-term dwellings sites consistent with the requirements of the Director General of the Department of Lands. In the short term the proposed additional long term sites will not displace potential tourist accommodation.

- (c) *whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*

Low-cost housing, or land available for low-cost housing is not readily available in Pottsville. The proposal represents a good response to this issue.

- (d) *whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,*

The park is well located with respect to facilities and services. Local facilities are readily accessible by foot. Neighbourhood and regional facilities are readily accessible by car and bus.

- (e) *any relevant guidelines issued by the Director, and*

There are no specific guidelines by the Director General of Planning. The requirements of the Director General of the Lands Department have been sought and form part of the proposal.

- (f) *the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

The proposal complies with the requirements of the current Caravan Parks Regulations.

This proposal is considered to satisfy the aims and objectives of SEPP No.21.

### **State Environmental Planning Policy No. – 26 Littoral Rainforests**

The site is not affected by SEPP No.26. Littoral Rainforests.

### **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

The subject land does not contain Koala food trees and therefore the provisions of this Policy do not apply.

## **State Environmental Planning Policy No. 55 – Remediation of Land**

A contaminated land assessment has been undertaken and that assessment concluded that the land was not contaminated.

## **State Environmental Planning Policy No. 71 – Coastal Protection**

The site is located within the area to which the policy applies. The proposed development is within 100m of the mean high water mark of the sea, a bay or an estuary. The proposal is considered not to adversely affect the access to and along the coastal foreshore, limit overshadowing of foreshore areas and that the type, bulk, scale and size of the development is appropriate within the SEPP 71 zone.

### **Minister's power to approve**

Under the Environmental Planning and Assessment Act, 1979 the proposal is classified as a major project and is accompanied by an Environmental Assessment (EA). The Minister for Planning is the approval authority for the application. The Minister has delegated the assessment of the application to Tweed Shire Council.

The Director-General's Environmental Assessment Requirements ("DGRs"), issued on 16 March 2006, required the following key issues to be addressed:

- **Strategic and Statutory Planning** – including an assessment of the proposal against all relevant legislation and planning provisions which apply to the site. Justification for any non compliances or inconsistencies is required. In particular include consideration of the Local Government (Manufactured Homes estates, Caravan Parks and Camping Grounds and Moveable Dwellings) Regulations 2005.
- **Access** – including consideration of access to the site, within the site and to required services such as shops, medical etc.
- **Flooding** - an assessment of any flood risk that may occur on site due to proximity to the Cudgen Creek. Consideration of the provisions of the Floodplain Development Manual (NSW Government, April 2005).
- **Water** – including consideration of any impacts on Cudgen Creek, any requirements of the Tweed Coast Estuaries Management Plan 2004-2008 and measures for stormwater management. If necessary, measures for Acid Sulfate Soils management need to be addressed.
- **Riparian Corridor** – including measures to protect the riparian corridor.
- **Natural Heritage** – including assessment of any impacts on flora and fauna or European and Aboriginal heritage. In particular, appropriate assessment of any threatened species or impacts to native vegetation.
- **Bushfire Protection** – demonstrate compliance with the relevant provisions of Planning for Bushfire Protection 2001.

The initial Environmental Assessment lodged by the Proponent on 25 July 2006 was considered by the Department, in correspondence dated 23 May 2006 to the Proponent, to satisfactorily address the DGRs.

## **EA Exhibition**

The Environmental Assessment (EA) was exhibited from 16 August 2006 until 15 September 2006.

## **CONSULTATION and issues raised**

### **Public Submissions**

No public submissions were received during the advertising period.

### **Government Authority Submissions Received**

#### **Traffic committee**

The application was referred to Local Traffic Committee on the 11 August 2006. The application is not listed within Schedule 2 of SEPP No.11 – Traffic Generating Developments however, the Local Traffic Committee comments on the application were invited. The Traffic Committee raised no issues, the existing road network is considered to cater for the additional traffic generated by the proposal.

#### **NSW Rural Fire Service**

The application was referred to the NSW Rural Fire Service on the 10 August 2006. The NSW Rural Fire Service assessed the application and is prepared to grant a Bush Fire Safety Authority subject to conditions.

#### **NSW Department of Primary Industry (DPI)**

The application was referred to the NSW Department of Primary Industry (Fisheries) on the 22 August 2006. The Department provided the following comments.

##### **Buffer Zones**

A 50 metres buffer consistent with the policy “Policy and Guidelines Aquatic Habitat Management and Fish Conservation 1999” is recommended for areas adjacent to SEPP 14 Wetlands and waterways such as Cudgera Creek.

The proposed changes to Area E being the consolidation of three sites into two is purely administrative with no structural works proposed to the existing dwellings. Therefore, the 50 metre buffer adjacent to Area E is not recommended by the Department.

#### **Department of Natural Resources**

The application was referred to the Department of Natural Resources on the 22 August 2006. The Department made the following comments;

##### **Acid Sulphate Soils**

The Preliminary Acid Sulphate Soils Assessment and Management Plan is considered to adequately address any likely risk from the proposal with the measures to be detailed in the Draft Statement of Commitments.

### Estuary Management Plan – Cudgen, Cudgera and Mooball Creeks

The plan aims for development that is ecologically sensitive and has limited impact on the estuary, its aesthetics and health. To achieve these aims the following actions are required;

1. Continue water sensitive urban design approach for stormwater management;
2. Best management practices for sediment control during construction to be regularly monitored;
3. Adhere to minimum 50 m buffer zone of riparian vegetation to remain intact on new development sites;
4. Ensure development applications have access to terrestrial and aquatic vegetation mapping from all sources;
5. Wherever possible, encourage dedication and rehabilitation of riparian zones with development applications and
6. Develop and implement a strategy to combat illegal clearing of vegetation.

### Natural Heritage

The Department raised the issue that by the application not considering the Native Vegetation Act, 2003 and the Environmental Assessment has not adequately addressed all relevant statutory provisions applying to the site. In addition the proposed bushfire hazard reduction and Flora and Fauna Assessment requirements appear unlikely to prevent broad scale clearing or adequately protect the riparian corridor. As such the Department provided the following matters;

1. Management of the riparian vegetation as part of an Asset Protection Zone is in conflict with its protection for riparian values and functions;
2. Council as manager and owner of the land to undertake rehabilitation work to enhance the function of this vegetation;
3. The proposed vegetation clearing, if not undertaken according to an approval under Part 3A of the EP&A Act, would be required according to the Environmental Outcomes Assessment Methodology of the Native Vegetation Regulation, 2005.
4. There appears to be no offsets to compensate for vegetation losses in proposed Area G or in the Asset Protection Zone;
5. No plan appears to be provided for future management of native vegetation of the site;
6. Any Asset Protection Zone should be provided within the development area and should not be extended into adjoining land, especially across Cudgen Creek;
7. There appears to be inconsistencies within the EA regarding the fire prone status of the land.

### **Department of Environment and Conservation**

The application was referred to the Department of Environment and Conservation on the 22 August 2006. The Department did not review the application but rather provided general comments which are recommended to be satisfied prior to determination.



## **Department of Lands**

The application was referred to the Department of Lands on the 22 August 2006. The Department has not provided a response.

## Assessment

The proposed development has been assessed in accordance with the Environmental Planning and Assessment Act, 1979. Any significant issues raised are outlined below under "environmental impacts". The subject site is considered suitable for the proposed development. The proposal is considered in the public's interest.

### **Environmental Impacts**

#### Riparian buffer

**Key Issue:** A 50 metre buffer is recommended for areas adjacent to SEPP 14 Wetlands and waterways such as Cudgera Creek.

**Raised By:** NSW Department of Primary Industry (Fisheries) (DPI)

**Consideration** A 50 metres buffer consistent with the policy "*Policy and Guidelines Aquatic Habitat Management and Fish Conservation 1999*" is recommended for areas adjacent to SEPP 14 Wetlands and waterways such as Cudgera Creek.

**Resolution** It is recommended that a 50-metre buffer consistent with this policy be applied to all new developments within the subject site.

#### Acid Sulphate Soils

**Key Issue:** The Preliminary Acid Sulphate Soils Assessment and Management Plan are to be detailed in the Draft Statement of the Commitments.

**Raised By:** Department of Natural Resources

**Consideration** An Acid Sulphate Soils Assessment has been provided by HMC Environmental Consulting Pty Ltd. The report indicated that ASS is unlikely to be present on the subject land. The Preliminary Acid Sulphate Soils Assessment and Management Plan is considered to adequately address any likely risk from the proposal with the measures to be detailed in the Draft Statement of Commitments. A full Acid Sulphate Soils Management Plan is considered not to be required.

**Resolution** Clause 9 of the Preliminary Acid Sulphate Soils plan proposes a suitable management method during activities.

#### Estuary Management Plan – Cudgen, Cudgera and Mooball Creeks

**Key Issue:** The development is ecologically sensitive and has the potential to impact on the estuary, its aesthetics and health.

**Raised By:** Department of Natural Resources

**Consideration 1.** *Continue water sensitive urban design approach for stormwater management;*

2. *Best management practices for sediment control during construction to be regularly monitored;*
3. *Adhere to minimum 50 m buffer zone of riparian vegetation to remain intact on new development sites;*
4. *Ensure development application have access to terrestrial and aquatic vegetation mapping from all sources;*
5. *Wherever possible, encourage dedication and rehabilitation of riparian zones with development application and*
6. *Develop and implement a strategy to combat illegal clearing of vegetation.*

**Resolution** The Estuary Management Plan requires a 50m buffer adjacent to Cudgera Creek for all new development while the NSW RFS require a 40m APZ to Area 'G' and a 30m APZ to Areas 'E' & 'F'.

Area 'G' provides for the 50m buffer requirement with all 18 sites greater than 50m from Cudgera Creek.

However, Area 'G' requires a 40m APZ as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'.

Contained within the 40m APZ as a small portion of low value regrowth revegetation containing predominantly lantana and Bitou bush with no mature native vegetation. This portion of vegetation is located east of the Osprey nesting pole and is requested to be removed to provide an adequate APZ. A condition has been added to the draft consent to ensure an adequate APZ is provided for whilst reducing the amount of works within the 50m buffer to ensure the continuation of the estuary's aesthetics and health.

Area 'E' is located within the 50m buffer and is required to provide a 30m APZ as per Section 4.2.2 in 'Planning for Bushfire Protection 2001'.

However, Area 'E' currently contains two existing long term dwellings which are situated over three long term sites. The proposal seeks to rationalise the existing dwelling site configuration by reducing the number of sites located within this area. No physical structural works are proposed, rather the reduction in sites are purely administrative and therefore it is considered that due to the existing dwellings, reduction in the number of site and therefore reduction in potential environmental impact on the sensitive area, that existing conditions should remain. In regards to the APZ a condition has been imposed requiring the application to liaise with the NSW Rural Fire Service regarding suitable bushfire protection measures.

Area 'F' contains a small portion within the 50m buffer and is required to provide a 30m APZ as per Section 4.2.2 in 'Planning for Bushfire Protection 2001'. However, the proposal seeks to rationalise the existing sites within Area 'F' which, currently contains one large cabin that

accommodates three units for short-term accommodation. The rationalisation proposed seeks to remove the cabin and create two long term sites at the cost of three short term sites, being a net loss of one site. It is considered as the site currently contains an existing dwelling and given the location of the existing 'managers residence' between the subject sites and Cudgera Creek, and the overall reduction in sites, that the minor encroachment into the 50m buffer is acceptable. With regards to the APZ a condition has been imposed requiring the applicant to liaise with the NSW Rural Fire Service regarding suitable bushfire protection measures.

It is recommended that Points 1-6 be resolved by appropriate conditions of consent.

### **Flora and Fauna**

**Key Issue:** No consideration of the Native Vegetation Act, 2003 and the proposed bushfire hazard reduction and Flora and Fauna Assessment requirements appear unlikely to prevent broad scale clearing or adequately protect the riparian corridor.

**Raised By:** Department of Natural Resources

- Consideration**
1. Management of the riparian vegetation as part of an Asset Protection Zone is in conflict with its protection for riparian values and functions;
  2. Council as manager and owner of the land to undertake rehabilitation work to enhance the function of this vegetation;
  3. The proposed vegetation clearing, if not undertaken according to an approval under Part 3A of the EP&A Act, would be required according to the Environmental Outcomes Assessment Methodology of the Native Vegetation Regulation, 2005.
  4. There appears to be no offsets to compensate for vegetation losses in proposed Area G or in the Asset Protection Zone;
  5. No plan appears to be provided for future management of native vegetation of the site;
  6. Any Asset Protection Zone should be provided within the development area and should not be extended into adjoining land, especially across Cudgen Creek;
  7. there appears to be inconsistencies within the EA regarding the fire prone status of the land.

**Resolution** No clearing of vegetation west of the Osprey nesting pole. The pole is located at the top of the high bank of Cudgera Creek. The vegetation east of the pole is lantana and bitou bush with no mature native vegetation. Some minor adjustment to the Area 'G' sites might be necessary to maintain the 40 metre Inner Asset Protection Zone (IAPZ) without extending vegetation removal west of the Osprey Nest Pole.

The report recommends amelioration measures in Annexure B Section 6.2 of the report be implemented as conditions of consent. Section 6.2 of Annexure B of the report recommends amelioration measures such as 'all other native vegetation within Area A to G to be retained where possible', 'an ecological restoration program is implemented for the vegetation communities occurring at the site in proximity of Cudgera Creek' and 'any future landscape planting at the site to include food tree species for the Koala and Glossy Black-Cockatoo'.

It is recommended that this Point 5 be resolved by appropriate conditions of consent.

### **Traffic, Access and Parking**

**Key Issue:** The proposed visitor car park is set up to encourage anti clock wise traffic movement. The proposed access and parking may not be adequate for the proposed development.

**Raised By:** Council's Traffic Engineer

**Consideration** The location of the proposed visitor car parking is currently setup as one-way access in an anti clockwise direction, which is not encouraged. The direction should be changed to a clockwise direction with the angle of the proposed visitor car parking to reflect the clockwise traffic flow.

Council's Traffic Engineer provided the following comments:

*"I have reviewed the DA and advise that as the proposal is accessed via the existing roundabout on the Coast Road, access is not an issue.*

*Similarly, traffic volumes on the Coast Road have decreased since the Motorway opened and adequate capacity exists to absorb the traffic generated by this development.*

*My only concern is that the "teardrop" one-way access road near the entry sets up traffic flow in an anti-clockwise direction which is not encouraged as standard convention is for "clockwise" circulation. This should be changed along with the angle of the car park spaces to reflect clockwise traffic flow.*

*Standard conditions including TRCP should be applied."*

### **Parking**

The proposed development will provide ten (10) new visitor car spaces adjacent to the new amenities building identified as Area B and Tweed Coast Road. Under Clause 97 of the Regulations 3 new car spaces are required for the twenty (20) new sites, in addition to the visitor spaces, each site is to provide for one car space on site. The parking spaces

proposed also exceed the requirements of DCP No. 2 – Site Access and Parking Code.

**Resolution** It is recommended that this be resolved by appropriate condition of consent.

## **Wastewater Management**

**Key Issue:** The proposed development would result in a minor increase in runoff from the site which has the potential to impact Cudgera Creek.

**Raised By:** Council

**Consideration** Councils Infrastructure Engineer provided the following comments in this regard:

*“The site discharges to Cudgera Creek and has highly permeable sandy soil. Site stormwater is currently dispersed overland towards the creek, maximising infiltration during small events, and providing surcharge flow paths to the creek in larger storms. Lawns and other landscaping provide adequate filtration of contaminants prior to entering the creek. There are no SEPP14 wetlands identified within the section of creek adjoining the site.*

*The new caravan sites will continue to discharge their stormwater in this manner. Minor increases in stormwater runoff are expected due to new roof and road areas, however these should be readily accommodated by the existing drainage system for the site.”*

**Resolution** The existing stormwater regime has the capacity to cope with the additional runoff generated by the proposed development. No condition of consent is required.

## **Infrastructure**

**Key Issue:** The proposed development will increase the demand on infrastructure such as water supply, effluent disposal, electricity and telecommunications.

**Raised By:** Council

**Consideration** Water Supply / Effluent disposal

Councils Senior Water/Sewerage Design Engineer provided the following comments:

*“I have reviewed the DA and advise that the water supply and sewerage services are available and have adequate capacity to service the proposed alterations and additions. Standard conditions should apply.”*

No work is required to extend Council's water or sewer infrastructure. Standard Section 64 charges are to be imposed.

## Electricity / Telecommunication

**Services are available for connection.**

**Resolution:** A condition of consent requires the imposition of standard Section 64 charges for the provision of water or sewer infrastructure to the subject site.

## **Flooding**

**Key Issue:** Part of the subject site is below the design flood level. The proposal has the potential to impact on flooding behaviour.

**Raised By:** Council

**Consideration:** Ground levels within the Park vary between 1.4m AHD to 5.5m AHD. The design flood level identified within DCP No. 5 – Development of Flood Liable Land for the subject sites is 2.4m AHD with a minimum floor level of 2.7m AHD.

All the new proposed sites meet the required minimum flood levels except for Area E. Area E currently contains two (2) existing structures (dwellings) over three (3) sites, a reconfiguration of these sites is proposed to conform to the two existing structures therefore a loss of one (1) LT site. No structural alterations or additions are proposed with the reconfiguration of these sites. Up to 1m of fill on Sites 58 and 59 (Area E) will be required to ensure these sites are at DFL. This additional fill is not expected to cause any adverse impacts on flooding behaviour. All other new sites within the development are well above flood level.

**Resolution:** A condition of consent has been included that requires all sites to be at the flood design level for the site of 2.4m AHD.

## **Noise and Amenity**

**Key Issue:** The proposed development has the potential to increase noise and decrease amenity for surrounding land uses.

**Raised By:** Council

**Consideration:** The Park has been operational for a number of decades with no noise or amenity related complaints being recorded by the Environment Unit or Council.

The northern extension identified as Area G, which proposes eighteen new sites, is located adjacent to the Pottsville Bowling Club's car parking and servicing area. A ten (10)-metre buffer will exist between the rear of the site boundary and the property boundary, this complies with Clause 89 of the Regulations.



Two (2) new sites are proposed in the southeast corner adjacent to Tweed Coast Road identified as Area C. A three (3)-metre setback is proposed between the rear site boundary and the property boundary this complies with Clause 89 of the Regulations. The Regulations require a ten (10) metre set back from sites to roads. A five (5) metre landscaped setback to Tweed Coast Road is proposed from site 4 in Area C, this is considered adequate.

### **Contamination**

**Key Issue:** The subject site has the potential to be contaminated from prior land use.

**Raised By:** Council

**Consideration:** A preliminary Site Investigation was prepared by HMC Environmental Consulting Pty Ltd. The report concluded that it is unlikely that the sites are impacted by soil contamination.

**Resolution:** It has been recommended that a post earthworks surface radiation survey of Area G, be conducted and submission of a validation statement to Council prior to the commencement of use. This contamination request has been made a condition of the draft consent.

### **Compliance with the Regulation**

**Key Issue:** *The proposed changes to the existing caravan park must comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.*

**Raised By:** Council

**Consideration** Amenities – Area A currently contains the southern amenities building which is proposed to be demolished to create two new sites. As a result, a new amenities building is proposed in Area B. The proposal is considered to comply with the minimum requirement under the Regulations for the number of amenities to be provided.

Street Lighting – The proposal is considered to comply with Clause 100 of the Regulation with regards to street lighting.

Fire hydrant and Hose Reels – The proposal is considered to comply with Clause 128 and 129 of the Regulation with regards to Fire hydrant and Hose Reels.

**Resolution** Conditions have been added to ensure compliance with the Regulation.

### **Suitability of the Site**

The subject site is considered suitable for the proposed development, as the site currently comprises accommodation used for both short-term and long-term accommodation. This application seeks to rationalise the existing sites located at the southern end of the park so that the park can operate more efficiently and compliance with the current Caravan Parks Regulation can be achieved.

In addition to the rationalisation of the existing sites, the application seeks to create eighteen sites located at the northern end of the park. The new sites are to be initially utilised for long-term accommodation until the initial tenant vacates the sites, then the sites will revert to short-term accommodation.

**CONCLUSION**

The proposal has been assessed against all relevant plans and policies and is considered suitable for the site and is not likely to create any significant adverse impacts on either the built or natural environments in the locality.

**RECOMMENDATION**

That Development Application DA06/0808 (Department of Planning reference MP 05\_0192) alterations and additions to the Pottsville North Caravan Park be approved subject to the following draft conditions.

**APPENDIX A. CONDITIONS OF APPROVAL**

**GENERAL**

1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0115]
2. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No C-00 prepared by Integrated Site Design and dated December 2005, except where varied by the conditions of this consent.  
[GEN0005]
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. Prior to the placement of any structures on new sites the park shall obtain from Council an updated Section 68 approval to operate.  
[GENNS01]
5. Where directed by Council officers the boundary of a site shall be marked to the satisfaction of the Director of Environment and Community Services.  
[GENNS01]
6. New structures shall not be placed in the buffer zone between the boundary of the property and any site boundary.  
[GENNS01]
7. The number of approved sites in the park shall be not greater than 61 long term, 88 short term and 35 camp sites other than complying with Condition 8 of this consent.  
[GENNS01]
8. The eighteen long term sites contained within Area 'G' are to revert to short term sites once each individual long term tenant vacates these sites. Once the entire initial tenants of Area 'G' have vacated these sites the number of approved sites in the park shall not be greater than 43 long term, 106 short term and 35 camp sites.

The long-term sites in Area 'G' are available to suitable residents relocating from Tweed Waters Caravan Park, also known as Banora Point Caravan Park, on a "whole of life" basis.

The tenancy agreements for the Area 'G' sites will stipulate that the tenancy does not include any right of sale and/or assignment or sub-letting in keeping with the provisions of Sections 41(4)(b) and 80(2) of the Residential Parks Act 1998.

9. This consent is for an additional 20 long term (LT) sites and the deletion of 8 short term (ST) sites resulting in a total of 61 LT and 88 ST sites. Eighteen (18) of the twenty (20) LT sites will revert to ST sites once the initial tenants vacate the sites (the 18 sites are described as Area 'G').

The details of the proposal are as follows: -

- Area A: This area currently contains an amenities block, this block is to be demolished and replaced by two (2) new long term (LT) sites.
- Area B: This area currently is vacant, with the site proposed for the location of the new amenities building. Parallel to the proposed amenities building to the east adjacent to Tweed Coast Road is the proposed location of ten (10) visitor car spaces to accommodate for the increase in sites.
- Area C: This area is currently vacant, two (2) new LT sites are proposed in the area.
- Area D: This area currently contains four (4) LT sites, a reconfiguration of the area proposes a net yield of three (3) sites. This is a reduction of one (1) LT site.
- Area E: This area currently contains two (2) existing structures over three (3) sites, a reconfiguration of these sites is proposed to conform to the two existing structures therefore a loss of one (1) LT site.
- Area F: This area currently contains one (1) large cabin, which accommodates three (3) units for ST accommodation. The proposal seeks to remove the cabin and create two (2) new LT sites.
- Area G: This area is generally underdeveloped land apart for a sealed, fenced off area to the north adjacent to the Bowling Club for the storage of caravans. This area proposes eighteen (18) LT sites all serviced by road, water, power and sewer.

10. A vegetative buffer shall be placed and maintained between sites s24 to s29 and the property boundary, to the satisfaction of the Director of Environment and Community Services.

[GENNS01]

11. A vegetative buffer shall be placed and maintained between sites s17, s18 and s29 and the Tweed Coast Road property boundary, to the satisfaction of the Director of Environment and Community Services.

[GENNS01]

12. A vegetative buffer shall be placed and maintained between sites s3 and s4 and the property boundary, to the satisfaction of the Director of Environment and Community Services.

[GENNS01]

13. A vegetative buffer shall be placed and maintained between site s4 and the Tweed Coast Road property boundary, to the satisfaction of the Director of Environment and Community Services.

[GENNS01]

14. A minimum of 10 new clearly identified visitor car parking spaces shall be provided, and the dimensions of those parks shall comply with Clause 97(3) of the Regulations.

[GENNS01]

15. Each new site shall be provided with an on-site car parking space in accordance with Clause 96 of the Regulations.

[GENNS01]

16. Sites s12 - s29 shall be designated long term, and shall revert to short term sites once they are vacated by the initial tenants.  
[GENNS01]
17. A post earth works surface radiation survey (in the area where 18 new LT sites are created) shall be completed and a validation statement provided to Council, prior to commencement of use, which establishes that surface radiation levels are below relevant NSW Health Action Levels.  
[GENNS01]
18. All structures placed on sites s12 - s29 shall be self-contained, or laundry, shower and toilet facilities provided to each site prior to the placement of any structures on the relevant sites.  
[GENNS01]
19. Street lighting shall be provided in accordance with Clause 100 of the Regulations.  
[GENNS01]
20. Fire hydrants and hose reels shall be provided in accordance with Clauses 128 & 129 of the Regulations.  
[GENNS01]
21. Minimum road widths shall comply with Clause 94 of the Regulations.  
[GENNS01]
22. Speed limit signs shall be provided in accordance with Clause 95 of the Regulations.  
[GENNS01]
23. Road surfaces shall comply with Clause 99 of the Regulations.  
[GENNS01]
24. Amenities buildings shall be constructed in accordance with the provisions of Clause 110 of the Regulations.  
[GENNS01]
25. The area directly to the west of Area 'G' to a distance of 40 metres shall be maintained as an 'Inner Protection Area' (IPA) as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'. No clearing of vegetation west of the Osprey nesting pole adjacent to Area 'G' is permitted.  
[GENNS02]
26. The amelioration measures contained within Section 6.2 of the Flora and Fauna Assessment prepared by Aspect North contained within the Statement of Environmental Effects prepared by Darryl Anderson Consulting Pty Ltd are to be undertaken to minimise impacts of the proposed works.  
[GENNS02]
27. A detailed Vegetation Management Plan is to be submitted to Council and approved by the General Manager or his delegate prior to issue of a construction certificate or works commencing whichever occurs first.  
[GENNS02]

28. The mature trees in Area 'G' are to be retained. In this regard a plan showing the trees to be retained is to be submitted to Council for approval by the General Manager or his delegate prior to works commencing.
29. The park owner reserves the right to refuse an application to install a movable dwelling onto any long term site in the park where it in its absolute discretion it believes the proposed movable dwelling is not of a suitable and/or satisfactory standard. [GENNS02]
30. All current and future residents acknowledge that the park rules expressly prohibit the keeping of pets other than those allowed for by law, for example, an assistance animal.
31. All sites within Area 'G' shall be situated a minimum 80 metres from the western bank of Cudgera Creek.
32. A 20 metre APZ shall be provided to the south of Area 'G', and maintained as an 'Inner Protection Area' (IPA) as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'.
33. The applicant is to liaise with the NSW Rural Fire Service regarding suitable bushfire protection measures for Areas 'E' and 'F'.
34. Access to Area 'G' is to comply with Section 4.3.1 of 'Planning for Bushfire Protection 2001' or an alternative arrangement to the satisfaction of the NSW Rural Fire Service.
35. An alternative access point shall be provided directly linking the internal access roads within Area 'G' to Tweed Coast Road.
36. Reticulated water supply shall comply with AS2419 - 1994 'Fire Hydrant Installations - Systems Design Installations and Commissioning'. Locations of fire hydrants are to be delineated by Blue pavement markers in the centre of the road.
37. Habitable buildings within Areas 'E' and 'F' are to fully comply with the requirements of Level 3 constructions as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.
38. Habitable buildings within Areas 'A', 'C', 'D', and 'G' are to fully comply with the requirements of Level 1 constructions as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'.
39. Roofing shall be gutterless or have leafless guttering and valleys, which are to be screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
40. Shade cloth materials proposed for this development shall have a flammability index of no greater than 5 as measured against the performance requirements of AS1530:2:1993.



**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

31. 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: \$27,188  
S94 Plan No. 4 (Version 4.0)  
**Sector8a\_4**

**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 or subdivision certificate, whichever occurs first. 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 tonnes

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

$\text{\$Unit}$  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): \$1,020  
S94 Plan No. 5
- (c) Open Space (Casual): \$1,488
-

S94 Plan No. 5	
(d) Shirewide Library Facilities: S94 Plan No. 11	\$899
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$174
(f) Community Facilities (Tweed Coast - South) S94 Plan No. 15 South Coast	\$762
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$6,800
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$14,834.56
(i) Cycleways S94 Plan No. 22	\$2,901
(j) Regional Open Space (Structured) S94 Plan No. 26	\$3,042
(k) Regional Open Space (Casual) S94 Plan No. 26	\$6,966

32. 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. [PCC0215/PSC0175]

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 DSP6:	9.8 ET @ \$4598	\$45,060
Pottsville/Burringbar Water Levy:	9.8 ET @ \$1800	\$17,640
Sewer Hastings Point:	11.8 ET @ \$2863	\$33,783

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]

33. 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.
- (d) Specific Requirements to be detailed within the Construction certificate application include:
  - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

34. 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]

35. 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]
36. The internal "teardrop" one-way access road near the entry is to be re-configured to create traffic flow in a clockwise direction, and the angle of the car parking spaces is to be altered to reflect clockwise traffic flow.  
[PCCNS01]
37. The development shall comply with the requirements of DCP No.5 - Development of Flood Liable Land, including the following:
- a) All new caravan sites must be at a level of not less than the design flood level of RL 2.4m AHD.
  - b) Where filling is required to achieve the minimum surface level, all fill batters shall be contained wholly within the development site, and shall be appropriately protected from scour and erosion due to stormwater and/or flood flows. All filling works shall consider local stormwater flow patterns, and provide additional perimeter drainage as necessary.
  - c) Minimum habitable floor level of all new cabins/caravans shall be RL 2.7m AHD.  
[PCCNS02]

#### **PRIOR TO COMMENCEMENT OF WORK**

38. 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]*
39. 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]*
- 40. 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]*
41. 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]

42. 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.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0985]

43. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

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

[PCWNS01]

#### **DURING CONSTRUCTION**

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 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]

47. 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]

48. 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]

49. 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]

50. 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]

51. 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]

52. 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]

53. 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]

54. 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]

55. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building.

[DUR2485]

56. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

57. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

58. 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]

59. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

60. Surface lime shall be placed and maintained in the location of stormwater overflow areas for the duration of works.

[DURNS01]

61. 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]
62. 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]
63. 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]
64. 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]
65. 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]
66. 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]
67. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary. [DUR2205]
68. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event. [DUR2405]
69. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
70. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate.

[DUR2425]

71. 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]

72. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 2.7 metres AHD, and certifying the actual finished level of the total site. Certification of those levels by a registered surveyor must be submitted to the Principal Certifying Authority prior to proceedings past floor level to ensure that the floor is above flood level.

[DUR1365]

73. 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]

74. 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]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

75. 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]

76. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

77. Prior to the issue of a final occupation certificate, all conditions of consent are to be met where relevant.

[POC1055]

78. The park shall be operated in accordance with Subdivision 1-8 of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations, 2005.

[USENS01]

79. Activities at the premise shall not be permitted to unreasonably impact the amenity of any premise.

[USENS01]

**USE**

80. 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]

81. Except as may be expressly provided in the approval, the approval holder must comply with section 120 of the Protection of the Environment Operations Act 1997 prohibiting the pollution of waters.

[USE0155]

82. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

83. The premises shall be maintained in a clean and tidy manner.

[USE0965]

**APPENDIX B. STATEMENT OF COMMITMENTS**

12.0 DRAFT STATEMENT OF COMMITMENTS

Table 12.0 - Draft Commitments

SOIL AND WATER MANAGEMENT	
OBJECTIVE	ACTION
To ensure that runoff discharge into the Cudgera Creek achieves the standards adopted by Tweed Shire Council in the Tweed Coast Estuaries Management Plan.	<ul style="list-style-type: none"> <li>• Install appropriate erosion and sedimentation control devices (filter fences, hay bales, catch drains, etc.) prior to commencing construction and any other site works.</li> <li>• Discharged hardstand areas to lawns and gardens.</li> </ul>
ACID SULPHATE SOILS	
OBJECTIVE	ACTION
<p>Avoid disturbance of Acid Sulphate Soils where possible.</p> <p>Ensure that acid runoff does not discharge to Cudgera Creek.</p>	<ul style="list-style-type: none"> <li>• Comply with the Acid Soils Assessment at <b>Annexure E</b>.</li> </ul>
FLOODING	
OBJECTIVE	ACTION
Minimise obstruction of flood flows.	<ul style="list-style-type: none"> <li>• Ensure that all sites comply with Development Control Plan No. 5.</li> </ul>
TRAFFIC	
OBJECTIVE	ACTION
To ensure that safe and efficient vehicular access is provided to the site.	<ul style="list-style-type: none"> <li>• Limit permanent access to the existing roundabout at Boronia Avenue.</li> </ul>
FLORA AND FAUNA	
OBJECTIVE	ACTION
To protect threatened species of fauna.	<ul style="list-style-type: none"> <li>• Measures to protect fauna species (such as frogs) should be employed during site levelling through the installation of sediment traps on all slopes and drains.</li> <li>• Waste material, including vegetation, is not to be pushed into the drains within and surrounding the site.</li> <li>• Comply with the recommendations contained in the Flora and Fauna Assessment at <b>Annexure C</b>.</li> </ul>
CULTURAL HERITAGE	
OBJECTIVE	ACTION
Avoid disturbing cultural heritage items and relics.	<ul style="list-style-type: none"> <li>• Comply with the recommendations contained in the Archaeological Assessment at <b>Annexure F</b>.</li> </ul>
UTILITIES	
OBJECTIVE	ACTION
Protect existing utilities in and adjacent to the site.	<ul style="list-style-type: none"> <li>• Clearly mark the location of underground utilities with permanent markers.</li> <li>• Notify relevant utility authorities if any damage occurs.</li> </ul>

SITE USE	
OBJECTIVE	ACTION
Ensure Sites S12 to S29 are ultimately used as permanent sites	<ul style="list-style-type: none"> <li>• When the first long term tenant of each site vacates the site, that site shall only be used as a short term site.</li> </ul>

**P12 [PD-PC] Development Application DA06/0915 for the Erection of a Pontoon at Lot 125 DP 246488, No. 82 Companion Way, Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/0915 Pt1**

**SUMMARY OF REPORT:**

Council has received a Development Application for a pontoon at No. 82 Companion Way, Tweed Heads. The pontoon will be for private use.

Council has received a total of six (6) submissions for the Development Application. The main issue raised in the submissions was the concern of sand dredger being moored at the pontoon. The applicant has since sold the sand dredger and indicated that no sand dredger will be moored at the pontoon. A condition of consent will be imposed which restricts the usage of the pontoon to only private use and non-commercial vessels only.

The Development Application is recommended for approval subject to conditions of consent.

**RECOMMENDATION:**

**That Development Application DA06/0915 for the erection of a pontoon at Lot 125 DP 246488 No. 82 Companion Way, Tweed Heads be approved subject to the following conditions: -**

**GENERAL**

- 1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**  
[GEN0115]
- 2. The development shall be completed in accordance with the Statement of Environmental Effects and Site Plan and Drawing No C2 prepared by D & M Fritsch and dated 14 August 2006, except where varied by the conditions of this consent.**  
[GEN0005]
- 3. The development shall comply with all requirements of the "Tweed Shire Council Guidelines for the Installation of Pontoons and Boat Ramps".**  
[GEN0105]
- 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]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. A Deed of Licence Agreement is to be entered into with Council for the purpose of maintaining the pontoon structure on part of the canal fronting Lot 125 DP 246488.

[PCCNS01]

6. The applicant is to obtain public liability indemnity insurance for the sum of \$5,000,000.00. Documentary evidence of this is to be supplied together with the Executed Deed of Licence Agreement prior to undertaking any works.

[PCCNS02]

7. The applicant is to comply with Council's Acid Sulfate Soils Management Plan for Minor Works.

[PCCNS03]

**PRIOR TO COMMENCEMENT OF WORK**

8. 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]

9. 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]
10. 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]

11. It is the responsibility of the contractor to identify and locate all underground utility services prior to commencing works.

[PCW1165]

#### **DURING CONSTRUCTION**

12. 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]

13. 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]

14. 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]
15. 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]
16. 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]
17. 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]
18. 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]
19. 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]
20. 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]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

21. 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]



22. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

**USE**

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. The pontoon is not to be used for any commercial or industrial purpose. It shall only be used for the mooring of private vessels. The pontoon is not to be used for the mooring of a commercial sand dredge.

[USE0455]

**GENERAL TERMS OF APPROVAL UNDER SECTION 201 OF THE FISHERIES MANAGEMENT ACT (Permit To Carry Out Dredging Or Reclamation Work)**

- A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities be obtained prior to commencement of the works associated with the construction / installation of the pontoon.
- A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) be obtained prior to commencement of the works if works are to harm marine vegetation. A permit would be required if seagrass were to be shaded by the pontoon.
- Environmental safeguards (silt curtains, booms etc) are to be utilised during construction / installation of the revetment wall to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.
- Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.
- A minimum clearance of 600mm between the base of the pontoon and the substrate at low tide to ensure adequate tidal flushing and the movement of sediment is not obstructed.

**REPORT:**

**Applicant:** Mr DF Fritsch and Mrs MN Fritsch  
**Owner:** Mr DF Fritsch and Mrs MN Fritsch  
**Location:** Lot 125 DP 246488 No. 82 Companion Way, Tweed Heads  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$500

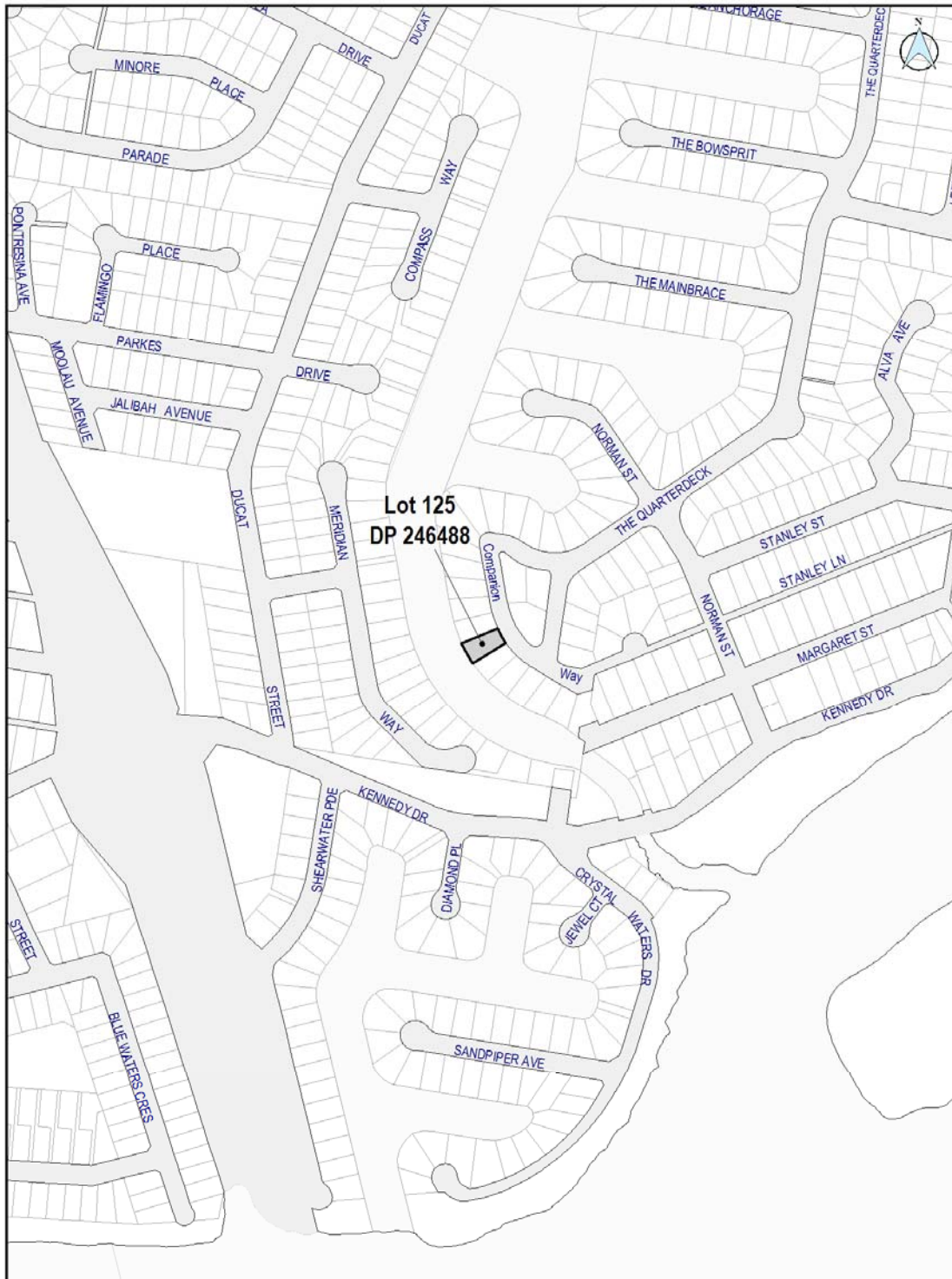
**BACKGROUND:**

Council is in receipt of a Development Application for the erection of a pontoon at No. 82 Companion Way, Tweed Heads.

The subject pontoon is currently located at 19 The Mainbrace, Tweed Heads and it is proposed to move the pontoon to the new location at 82 Companion Way, Tweed Heads. As such Development Application DA06/1051 has also been submitted to Council for the replacement of the pontoon at 19 The Mainbrace.

This Development Application was notified for a period of fourteen (14) days between Wednesday 6 September 2006 and Wednesday 20 September 2006. During the submission period a total of six (6) submissions were received. These submissions have been considered further on in this report.

**SITE DIAGRAM:**



<p>© TWEED SHIRE COUNCIL 2006                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumbah, NSW, 2484                  Tel: (02) 6670 2409                  Fax: (02) 6670 2493</p>	<p><i>Tweed Shire Council</i>  <b>Lot 125 DP 246488</b>                  No. 82 Companion Way, Tweed Heads</p>		<p>PLANNING REFORMS UNIT  <b>Site Plan</b>                  Sheet: 1 of 1</p>	
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>		<p>Author: J.Batchelor</p>	<p>Date: 15/Nov/2006</p>	<p>Scale: 1:5,000</p>

**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 a 2(a) Low Density Residential zone. The objectives of that zone are as follows: -

**Primary Objective**

In the case of land within zone 2(a) between the Tweed Heads Bypass and Cobaki Bridge,

- To minimise the number of dwellings subject to unacceptable aircraft noise and to limit development within the Kennedy Drive traffic catchment so that development is compatible with Kennedy Drive traffic capacity.

In the case of all other land within zone 2(a):

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

It is envisaged that the proposal meets these objectives and will not create any adverse affects.

**Clause 31 - Development adjoining waterbodies**

As the proposed pontoon occurs within a man-made waterbody, and the presence of sensitive habitat and wildlife is unlikely. Accordingly, the proposal is unlikely to have an adverse impact upon the locality and is consistent with the objectives of this clause.

**North Coast Regional Environmental Plan 1988**

Clause 15 of the NCREP applies to the proposal as the subject land adjoins a waterway. The proposal involves the installation of a domestic pontoon into an unnatural waterway and is not considered to reduce the quality or quantity of water to the canal, negatively affect existing amateur and commercial fisheries, result in any loss of habitat or significantly affect any other items listed within Clause 15 of the NCREP 1988. The proposal is not considered to contradict the objectives set out within Clause 15 of NCREP 1988.

Clause 32B of the NCREP applies to the proposal as the subject site is located within the NSW Coastal Policy. The proposal is considered to comply with the provisions of Clause 32B as the proposal is unlikely to create any

significant overshadowing to waterfront open space or significantly impede public access to the foreshore area, nor does the proposal contradict the strategic aims and objectives of the NSW Coast Government Policy. The Coastline Management Manual, and the North Coast: Design Guidelines.

Clause 81 of the NCREP applies to the proposal as the works are within 100m of a waterway. The proposal does not significantly affect the amount of foreshore open space, which at low tide is accessible. The proposal is not seen to contradict the objectives of Clause 81 of the NCREP.

### **State Environmental Planning Policies**

#### **State Environmental Planning Policy No. 71 – Coastal Protection**

The Development Application was referred to the NSW Department of Planning pursuant to Clause 11 of the State Environmental Planning Policy No. 71 as it is located within a sensitive coastal location as defined by the policy. The NSW Department of Planning responded with: -

*“Thank you for your referral of the Development Application for the above under clause 11(2) of State Environmental Planning Policy (SEPP) No. 71 – Coastal Protection.*

*We have examined the application and we have decided that in relation to SEPP71, the Director-General does not need to be involved in consideration of the matter. Council could now determine the proposal, having regard to the matters listed in clause 8 of the Policy”.*

In terms of Clause 8 – Matters for Consideration, the proposal is not considered to conflict with the aims detailed in Clause 2, is not seen to impact upon access to the foreshore and any impact upon the foreshore is not considered significant, is considered appropriate to the site and surrounding development and is not considered to contradict or create a significant impact to any other items listed within Clause 8 of SEPP71.

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

No draft planning instruments are applicable to the Development Application.

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

No specific Development Control Plans apply to pontoons, however Tweed Shire Council has specific guidelines for the installation of pontoons and boat ramps. The guidelines detail that; -

1. All materials used are corrosive resistant, pontoon floats are specifically manufactured for this purpose.
2. The pontoon and walkway are suitably tied to anchor blocks.

3. pontoons may extend to a maximum of 12 metres from the face of the revetment wall and must be wholly located within the frontage of the lot.
4. The property owner must consent in writing to:
  - a) Remove the structure at no cost to Council, if directed, to permit Canal maintenance
  - b) Maintain the structure in a safe and tidy condition
  - c) The owner shall obtain Public Liability Insurance to the value of \$5,000,000 documentary evidence of this shall be supplied prior to the finalisation of the licence agreement.
5. The design must present a low visual profile and be aesthetically acceptable. Adherence to these requirements has been made a condition of consent.

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

There are no matters prescribed by the regulations.

**(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**

**Context and Setting**

The proposed pontoon is to be located within an unnatural waterway. Various neighbouring pontoons all of which are of similar design and structure surround the subject site. The pontoon structure will not be out of character for the area and is an expected development in any waterway or canal.

**Surrounding Land Uses/Development**

The development occurs predominantly within the 2(a) zone, consisting of single dwellings and the occasional double storey dwelling. Upon site inspection it was noted that there were several pontoons located within the area, as is to be expected within a waterfront/canal estate. It is considered that the proposed pontoons is unlikely to conflict with the context and setting of the area and is considered acceptable with surrounding land uses and developments. The number of pontoons within the immediate area is not considered to be of a detrimental level with regard to visual amenity, navigability and access along the foreshore area.

The Development Application was also referred to Council's Waterways co-ordinator for assessment and comments. No concerns or issues were raised with the pontoon so long as it was not going to be used for the mooring of a sand dredge or other commercial vessels.

The site is located within operational land, which does not prohibit an application for a private use pontoon structure to be lodged with Council.

**(c) Suitability of the site for the development**

Having regard to the proposed site and its surroundings it is considered a suitable site for the proposed pontoon. The proposed location of the pontoon is well within the canal frontage of the property.

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

The Development Application was notified in accordance with Council's adopted Development Control Plan No. 42 - Public Notification of Development Proposals for a period of fourteen (14) days between Wednesday 6 September 2006 and Wednesday 20 September 2006. During the notification period Council received a total of six (6) submissions. The issues raised in these submissions and a response on them is summarised below in the following table.

<b>Issue</b>	<b>Response</b>
The pontoon may be used to moor, repair and maintain a sand dredge. (Intended uses for the Pontoon)	The applicant has sold the sand dredge and also indicated that the proposed pontoon will only be used for private use. A condition of consent will also be imposed on the Development Application that restricts the use of the pontoon to only private use and no mooring of commercial vessels will be permitted.
Lack of Engineering Specifications for pontoon fixing.	Suitable engineering details have been submitted to Council and further details will also be required prior to the installation of the pontoon for a Construction Certificate Application.
Canal restrictions resulting from a 12 metre pontoon length.	The proposed pontoon is 12 metres in length and is a standard size. Council's Waterways and Coast co-ordinator has assessed the proposed pontoon and location and raised no concerns with its location and raised no issues with vessel accessibility of the canal. The installation of the pontoon to 12 metres from the revetment wall is within Council's guidelines. The width of the canal at this location is no less than that of other canal locations that have pontoons on opposing sides of the canal. The proposed location of the pontoon is well within the canal frontage of the property.

As indicated above the main issue of concern from the objections was that the pontoon would be used for the mooring of a sand dredge. To ensure that the

pontoon is only used for the private mooring of vessels a recommended condition of consent has been imposed stating: "*The pontoon is not to be used for any commercial or industrial purpose. It shall only be used for the mooring of private vessels. The pontoon is not to be used for the mooring of a commercial sand dredge*". This should alleviate any potential concerns of the objectors to ensure the pontoon will not be used for any other purpose than just to moor a private vessel.

The Development Application was also forwarded to the NSW Department of Primary Industries. The NSW Department of Primary Industries commented with the following: -

*"DPI has reviewed the development application and accompanying information in light of provisions in the Act and the policies that underpin them. Contingent upon adherence to the following conditions DPI has no objection to the proposed works:*

- *A permit under s198-202 of the Fisheries Management Act 1994 for dredge and reclamation activities be obtained prior to commencement of the works associated with the construction/installation of the pontoon.*
- *A permit under s205 of the Fisheries Management Act 1994 for harm to marine vegetation (seagrass, mangroves, kelp) be obtained prior to commencement of the works if works are to harm marine vegetation. A permit would be required if seagrass were to be shaded by the pontoon.*
- *Environmental safeguards (silt curtains, booms etc) are to be utilised during construction/installation of the revetment wall to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.*
- *Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.*

*DPI also recommended to ensure good outcomes for aquatic ecology:*

- *A minimum clearance of 600mm between the base of the pontoon and the substrate at low tide to ensure adequate tidal flushing and the movement of sediment is not obstructed.*

*Consideration should also be given to how public access along the foreshore is to be maintained".*

As such these conditions have been included as recommended conditions for the development consent.



**(e) Public Interest**

Given the proposed pontoon is limited to only the private mooring of vessels and no commercial moorings will be permitted and that the pontoon complies with all other codes and policies and the Department of Fisheries requirements, it is in the public's interest that the Development Application be recommended for conditional approval.

**OPTIONS:**

1. Resolve to adopt the recommendation and approve the Development Application subject to conditions.
2. Resolve to refuse the Development Application for specified reasons.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

If the applicants are dissatisfied with the determination a Right of Appeal exists in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

It is recommended that the Development Application be approved subject to 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](http://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.

---

THIS  
PAGE  
IS  
BLANK

THIS  
PAGE  
IS  
BLANK

**P13 [PD-PC] Development Application DA06/1034 for Alterations and Additions to Existing Tavern Already Approved But Not Yet Constructed at Lot 1 DP 848875, No. 2-14 Henry Lawson Drive, Terranora**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/1034 Pt1**

**SUMMARY OF REPORT:**

Council has received a Development Application for the alterations and additions to an existing tavern already approved but not yet constructed within the Terranora Shopping Village. The proposed development involves the expansion of the approved tavern under Development Approval D95/0320. The tavern has been redesigned internally however the building envelope and the external appearance of the Tavern have not changed in any way. The internal fit out has been redesigned to make a more modern and efficient tavern as well as compliance with up to date Liquor Licensing and Gaming laws. As the original layout was designed and approved over 10 years ago, it was required to be updated and as such this application has been lodged with Council.

The subject development site has a complex history with numerous development consents and Section 96 amendments approved over the site that has been previously reported to Council.

The Development Application also originally proposed to extend the trading hours from the approved 10.00am to 10.00pm to 9.00am to 1.00am, however the Development Application has been since amended to have the trading hours from between 10.00am and 11.00pm.

The proposed extensions are consistent with State Environmental Planning Policy No. 71 – Coastal Protection, the Tweed Local Environmental Plan 2000, Development Control Plan No. 2 – Site Access and Parking Code (DCP No. 2), and are generally consistent DCP No. 45 – Socio-Economic Impacts of Development.

Four (4) submissions have been received objecting to the proposed development. The main issue raised in the submissions was the loss of amenity due to noise pollution late at night and the extended trading hours until 1.00am. The noise level impact assessment used in the development assessment of this application concludes that no unreasonable noise would occur at nearby residential properties and the amenity impact from the proposed tavern is not unreasonable given the hours of operation and acoustic measures incorporated into the development.

The proposed development is recommended for approval subject to conditions of consent and subject to the trading hours being restricted to between 10.00am until 11.00pm seven days a week.

**RECOMMENDATION:**

That Development Application DA06/1034 for alterations and additions to existing tavern already approved but not yet constructed at Lot 1 DP 848875, No. 2-14 Henry Lawson Drive, Terranora be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. Prior to use of the tavern as "a place of public entertainment" an application under Section 68 of the Local Government Act, 1993 for the activity being a "place of public entertainment" is to be submitted to and approved by Tweed Shire Council. [GENNS01]
4. The building works shall satisfy the provisions of Part H of the BCA. [GENNS02]
5. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos DD 1.00, DD 1.01 and DD 1.02 prepared by Scottwernet Design Consulting and dated 22/05/06, except where varied by the conditions of this consent. [GEN0005]
6. The applicant shall comply will all recommendations and requirements of the Noise Impact Study for the proposed Tavern and Gaming Room prepared by Warrick Smith RPE:7099, AAAS, BME. REF:J160 Dated 28.08.2006. [GENNS03]
7. Advertising structures/signs to be the subject of a separate development application, where statutorily required. [GEN0065]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

8. In accordance with Section 68 of the Local Government Act, application shall be made to Council for any proposed sewerage drainage system. Detail shall include hydraulic drawings, pipe sizes, details of materials and discharge temperatures. [PCC1225]
9. 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]

10. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.

[PCC1195]

11. Full details of the fit out and construction of all food handling and preparation areas shall be submitted for consideration and approval to the satisfaction of Council's Director of Environment and Community Services prior to the issue of the Construction Certificate.

[PCCNS01]

12. Details of the kitchen exhaust system are to be provided and approved prior to release of the Construction Certificate if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle of filters. The system shall comply with AS1668.2 - Ventilation Requirements.

[PCC0735]

13. 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: \$70,746  
S94 Plan No. 4 (Version 4.0)  
Sector5\_4

[PCC0215]

14. 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 DSP3:	8.13 ET @ \$10864	\$88,324
Sewer Banora:	13.008 ET @ \$2863	\$37,242

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]

#### **PRIOR TO COMMENCEMENT OF WORK**

15. 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]*
16. 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]*
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. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection

fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

19. 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]

#### **DURING CONSTRUCTION**

20. 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]

21. 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]

22. 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]

23. 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]

24. 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]



25. 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]
26. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
  - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - (c) external drainage prior to backfilling.
  - (d) completion of work and prior to occupation of the building. [DUR2485]
27. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
  - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
28. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
29. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged. [DUR2525]
30. 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]
31. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
32. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

33. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*).

[DUR2615]

34. 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]

35. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Director of Environment and Community Services.

[DUR0985]

36. 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]

37. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be coved to a radius of not less than 25 millimetres.

[DUR1495]

38. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush

- with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices. [DUR1505]
39. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises. [DUR1515]
40. All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises. [DUR1535]
41. 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]
42. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room. [DUR1565]
43. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned. [DUR1605]
44. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin. [DUR1625]
45. Separate hand washing facilities must be provided with warm water in a readily accessible position within the work area. [DUR1645]
46. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste". [DUR2195]
47. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary. [DUR2205]
48. 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]

49. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.

[DUR2475]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

50. 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]

51. 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]

52. Prior to the issue of an occupation certificate,

- (a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
- (b) 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.

[POC0235]

53. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

54. A noise management plan shall be prepared and submitted to Tweed Shire Council for consideration and approval which details how noise from activities will be managed and controlled, so as to prevent the generation or emission of intrusive noise. Such management plan shall be submitted and approved prior to the issue of the occupation certificate
- [POC0125]
55. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.
- [POC0615]
56. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.
- [POC0625]
57. 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.
- [POC0635]
58. A Management Plan shall be prepared which addresses all recommendations as contained within the Noise Impact Study prepared by Warrick Smith RPE:7099 AAAS.MBE REF:J160 dated 28.08.06. Such Plan shall detail what operational measures will be employed to satisfy all recommendations in the Noise Impact Study. Such Plan shall be submitted to Council prior to the issue of an Occupation Certificate and shall be to the satisfaction of Council's Director of Environment and Community Services.

[POCNS01]

#### USE

59. 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]
60. 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.
- [USE0165]
61. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised, notwithstanding this requirement

- all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive noise. [USE0175]
62. Trading hours of the Tavern are restricted to the following:-
- \* 10.00am to 11.00pm - Monday to Sunday [USE0185]
63. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises. [USE0225]
64. Delivery of goods to the premises shall be restricted to between the hours of 8.00am to 8.00pm every day. [USE0275]
65. No items or goods are to be stored or displayed outside the confines of the premises. [USE0445]
66. All loading/unloading to take place within the boundary of the subject property. [USE0525]
67. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act. [USE0535]
68. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act* 2003 and the Australia New Zealand Food Standards Code. [USE0835]
69. All external lighting associated with the Tavern building is to be shielded where necessary or required so as to prevent nuisance to any adjacent residential premises. [USENS01]
70. The premises shall comply with the requirements of The Liquor Administration Board. [USENS02]
71. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997. [USENS03]

72. The use being restricted to the floor area designated on the approved plan.

[USE0415]

73. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Foods Act 1989 and the provisions of the Food Standards Code as called into force by the Food Regulation 2001.

[USE0825]

74. No form of public entertainment is to be carried out on the premises unless an approval for a Place of Public Entertainment has been obtained pursuant to the provisions of Section 68 of the Local Government Act, 1993.

[USENS04]

**REPORT:**

**Applicant:** Terranora Village Shopping Centre Pty Ltd  
**Owner:** Terranora Village Shopping Centre Pty Ltd  
**Location:** Lot 1 DP 848875, No. 2-14 Henry Lawson Drive Terranora  
**Zoning:** 2(d) Village  
**Cost:** \$1,000,000

**BACKGROUND:**

Council has received a Development Application for the alterations and additions to an existing tavern already approved but not yet constructed within the Terranora Shopping Village.

The revised proposal is to build the tavern in the previously approved 3 storey configuration. The ground floor will consist of the previously approved bottle shop, however there will now be a public bar on the ground floor next to the bottle shop. It is intended that the public bar will be fitted out with TAB facilities, in accordance with the NSW gaming rules and regulations.

The second floor area, which was previously an onsite managers residence, is now being proposed as a gaming area and lounge. The Liquor Licensing Board has approved this in principle. Initially there will be an application for 24 gaming machines to the Liquor Licensing Board with future expansion being provided in the design for a further 6 gaming machines, which is the maximum allowed. The proposed gaming area was not included in the original application D95/0320 as gaming was not allowed in hotels/taverns at the time.

The third level will be predominantly as originally designed as a family bistro area and lounge area. The internal layout has been redesigned to make the kitchen and seating facilities more efficient, as well as an additional lounge area and children's play area.

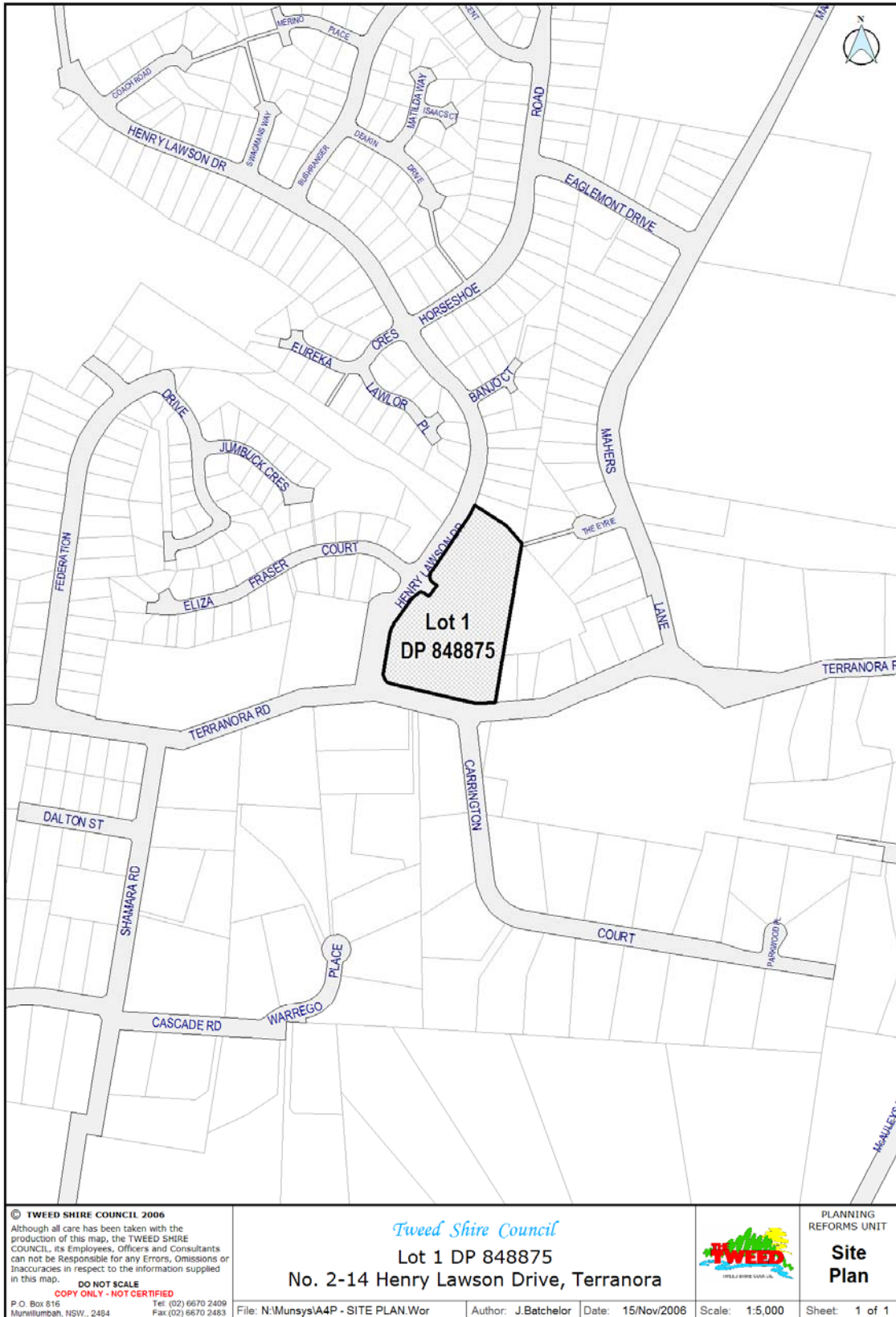
It is intended to have live music, but not to the extent of having nightclub facilities. The development is now being proposed to facilitate the family bistro environment and light entertainment is being proposed to facilitate this environment.

It was also proposed as part of this application that the hours of trading will be extended from 9.00am till 1.00am. After discussions and meetings with Council officers and strong community objection to the extended trading hours the applicant requested that the application be amended to propose to have the trading hours revised to 10.00am to 11.00pm. If this application is approved in relation to the amended trading hours of 10.00am to 11.00pm it would be consistent with Tweed Shire Council's recent approvals for the Pottsville Tavern, Ivory Tavern at Pier 2 Development and the recently approved hotel at Casuarina Beach.

During the advertising period for the Development Application a total of 4 submissions were received. The issues raised in these submissions are considered further on in this report.



**SITE DIAGRAM:**



**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 2 (d) Village. The proposed tavern is permissible with consent within the zone.

The primary objective for the 2 (d) Village zone is to provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village. The proposed tavern is considered directly compatible with the primary zone objective.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. All essential services are available to the site. The site is serviced by existing sewer and water. Furthermore, no objections from Council's Environmental Health Officer have been raised regarding the bin storage and collection area situated on the Henry Lawson Drive side of the Tavern, and a letter has been received from Solo Resource Recovery indicating that they believe that the waste bins can be serviced in a safe and orderly manner.

Clause 17 of the TLEP is to ensure proper consideration of development that may have a significant social or economic impact. The proposed amendments to the tavern would not have a significant adverse social, economic or visual impact at a regional scale. However, in local terms, the proposal may potentially impact upon the amenity of the area by way of traffic impacts, increase in noise and the objectives of the area. Notwithstanding, the applicant has provided an acceptable socio-economic impact assessment including amelioration measures in which these issues are addressed. These are discussed later in this report.

North Coast Regional Environmental Plan 1988

The North Coast Regional Environmental Plan 1988 (NCREP) provides guidelines for current and future planning and development on the North Coast of New South Wales, and also sets out planning controls for development within the region.

Clause 32B of the NCREP applies to all land to which the NSW Coastal Policy 1997 applies. The subject site falls within the area governed by the NSW Coastal Policy and as such, when considering development on this land Council shall take into account the provisions of The NSW Coastal Policy 1997; The Coastline Management Manual; The North Coast: Design Guidelines; and shall not grant consent to development that would impede public access to the

foreshore or would cause overshadowing to beaches or adjacent open space before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time). These provisions are generally taken to relate to the construction of new buildings or structures and are generally not concerned with the ongoing use of existing structures, provided no alterations to the outside appearance of the building are proposed. The original tavern form was approved under separate assessment, which considered the provisions of the abovementioned policies and guidelines. Furthermore, there are no alterations proposed to the built form of the development as part of this proposal.

Clause 46 of the NCREP provides guidelines for Council when considering commercial and industrial development. These controls dictate that Council must take into consideration the location of the proposed development with respect to the adequacy of service by the surrounding transport system and accessibility from urban areas. The subject site has direct frontage to a main road and affords ample opportunity for access to the surrounding road transport network.

Overall, the proposal is considered to be consistent with the objectives and provisions of the NCREP.

#### State Environmental Planning Policy No. 11 – Traffic Generating Developments

The proposal did not require referral to the Local Traffic Committee as advised by Council's Traffic Engineer. Council's Traffic Engineer reviewed the application and submissions received and commented as follows:

*"In regards to traffic, the roundabout provides excellent and safe access to the centre. It is unlikely 'traffic jars' will ever occur in this location. Sometimes cars may have to give way to others on the roundabout but this is standard practice."*

Car parking has been assessed and is discussed later in this report. Sufficient spaces are provided on site to fulfil Council requirements for the tavern alterations and additions.

#### State Environmental Planning Policy No. 71 – Coastal Protection

The subject site is located within the coastal zone (as per the NSW Government Coastal Policy) and as such is subject to the provisions of State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71). Referral to the Department of Natural Resources, however, is not necessary by virtue of Amendment No. 4, which came into effect on 7 December 2005 and wholly repealed cl.9(1)(b).

Notwithstanding, the items contained in Clause 8 of SEPP 71 remain a relevant matter for consideration. These items generally relate to the potential impacts of the development on public access to the foreshore, views, overshadowing of

the foreshore, existing wildlife corridors, the suitability of the site for the development and measures to reduce other adverse environmental impacts.

The tavern alterations and additions are deemed consistent with the matters for consideration under Clause 8 and Clause 14 of SEPP 71.

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

No draft Environmental Planning Instruments are applicable to the Development Application.

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

**Development Control Plan No. 2 – Site Access and Car Parking Code**

Development Control Plan No 2 contains Council's provisions for access and parking, with the objective of ensuring the provision of safe, convenient and equitable access to developed land for pedestrians, vehicles and persons using vehicles, bicycles and public transport.

Council's Traffic and Transport Engineer has reviewed the Parking Assessment Report and commented as follows:

"In recent times we have been accepting car parking rates for Taverns based on the Gold Coast City Council rates, as our current rates are accepted as being too high. According to the report, the Tavern would generate the need for 78 car spaces. The retail component requires 113 spaces. The total equates to 191 spaces. Given 210 spaces are provided, and noting there will be some cross utilisation of spaces, the proposal appears to be satisfactory."

The proposed development is defined as a hotel under DCP 2. The plan specifies car parking requirements for hotel developments at a rate of 1 space per 3.5m<sup>2</sup> of licensed area plus 0.5 spaces per staff member. The total licensed floor area of the completed tavern would be 675m<sup>2</sup>. Under the current DCP requirements 77 spaces would be required for the bar/gaming area and 58 spaces would be required for the bistro. Upwards of 30 staff would be employed, requiring a further 15 spaces. Therefore under Council's current requirements, a total of 150 spaces would need to be provided to satisfy the provisions of DCP No. 2.

The applicant has engaged a private traffic consultant to prepare a car parking assessment, which seeks relaxation of this standard. Council's traffic engineer has acknowledged that the current rate in DCP 2 is too high for taverns, and has advised use of the rate adopted by Gold Coast City Council, that being 1 space per 10m<sup>2</sup> and 1 per 3 poker machines. Parking would be considered satisfactory if the available on site parking spaces provided by the Terranora Shopping Centre development satisfy parking requirements at the reduced rate.

The following details the compliance of the proposed development with the on-site car-parking provisions contained in DCP 2, and adopting the reduced hotel rate of 1 space per 10m<sup>2</sup>.

The required number of car spaces is 78, based on Gold Coast City Council rates for tavern developments. All the other uses currently in the Terranora Shopping Centre equates to a required 145 spaces. As discussed previously under the Gold Coast Planning Scheme, the proposed tavern would be required to provide a total of 78 spaces bringing the total requirement to 223 spaces for the whole Terranora Shopping Centre development including the Tavern. It is noted, however, that the current Tweed Shire Council DCP provides for the following concessions under Section 4.11 – Reduction to 80% of standard parking rates to support ESD principles. Application of Section 4.11 DCP 2 reduction to the proposed development (with the exception of the Tavern) results in a requirement for 191 spaces. The proposed plan of development includes a total of 210 parking spaces and therefore exceeds Council's Planning Scheme requirements.

It is therefore concluded that the proposed parking facilities will satisfy the peak parking demands generated by the proposed development and will not result in any adverse parking implications.

In regard to the proposed parking layout the development is considered to comply with AS 2890.2 and the objectives of DCP 2. Car movements and traffic flow within and through the site are also considered acceptable. Given the area constraints over the site and the provision of surplus spaces when calculated using the GCCC rate, the granting of a variation to the DCP 2 requirements is deemed warranted in this instance.

#### **Development Control Plan No. 45 – Socio-Economic Impacts of Development**

The purpose of Development Control Plan No. 45 – Socio-Economic Impacts of Development (DCP 45) is to set out Council's requirements for Socio-Economic Impact Assessments and to ensure that development applications for certain developments that are likely to have significant social or economic impact are properly considered in accordance with the Section 79C of the EP&A Act.

The proposed development involves extensions to an already approved tavern within the Terranora Shopping Centre Development. The proposal is for a licensed floor area of 842m<sup>2</sup>. Approval of this application would result in a licensed floor area more than double the size of existing approved floor area. Consequently, the potential capacity of the premises with respect to clientele numbers effectively also doubles. In that regard, the possibility exists for substantially greater socio-economic impacts than those considered as part of the original tavern assessment.

It is now proposed that the hotel will house a maximum of 190 people including staff. In the long term, the Licensee is proposing that he will employ 13 staff on a daily basis, and more during weekends and busier periods. It is estimated that there will be approximately 30 full time staff and 20 casual staff that will be employed from the local community on a regular basis.

The applicant has submitted a Socio-Economic Impact Statement identifying the revised potential impacts of the proposed tavern extensions on nearby sensitive residential and urban areas. Council's Environmental Health Officer has reviewed the report and is satisfied that it has been prepared in accordance with Section 6 of DCP 45, which sets out the points that shall be addressed in such a report.

The findings and recommendations of the report are discussed in further detail in the following sections.

### **Development Control Plan No. 42 – Public Notification and Public Exhibition Policy**

Development Control Plan No. 42 (DCP 42) provides guidelines for the public notification of certain development proposals and Council's responsibilities with respect to community consultation, in accordance with section 79(A) of the Environmental Planning and Assessment Act 1979 and the EP&A Regulations.

For hotel developments on land zoned 2 (d) Village, DCP 42 requires a letter of notification to be sent to adjoining owners; a letter to be sent to the affected owners; a notification sign to be placed on the development site; and a notice posted in the Tweed Link or newspaper.

The proposal was notified to all nearby residents and was also advertised in the Tweed Link. The application was available for viewing by the public for a period of 14 days from Wednesday 27<sup>th</sup> September to Thursday 12<sup>th</sup> October 2006.

During that time, four submissions were received in opposition to the proposal. The main issues raised were loss of amenity due to increased noise late at night and increased traffic issues, and anti social behaviour and drunken behaviour in the area. These submissions are assessed in detail in the report.

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

##### **Clause 92(a) Government Coastal Policy**

The land is identified under 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. Therefore the proposed development is not in conflict 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**

The proposed alterations and additions the already approved but not yet constructed hotel would result in both positive and negative impacts on the social and economic fabric of the Terranora Village. The anticipated adverse impacts are specifically in relation to noise, increased traffic, and general impact on the amenity of the area (by virtue of increased vandalism, littering and potential public drunken behaviour), whilst anticipated positive impacts are predominately related to employment generation, an increase in local economic activity and encouraging use of public space in a prominent central location. By and large the abovementioned issues were addressed in assessment of the original tavern proposal, however due to the increase in floor area and subsequent potential for increase in a range of impacts, they must now be reconsidered in light of the revised Socio-Economic Impact Statement and Acoustic Report.

**Noise**

The primary concern identified with the extension of the tavern is noise. The proposed Tavern is aimed at providing a friendly atmosphere for the purposes of dining and social drinking with background music. As a venue, the tavern will not be promoting amplified live music, rather entertainment will be limited to solo or duo acts. Furthermore, the location on site, layout and orientation of the tavern has been designed to minimise noise impact by facing the shopping centre precinct, away from residential properties to the north and west.

In light of the above, the predominant noise sources would be voices of patrons drinking and dining; patrons leaving the hotel; traffic movements; and deliveries and refuse collection.

An Acoustic Report and Noise Impact Study accompanying the proposal examined the possible Intrusive Noise Levels expected to emanate from each of these noise sources at sensitive residential locations to the east and west of the subject site. Council's Environmental Health Officer has examined the findings of the report and has concluded that, based on the assessment undertaken, it appears that no unreasonable noise would occur at these nearby residential locations.

Appropriate conditions of consent have been applied specifically aimed at ameliorating any further potential noise impacts. These include requirements for a post-construction pre-occupation noise level report to be submitted to Council to establish suitable operating noise levels for internal amplified music; further on site review of plant and equipment at specific intervals post-occupation; the provision of resilient mounts to reduce vibration and the transmission of noise with tonal components; restrictions on hours of

operation, refuse collection and delivery times; and appropriate management of patrons leaving the premises.

### **Social Impacts**

Anti-social behaviour as a result of the proposed Tavern cannot be overlooked in the assessment of this proposal, however it must be stressed that the proposal is for extensions to the already approved Tavern but not yet constructed. Although the extensions would result in an increase in patron numbers, the overall impact of the tavern would not differ greatly from that already approved. The proposed methods of surveillance, management of patron behaviour and methodology to limit the noise impact outlined in the submitted Noise Impact Study are considered acceptable for a tavern development of this nature. A recommended condition of consent is that the applicant submit to Council a detailed Management Plan prior to the issue of an occupation certificate. The Management Plan is to detail the measures to be undertaken to ensure that staff and patrons do not cause offensive noise either during the hours of operation of the tavern or following the closing of the tavern. The Management Plan is to include recommendations as contained within the Noise Impact Study prepared by Warrick Smith.

Council's Environmental Health Officer concurs with the recommendations of the Socio-Economic Assessment provided by the applicant that, providing patron behaviour and staff operations are managed in accordance with the recommendations as contained within the Noise Impact Study and addressed in the Tavern Management Plan required prior to the issue of an Occupation Certificate, no unreasonable social and amenity impacts are likely to occur at nearby residential sites.

In a positive light, the proposed tavern would provide an alternative to the common pub setting in an effort to extend the range of choice for local residents and visitors to the area. The tavern will be unique to the Terranora area, with the nearest similar establishment being the Salt Bar in the Salt development at South Kingscliff and the recently approved Ivory Tavern at the Pier 2 development at Tweed Heads.

### **Economic Impacts**

In the long term, the Licensee is proposing that the Tavern will employ 13 staff on a daily basis, and more during weekends and busier periods. It is estimated that there will be approximately 30 full time staff and 20 casual staff, which will be employed from the local community on a regular basis. This will provide a noteworthy increase in employment opportunities in the Tweed for hospitality industry workers such as chefs, kitchen hands, wait staff, bar staff, cleaners and security. In addition to employment, the tavern would require fresh produce, seafood and meats to supply the restaurant, thereby providing positive multiplier effects to the local economy.



### **Traffic and Parking**

The proposed Tavern alterations and additions will generate additional traffic to the site. Notwithstanding, the one way directional flow of traffic through the site increases the operational efficiency of the car park, and the existing access from Henry Lawson Drive has been deemed suitable by Council's Traffic Engineer. The capability of the site and surrounding road network to accommodate the anticipated level of traffic has been assessed by the Traffic Engineer and is considered adequate given the thorough assessment previously undertaken for the Terranora Shopping Centre development.

As discussed in the above section addressing DCP 2, on site car parking is considered sufficient to cater for the expected patron parking demand.

#### **(c) Suitability of the site for the development**

The proposal before Council is for the expansion of an already approved land use on the subject site. The extensions would have no effect on the overall operation of the tavern except for an increase in the number of patrons and to provide for greater services to patrons.

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

In accordance with Council's Development Control Plan No. 42, the proposal was notified to nearby and adjoining landowners and occupiers. The proposal was also advertised in the Tweed Link and was available for viewing by the public for a period of 14 days from Wednesday 27<sup>th</sup> September to Thursday 12<sup>th</sup> October 2006.

During that time a total of four (4) submissions were received in opposition to the proposal. The following issues were raised:

#### **Noise**

##### Comments

An increase in noise from the activities at the tavern which include noise from the traffic movements, music, people partying and noise associated with a Tavern. The tavern site is at the head of a natural amphitheatre. Noise is amplified above and below throughout the village.

##### Assessment

These submissions specifically relate to residences located across from the Tavern and in close proximity. The potential impacts of noise have been discussed in detail previously in this report. Specifically, sound measurements taken at the closest residences considered to be in a 'sensitive' location were considered. The amenity impact from the proposed tavern extensions at these locations is not considered unreasonable.

The writer states that noise can be amplified due to the shape of the amphitheatre type arrangement yet provide no substantiation for such claims of amplification. In the consultants report, it identifies that the resident at 614 Terranora Road as being exposed to any noise generated, mainly due to the low rise shops preventing noise from being transmitted down the valley.

### **Trading Hours**

#### Comments

All submissions raised concern over the proposed trading hours until 1.00am in the morning.

#### Assessment

The application no longer seeks an extension to trading hours of between 9.00am till 1.00am. The applicant has indicated to amend the application by proposing the trading hours from 10.00am to 11.00pm. Trading hours have been considered previously in this report and are now supported given the proposed trading hours are now only 10.00am to 11.00pm.

### **Social Impact Assessment**

#### Comments

The Social Impact Assessment (SIA) accompanying the application does not comply with the provisions of Development Control Plan No. 45 as it does not explicitly address alternatives including the 'do nothing' option and is considered inadequate in terms of consultation with the community and other key stakeholders. The application should have undertaken broader consultations in preparing the application. A full social and economic impact is essential.

#### Assessment

The applicant has provided the following comments with regard to this objection:

“A detailed Social Impact Assessment has been provided for Council’s consideration in accordance with DCP 45. The preparation of the SIA included consultation and discussion with a range of organisations and key stakeholders including NSW Police, Tweed Shire Council staff, Department of Housing and other emergency housing and welfare providers.”

The applicant has demonstrated that the proposed development will have a positive social and economic impact on the community.

Council staff has reviewed the SIA and it is considered acceptable with respect to the scale of the development and the purposes for which the assessment was required.

### **Car Parking**

#### Comments

The objection relating to the reduction in the number of parking spaces was also raised. The shopping centre site is very crowded with restricted access from the roundabout in Henry Lawson Drive. With car and bus traffic to Terranora Public School as well local traffic turning both right and left at Terranora Road, there is a serious danger of traffic gridlock at the roundabout if the parking within the shopping centre site is too limited.

#### Assessment

It is acknowledged that there is a lack of on street parking in the immediate vicinity. However, this is seen as a positive aspect of the development because all patron parking will be accommodated on site, which is the intended outcome of new developments. Council requires sufficient on site car parking in order to remove the pressure on surrounding streets and public car parks for patron parking. In principle, accommodating all patron parking on site reduces the distance patrons must walk to reach their vehicles, thereby effectively reducing the occurrence and severity of incidences of vandalism, violence and public disturbance in back streets; and also allows greater monitoring and intervention of potential drunk drivers.

The variations to the parking criteria set out in Development Control Plan No. 2 have been granted on advice and recommendations from Council's Traffic Engineer. Having regard to the traffic and car parking assessment submitted with the application and under the circumstances it is considered acceptable.

### **Traffic and congestion problems**

#### Comments

Submissions were received that outlined that the development would create dangerous traffic problems.

#### Assessment

The application before Council does not propose any modifications to the existing approved car parking layout or the movement of traffic into, out of or through the site. The existing car parking arrangements and entry/exist road networks were assessed by Council's Traffic Engineer and approved.

### **The Tavern should not have TAB or Gambling Facilities**

#### Comments

A family Tavern should not have poker machines nor a TAB Gambling Facility

#### Assessment

Both TAB and Gaming Machines are administrated in accordance with the State Legislation and legal in New South Wales. The facilities will be provided and legally administrated for the people to use, should they choose to do so.

### **The Tavern not complimenting a family type establishment**

#### Comments

An objection is received that gives reference to the floor area size and then theorizes that this is not complementing a family environment. The objection then states the only family feature is the beer garden.

Terranora has an above average youth population. If the tavern is to be family friendly it should include an indoor skateboard area instead of gaming machines.

#### Comment

Contrary to these claims, the floor plans contain a large family bistro at the top level with a sectioned off children's play area in the corner. The development will serve to increase employment in the area as detailed within the Socio-Economic Impact Statement. The potential adverse social and economic impacts have been discussed in the above section and it is considered the total cumulative impacts of the proposal are acceptable.

Including an indoor skateboard area with the Tavern is irrelevant to this development and should not be encouraged so close to a licensed bar area.

### **(e) Public interest**

The proposed development demonstrates consistency with the relevant planning instruments and Council requirements. The applicant has addressed all relevant issues and sufficient information has been supplied to make a proper assessment of this application. Given that the proposed development would generate significant employment opportunities in the hospitality sector; is targeting a specialised market which, up until now, has not been specifically targeted in the Terranora area; and would result in an easily recognisable landmark building within the Terranora Shopping Village, it is considered appropriate for the site, would not set an undesirable precedent for future development in the Shire and is considered beneficial to the wider public interest.

**OPTIONS:**

1. Resolve to adopt the recommendation and approve the Development Application subject to conditions.
2. Resolve to refuse the Development Application for specified reasons.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

If the applicants are dissatisfied with the determination a Right of Appeal exists in the NSW Land and Environment Court.

**POLICY IMPLICATIONS:**

Council's Traffic Engineer has recommended that the Gold Coast City Council rates for tavern developments be adopted via an amendment to DCP 2, or within the forthcoming consolidated DCP. The tavern car parking rate for this proposal is the same as recent Council approvals for similar proposals.

**CONCLUSION:**

It is recommended that the proposed alterations and additions to the existing tavern already approved but not yet constructed 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](http://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.

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

**P14 [PD-PC] Development Application DA05/0923 for a Self Storage Complex and Tweed Local Environmental Plan 2000 Amendment No 86 at Lot 11, DP 830660, Wommin Bay Road, Chinderah**

**ORIGIN:**

**Development Assessment**

**FILE NO: GT1/LEP/2000/86 Pt1; DA05/0923 Pt1**

**SUMMARY OF REPORT:**

Council resolved on 4 July 2006 to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 of Tweed LEP 2000 to enable development for the purpose of a self-storage facility. Self-storage on this site is prohibited. Development Application DA05/0923 has been lodged with Council for the construction of the self-storage facility.

Council wrote to the Department of Planning on 3 August 2006 seeking the Department's advice as to whether the Department will provide Council with a delegation to:

- Issue a certificate pursuant to Section 65 of the Act to enable exhibition of the draft Plan; and
- Report on the matter directly to the Minister for Planning pursuant to Section 69 of the Act.

The Department of Planning has responded advising that an authorisation will not be issued for the above and that should Council decide to proceed with the draft LEP in the terms proposed, that the Department is unlikely to certify the draft Plan.

**RECOMMENDATION:**

**That Council advises the applicant that the LEP Amendment is unlikely to be supported by the Department of Planning and therefore Council will discontinue processing this LEP Amendment**

## REPORT:

Council resolved on 4 July 2006 to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 of Tweed LEP 2000 to enable development for the purpose of a self-storage facility (subject of DA05/0923). Self-storage on this site is prohibited and therefore this LEP Amendment is required before the Development Application relating to the self-storage can be decided.

Council wrote to the Department of Planning on 3 August 2006 seeking the Department's advice as to whether the Department will provide Council with a delegation to:

- Issue a certificate pursuant to Section 65 of the Act to enable exhibition of the draft Plan; and
- Report on the matter directly to the Minister for Planning pursuant to Section 69 of the Act.

The Department of Planning has responded advising that an authorisation will not be issued for the above and that should Council decide to proceed with the draft LEP in the terms proposed, that the Department is unlikely to certify the draft Plan. The reasons for the Department not supporting this LEP are as follows:

- It constitutes a spot rezoning that lacks adequate strategic justification;
- The proposed use is an inappropriate, single industrial proposal that is incompatible with adjacent land uses;
- The site has inadequate legal access and other development constraints including susceptibility to flooding.

The Department provided advice to Councils early this year concerning new procedures relating to the review of LEP Amendments. Councils were advised that the Minister of Planning is taking a stricter stance with regards to spot rezonings, which must be comprehensively justified and considered in the context of State and regional policy direction and their potential to create an undesirable precedent in terms of other rezoning requests.

Council believes that it provided sufficient information and justification to the Department regarding the above LEP Amendment at Chinderah. It should be noted that the Department of Planning did not support a similar self-storage development along Kennedy Drive. This development also required an LEP Amendment to include a clause in Schedule 3 of Tweed LEP 2000 to permit an otherwise prohibited development.

In the light of the Department's comments above it would therefore appear a waste of time and resources for Council to continue to process this LEP Amendment. It is therefore recommended that the applicant be advised either:

- That they should withdraw Development Application DA05/0923; or



- Council will refuse Development Application DA05/0923 if the applicant chooses not to withdraw this Application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**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](http://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.

---

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

**P15 [PD-PC] Amendment to Section 94 Contribution Plan No 7 - West Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: GT1/S94/7**

**SUMMARY OF REPORT:**

At its Ordinary meeting of 6 April 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 7 – West Kingscliff (CP7).

CP7 required amending for the following reasons:

**Structured open space**

- The cost of the land to be purchased has increased to \$250,000 per ha.
- The current rate is \$65,922 per ha.
- The amount of structured open space has been revised down to 8.8ha from 9.8ha in line with the projected population of the development area.
- The cost of the amenities block to service the ovals has increased.
- Car parking was not included in the original Plan. 140 car spaces have been included.
- The contribution rate has increased from \$429 per single residential lot to \$2,600 per lot and the medium density rate has increased from \$280 per lot to \$1,700 per lot for structured open space.

**Drainage**

- The costs of the land to be purchased and works, has increased – the new rate per ha is \$32,708 from \$16,070.

This Plan was exhibited between 13 April 2005 and 11 May 2005. There was one response to draft CP 7. The details of this submission are in the body of this report.

The reason for the delay in reporting on this exhibition was, following the submission from Jim Glazebrook and Associates, to allow for possible discussion between Council and the owner of the majority of the remaining land at West Kingscliff on the structure plan at West Kingscliff, which would have clarified the exact location of the structured open space and provided a more accurate estimation of the remaining population. This additional information may have implications for the value of the land and the per lot contribution. These discussions have not taken place and it is important that Council put in place current estimated costs of the facilities and land as the Plan includes land subject to redevelopment along Marine Parade and Pearl Street.

**RECOMMENDATION:**

**That Council:**

- 1. Adopts the amended exhibited Section 94 Contribution Plan No 7 – West Kingscliff.**
- 2. Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the amended Section 94 Contribution Plan comes into effect on the date of the notice.**

## **REPORT:**

At its Ordinary meeting of 6 April 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 7 – West Kingscliff (CP7).

CP7 required amending for the following reasons:

### **Structured open space**

- The cost of the land to be purchased has increased to \$250,000 per ha.
- The current rate is \$65,922 per ha.
- The amount of structured open space has been revised down to 8.8ha from 9.8ha in line with the projected population of the development area.
- The cost of the amenities block to service the ovals has increased.
- Car parking was not included in the original Plan. 140 car spaces have been included.
- The contribution rate has increased from \$429 per single residential lot to \$2,600 per lot and the medium density rate has increased from \$280 per lot to \$1,700 per lot for structured open space.

### **Drainage**

- The costs of the land to be purchased and works, has increased – the new rate per ha is \$32,708 from \$16,070.

This plan was exhibited between 13 April 2005 and 11 May 2005. There was one submission to the exhibited draft CP 7.

The reason for the delay in reporting on this exhibition was, following the submission from Jim Glazebrook and Associates, to allow for possible discussion between Council and the owner of the majority of the remaining land at West Kingscliff on the structure plan at West Kingscliff, which would have clarified the exact location of the structured open space and provided a more accurate estimation of the remaining population. This additional information may have implications for the value of the land and the per lot contribution. These discussions have not taken place and it is important that Council put in place current estimated costs of the facilities and land as the Plan includes land subject to redevelopment along Marine Parade and Pearl Street.

### **Public Submission**

A submission was received from Jim Glazebrook and Associates, acting on behalf of Gales Holding Pty Ltd, the major owner of the remaining land at West Kingscliff affected by this contribution plan. The submission comments (in italics) are as follows, with Council's response following:

Submission

*"The demographic analysis and population projections underpinning the plan are flawed as they rely on outdated population data and an outdated layout plan under the existing DCP 9 – West Kingscliff"*

Comment

The population projections are estimates only, taking account of a revised total population for West Kingscliff and an estimate of the remaining population. It is difficult to estimate the remaining population as it is not known at this stage the extent of any medium density development proposed in the West Kingscliff area. An agreed structure plan would provide more accurate information, however at this stage there is no agreement to the structure plan. It is recommended that the estimated population figures used in the plan remain as they are.

Submission

*"The area of the structured open space identified on land west of the Tweed Coast Road is possibly taken from concept structure plans prepared by Gales Holdings over a number of years and is integrally linked to other proposals outlined in those structure plans. At this time, there is no agreement in relation to the structure plan and therefore the location of the structure open space may or may not be appropriate on this land pending the resolution of the overall structure issues.*

*In any event, the area identified as structured open space is incompatible with plans foreshadowed to the Council in relation to the northward expansion (on to Lot 2 DP 611021) of the approved sand extraction development located Lot 2 DP 216705 and the consequent northward relocation of the existing road in a westerly direction between the two parcels from Crescent Street. Gales Holdings is currently preparing a development application for the relocation of this road, including more detailed planning to identify the manner in which the structured open space could be accommodated in this location. In this regard, Gales Holdings requests that the Figure included at Page 9 of the draft plan be amended to identify the location and shape of the structured open space as 'indicative only' and 'subject to detailed design'".*

Comment

As the final structure plan for West Kingscliff is still to be agreed upon it appears reasonable to identify the open space as indicative only. This will be included in the amended plan.

Submission

*"The work and costs schedule relating to the structured open space does not propose that the land be filled. Gales Holdings will not accept any future liability, including external services or infrastructure impacts, in relation to the filling of the*

*land for structured open space as required by or required in accordance with the s94 plans".*

Comment

It is proposed to include a provision for filling of any structured open space if required once the area for this open space has been identified. As is standard for all playing fields this filling will be to an appropriate level to make the open space functional.

Submission

*"Gales notes that some land values have been determined on the basis of valuations of other land by the NSW Valuer General's Office. Gales is concerned to ensure that Council has adopted land values that accurately reflect the proper market value of the land. It should be noted that values adopted in the draft plan are not consistent with recent advice obtained on behalf of Gales".*

Comment

To ensure impartiality and consistency Council obtains land valuations for all its Section 94 plans from the NSW State Valuation Office. These valuations have been accepted to date and there is no reason to vary this practice.

Submission

*"There is no requirement for the extensive reserve and drainage construction work proposed in the s94 plan. We recommend that Council defer the finalisation of the draft amendment until such time as the hydrologic and hydraulic study is complete and the results discussed with Council".*

Comment

The drainage reserve system is unchanged and is consistent with the existing DCP 9 for West Kingscliff. The drain cross section is consistent with the report "Kingscliff Catchment and Drainage Management Plan, Revision 3, 23/3/00, prepared by WBM Oceanics which is unchanged from the current Contribution Plan and represents Council's current position for drainage in this area. This amendment only updates the land and construction costs for the drainage works.

Any reconfiguration of the drainage system will be a matter for consideration in DCP 9.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**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](http://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.

---



**P16 [PD-PC] Murwillumbah Retail Analysis**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/DCP/56 Pt1**

**SUMMARY OF REPORT:**

This report presents Core Economics' Murwillumbah Retail Analysis for consideration by Council.

**RECOMMENDATION:**

**That Council:**

- 1. Adopts the recommendations of the Murwillumbah Retail Analysis prepared by Core Economics, dated 7 November 2006, with the exclusion of recommendation point 8.**
- 2. In accordance with the provisions of the Environmental Planning and Assessment Act 1979, prepares a Development Control Plan to incorporate the recommendations of the Murwillumbah Retail Analysis, 7 November 2006.**
- 3. Publicly exhibits the Murwillumbah Retail Analysis, 7 November 2006, for a period of 28 days.**
- 4. Informs the Murwillumbah Chamber of Commerce and retailers/property owners of its decisions.**

**REPORT:**

The Murwillumbah Retail Analysis was commissioned by Council in September 2006, to establish the impact on the main town centre area and west of the bridge, in the event of retail uses occurring east of the bridge adjacent to the Tweed Valley Way.

The Report identifies that the existing town centre is limited in its capacity to meet the anticipated future retail needs without some land consolidation and redevelopment. The alternative is to utilise an external site to the town centre. Two have been identified, Bray Park and along the Tweed Valley Way, but neither has been recommended as suitable either because of spatial isolation or because of the likely negative impacts on the existing town centre. The report highlights that if a full-line supermarket is approved outside the Town Centre there will be negative impacts on the main street retailers.

The recommendations in the report are that investigation into the existing town centre, with a view to redevelopment and consolidation is the best option for Murwillumbah at this time. Consequently, the findings of this report can be referred to and advanced in the drafting and analysis for the recently commenced Murwillumbah Locality Plan project.

In addition, the adoption of the Report should be used as a development control aid in guiding any development along the Tweed Valley Way or Bray Park areas until such time that a locality plan is in place.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Adoption of the report will provide a policy for retail development applications along the Tweed Valley Way and Bray Park area in the interim of the Murwillumbah Locality Plan.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Core Economics Retail Analysis for Murwillumbah (DW 1492026).
-

**P17 [PD-PC] Development Application DA06/0180 for a Retail Complex Comprising Supermarket & 7 Specialty Shops at Lot 1-4 DP4279; Lot 18 DP962878; Lot 1 DP443232; Lot 17 DP865658; Lot 1 DP437562; Lot 1 DP183770 No 230 Tweed Valley Way, South Murwillumbah**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA06/1080 Pt1**

**SUMMARY OF REPORT:**

Council at its meeting of 15 August 2006 resolved that Development Application DA06/0180 for a retail complex comprising supermarket and seven (7) speciality shops at Lot 1, 2, 3 & 4 DP 4279; Lot 18 DP 962878; Lot 1 DP 443232; Lot 17 DP 965658; Lot 1 DP 437562; Lot 1 DP 183770, No. 230 Tweed Valley Way South Murwillumbah be deferred until the Town Centre Strategy for Murwillumbah has been provided. This is to be dated no later than the last Council meeting of 2006.

In accordance with this resolution Core Economics provided Council with a detailed retail analysis dated 7 November 2006. In accordance with the contents of this document the proposed supermarket and speciality shops is recommended for refusal generally in accordance with the Council report of 15 August 2006 which is attached to this agenda.

**RECOMMENDATION:**

**That Development Application DA06/0180 for a retail complex comprising supermarket and seven (7) speciality shops at Lot 1, 2, 3 & 4 DP 4279; Lot 18 DP 962878; Lot 1 DP 443232; Lot 17 DP 965658; Lot 1 DP 437562; Lot 1 DP 183770, No. 230 Tweed Valley Way South Murwillumbah be refused for the following reasons: -**

- a. The application does not comply with the 3(c) Commerce & Trade zone objectives (within Tweed LEP 2000), as approval of a shopping centre outside the central business district would jeopardise the viability and function of the Murwillumbah business centre.**
- b. The application has failed to satisfy Clause 8(2) of the Tweed LEP 2000 specifically Clause 8(2) (b) & (d).**
- c. The application does not provide a suitable economic analysis to support locating the proposed development outside the Murwillumbah business centre. The development will directly compete with other retail developments within the business centre and therefore could potentially jeopardise their viability.**

- d. The application fails to satisfy Clause 22 of the Tweed LEP 2000 relating to development near designated roads as the design inadequacies both onsite and off site could result in disruption to traffic flow on Tweed Valley Way.
- e. The application is not considered satisfactory with regard to parking and access. Specifically the provision of the bus bay is contrary to the requirements of local traffic committee, the provision of parking is not in accordance with DCP No2; and the provision of a loading bay facility is not in accordance with DCP No2 and AS 2890; and
- f. The application is not considered to be based on good urban design principles.
- g. The application is not considered to be consistent with the Core Economics "Detailed Retail Analysis - Murwillumbah" dated 7 November 2006.

**REPORT:**

As per summary.

**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](http://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. Council report of 15 August 2006 (DW 1441404)
-

THIS  
PAGE  
THIS  
PAGE  
IS  
IS  
BLANK  
BLANK

**P18 [PD-PC] Draft Residential and Tourist Development Code (DCP)**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/DCP/6 Pt3**

**SUMMARY OF REPORT:**

This report seeks the approval of the draft Residential and Tourist Development Code (DCP 6) for the purposes of public exhibition under Clause 18 (1) of the *Environmental Planning and Assessment Regulation 2000*.

**RECOMMENDATION:**

**That draft Residential and Tourist Development Code (DCP6) be exhibited for public submissions for a period of 60 days in accordance with the Environmental Planning and Assessment Regulation 2000.**

## REPORT:

Development Control Plan No 6 – Multi Dwelling Housing had been identified in the Government Architects report as providing insufficient design guidance for residential and tourist developments in the Shire.

On 1 June 2006 Ruker & Associates - Urban Design (Sydney) were appointed to work in consultation with the Planning Reform Unit in reviewing and up-dating this DCP. This has resulted in a draft DCP that is quite different from the original in both content and format.

The driving forces behind the draft DCP can be stated as: -

1. The need for better environmentally and water sensitive design;
2. Clarification and distinction between differing building types;
3. Stronger focus on existing and future urban character, and the need for more certainty through the use of mandatory controls. This has been achieved by preparing the DCP in two parts. Part 1 identifies each of the different building types and where necessary imposes design controls specific to that building type. Part 2 on the other hand address design controls that are generally common to all or a combination of building types.

The key element and controls in the draft DCP are: -

- Includes dwelling houses to provide a one stop 'shop' document in respect of providing guidelines for all residential, tourist and shop-top housing, except high rise of 4 or more storeys, within the Shire.
- Comprises two main sections that set-up the building types and their specific design controls/objectives (Section 1) and general design controls (Section 2).
- Greater clarification and guidance on possible variations to development controls.
- Provides a clearer set of objectives and mandatory controls to assist in articulating the desired outcomes and improve certainty.
- Sets out new and improved controls in respect of water recycling (percolation) and sensitive design by ensuring retention of deep soil landscape zones and reduced impervious site coverage.
- Floor space ratios based on computer modelling to control development intensity.
- Controls for fencing.
- Greater certainty on the size and use of building line areas.
- New provisions for ensuring appropriate levels of storage space in smaller units.

The present 'Version C' of the draft DCP has been sent out to key planning and design practitioners in the area. To-date no feedback has been received. The draft DCP now warrants exhibition for public submissions.



**Key persons likely to be affected by the Plan:** The draft Plan will provide both benefits and negatives to persons wishing to develop land in Tweed Shire. It does not impact on consultant designers, planners except that a working knowledge of the DCP would need to be gained. It would, in respect of those practitioners, provide more certainty in preparing applications and providing client advice. Developers may find at first instance that there are additional requirements that limit development capacity in some cases. However it is likely that the Plan will lead to more site responsive and innovative design in order to achieve present levels of yield.

**Advantages of Plan implementation:** the proposed DCP will improve certainty for the community and developers alike. It will improve the sustainability of future buildings/sites and assist in minimising the impact on the natural and built environment. It is designed to improve the living environment of Shire residents, without significantly compromising density, and to provide a higher standard of urban development in the Tweed.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

The approval of this document will result in a Development Control Plan for residential and tourist development within the Shire. On implementation of the consolidated Development Control Plan for the Tweed Shire this Plan will become a section of the overall document.

**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](http://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. Draft Residential and Tourist Development Code (DCP)
-

THIS  
PAGE  
IS  
BLANK

THIS  
PAGE  
IS  
BLANK