



AGENDA

PLANNING COMMITTEE MEETING TUESDAY 15 AUGUST 2006

Chairman: Ms Lucy Turnbull

**Administrators: Mr Frank Willan
Ms Lucy Turnbull
Mr Max Boyd AM**

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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

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

MATTERS FOR CONSIDERATION

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

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P1 [PD-PC] Development Application DA06/0584 for a Three Storey Dwelling & Shed at Lot 8 DP 1047760, No. 373 Terranora Road Terranora

ORIGIN:

Building Services

FILE NO: DA06/0584 Pt1

SUMMARY OF REPORT:

A development application has been received for the construction of a three storey split level dwelling and shed on the subject allotment.

The land is zoned 1(c) Rural Living and is located on the southern side of Terranora Road near the corner of Dobbys Crescent.

The allotment is cleared and slopes steeply downhill from Terranora Road.

The allotment will have vehicular access via an existing right of way that has frontage to Terranora Road, which under the provisions of Tweed Local Environmental Plan 2000 is a designated road.

The allotment has a minimum depth (clear of the right of way) of 45.313 metres and encompasses an area of 2234 square metres.

Under the provisions of part 5, clause 24 of the LEP, the proposed dwelling is required to observe a minimum setback to Terranora Road of thirty (30) metres.

An objection to this requirement has been lodged by the applicant under the provisions of State Environmental Planning Policy No. 1 (SEPP 1) requesting that consideration be given to a reduced building line to Terranora Road of six (6) metres from the Terranora Road frontage to the site.

RECOMMENDATION:

That

- A. State Environmental Policy No 1 objection to the 30 metre setback to Terranora Road be supported and the concurrence of the Director-General of Planning NSW be assumed.**
- B. Development Application DA06/0584 for a three storey dwelling & shed at Lot 8 DP 1047760, No. 373 Terranora Road 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. 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

4. 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]
5. 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]

- 6. 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]

- 7. 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]

- 8. 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]

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

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

[PCW0255]

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

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]

11. 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]

PRIOR TO COMMENCEMENT OF WORK

12. 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.

[PCW0005]

DURING CONSTRUCTION

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. 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]

15. 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]

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

[DUR0395]

17. 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]

18. 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]

19. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

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

[DUR0835]

21. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
- [DUR0905]
22. 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
 - Dust during earthworks operations and from construction vehicles
 - Removal of materials from the site by wind
- [DUR1005]
23. 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]
24. 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]
25. All roofwaters are to be disposed of through properly jointed pipes to the street gutter, inter allotment 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 roofwater must be connected to an inter allotment drainage system where applicable.
- [DUR2335]
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. An 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]

30. 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 50°C.

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

[DUR2555]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

31. 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]

32. 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]

33. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property. The street number is to be on a white reflective background professionally painted in black numbers 100mm high.

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

[POC0265]

34. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

35. 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]

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

[POC1055]

USE

37. All externally mounted water tank pumps, and any other mechanical plant and equipment, shall be acoustically treated so as to avoid the creation of intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises.

[USE0235]

38. The shed must not be used for human habitation or occupation.

[USE0475]

39. The dwelling is to be used for single dwelling purposes only.

[USE0505]

40. The shed is not to be used for any commercial or industrial purpose.

[USE0455]

REPORT:

Applicant: Mr AJ Miller
Owner: Mr JJ Miller and Mr AJ Miller
Location: Lot 8 DP 1047760, No. 373 Terranora Road Terranora
Zoning: 1(c) Rural Living
Cost: \$260000.00

BACKGROUND:

A development application has been lodged for the construction of a three storey split level dwelling and shed on the subject allotment.

A SEPP 1 objection has been lodged against the requirement under clause 24 of the Tweed LEP in relation to a thirty (30) metre building line to Terranora Road, which is a designated road.

The Applicant's reasons for requesting a SEPP 1 objection to the thirty (30) building setback are as follows :-

- *The thirty (30) metre setback requirement for dwelling house is an anomaly as it was not intended to apply to small lots fronting roads with low travel speeds,*
- *Compliance with the standard thirty (30) metre setback is not appropriate given the minimum area requirements applicable to this zone,*
- *The dwelling is being constructed within the thirty (30) metre setback to enable construction of the proposal to take place on the most level part of the block,*
- *Existing dwellings in this locality do not comply with the thirty (30) metre setback,*
- *The proposed dwelling will be setback six (6) metres from the alignment of Terranora Road, and the dwelling will not require additional access from Terranora Road,*
- *The construction of the new dwelling will not impact on further reconstruction or renovation of Terranora Road,*
- *The proposed dwelling is elevated above the road and the development will not create any adverse impact on the existing road and traffic utilising Terranora Road.*

The site has a depth (clear of the right of way) of 45.313 metres and it is considered that enforcing compliance with a thirty (30) metre setback to Terranora Road would result in an unusable building envelope.

Access to the site is via the modification of an existing driveway to the adjoining dwelling that uses a right of way across this property, hence no further access points from Terranora Road will be created. This access has been granted approval by Council's Engineering and Operations Division under Section 138 of the Roads Act.

An established streetscape already exists within the immediate vicinity for dwellings having frontage to Terranora Road. Almost all surrounding dwellings have been constructed within the thirty (30) metre building line from Terranora Road. Two recent examples of single dwellings that have been constructed within the thirty (30) metre setback from Terranora Road include; A two storey dwelling at No. 375 Terranora Road (adjoining property immediately to the west) which was approved under Development Consent DA03/1114 and has a setback of approximately ten (10) metres from Terranora Road; A single storey dwelling at No. 372 Terranora Road (property immediately to the north on the opposite side of Terranora Road) which was approved under Development Consent K00/0190 and has a setback of six (6) metres from Terranora Road.

It is considered that traffic using Terranora Road will not be impacted upon by the proposed development in relation to sight lines or other distractions. The application was referred to Councils Traffic and Transport Engineer to provide comments on the application and no objections to the proposal were received.

The dwelling will be located close to the driveway providing access to the adjoining property but this is similar to dwellings located near "battle-axe" block driveways and is the choice of the applicant. See site plan attached.

The objectives of part 5 (Roads) clauses 22, 23 and 24 of the Tweed LEP and a response to each objective is as follows –

- **To protect and improve the capacity, efficiency and safety of designated roads.**

Response – Vehicular access to the site will be via the modification of an existing driveway to the adjoining dwelling that uses a right of way across this property which fronts Terranora Road. This right of way was established during the creation of the subdivision in 2003 and it is considered that the capacity, efficiency and safety of Terranora Road will not be compromised.

- **To prevent development on designated roads that would detract from the scenic attractiveness of the area of the Tweed.**

Response - the proposed development will comprise of a residential dwelling and shed which will be consistent with the rural residential nature of the area. The dwelling has been designed in response to the contours of the site presenting a combined single and two storey elevation to Terranora Road, which will result in minimal bulk and impact upon the streetscape.

This subdivision was approved to permit the construction of single dwellings and due to the physical limitations of the allotments, it is impractical to enforce a thirty metre building alignment to Terranora Road.

The proposal will therefore not have an adverse impact on the scenic attractiveness of the area.

- **To prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.**

Response - The dwelling will be set back six (6) metres from Terranora Road. Due to the slope of the land, the upper storey of the dwelling will be at a similar level to that of Terranora Road. The design of the dwelling is such that the upper floor consists of non-sleeping rooms. Bedrooms 1 and 2 will be approximately 1 metre below the level of the road and are located at the rear of the dwelling away from Terranora Road. The remaining bedrooms in the dwelling will be located on the lower level and approximately 3 metres below the level of the road.

Due to the slope of the allotment below Terranora Road, and the design of the dwelling, it is considered that, within reason, there will be minimal impact from traffic noise on the proposed dwelling.

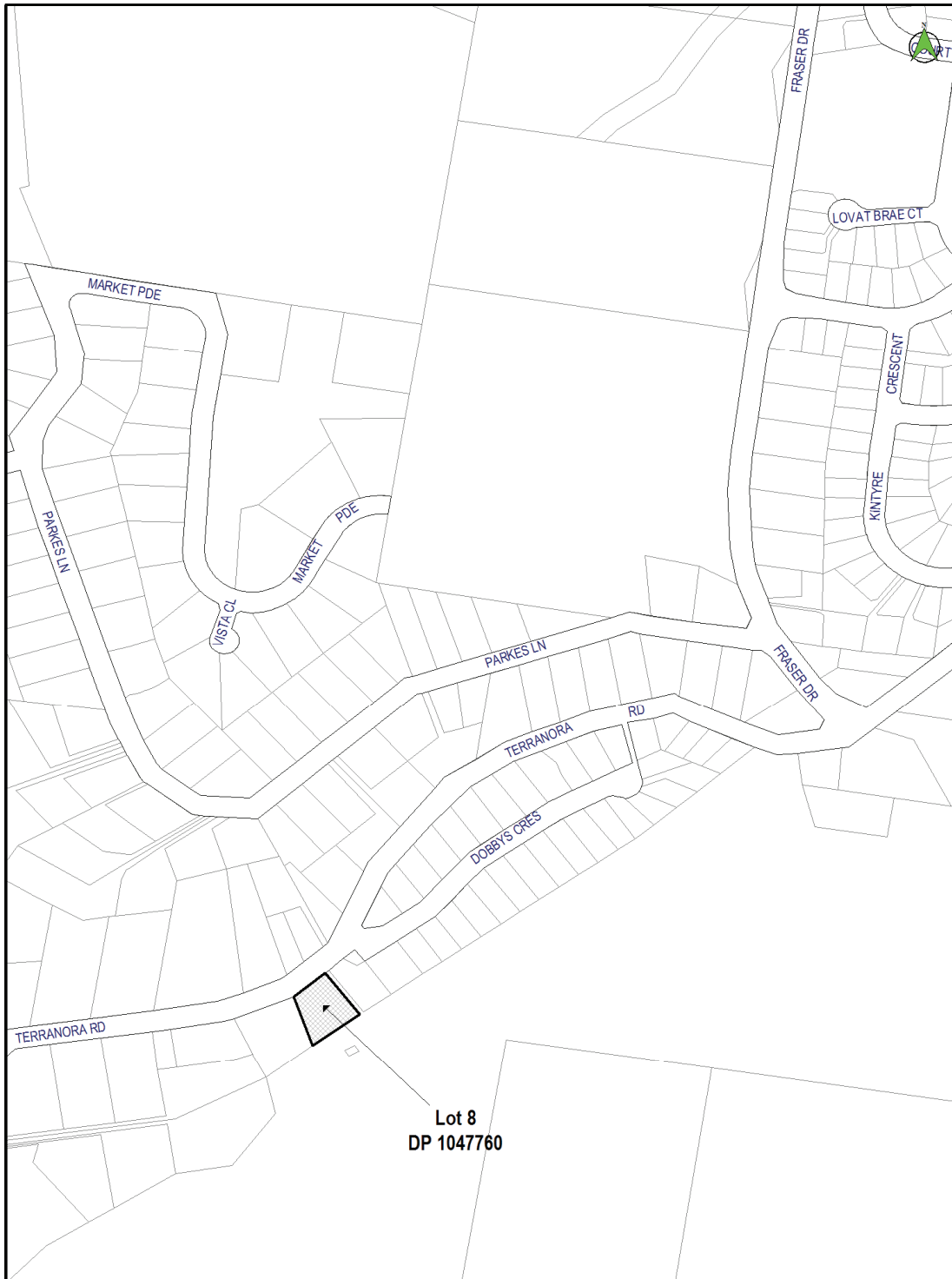
- **To control access to designated roads.**

Response – Access to the site will be via the modification of an existing driveway to the adjoining dwelling that uses a right of way across this property which is accessed off Terranora Road, hence no further access points from Terranora Road will be created.

- **To control development along designated roads.**

Response - the allotment exists in an area that is zoned for rural residential use and in a subdivision that was specifically created for the erection of residential dwellings. Therefore, the proposal is considered to be consistent with the objectives of the zoning of the area.

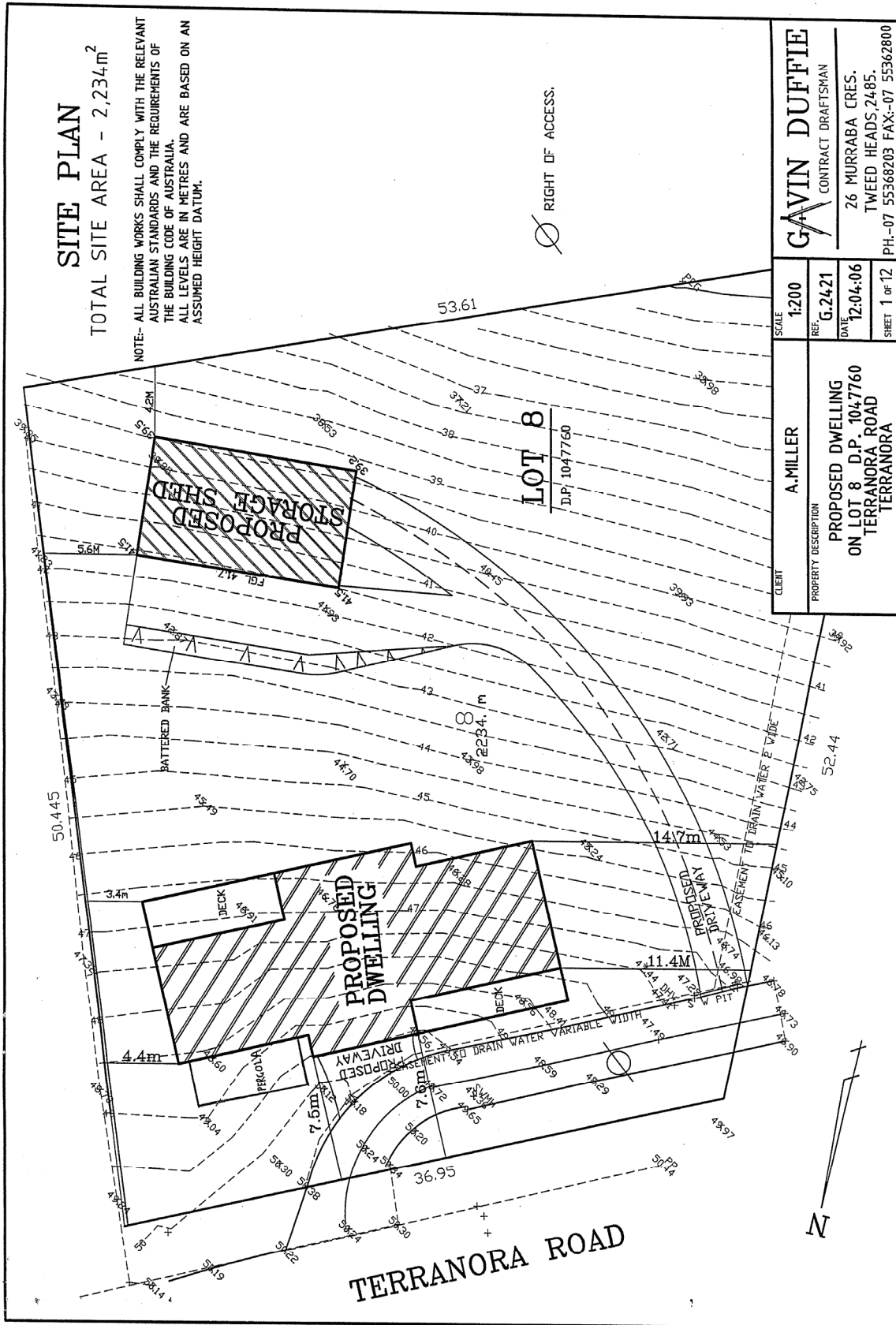
SITE DIAGRAM:



Lot 8
DP 1047760

<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 style="text-align: center;"><i>Tweed Shire Council</i> Lot 8 DP 1047760 TerraNora Road TerraNora</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>	
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: C.Davis</p>	<p>Date: 7/Aug/2006</p>	<p>Scale: 1:5,000</p>	<p>Sheet: 1 of 1</p>

SITE PLAN:



ELEVATIONS:

NORTHERN ELEVATION

EASTERN ELEVATION

COLORBOND SHEET ROOFING FIXED TO MANUFACTURES SPECIFICATIONS

SELECT CLADDING TO GABLE END

BLUE BOARD & SELECT RENDER

CLIENT	A.MILLER		
PROPERTY DESCRIPTION	PROPOSED DWELLING ON LOT 8 D.P. 1047760 TERRANORA ROAD TERRANORA		
SCALE	1:100	DATE	12/04/06
REF	G.2421	DATE	12/04/06
SHEET	6 OF 12	PH.	-07 55368203 FAX.-07 55362800
GAVIN DUFFIE		CONTRACT DRAFTSMAN	
26 MURRABA CRES.		TWEED HEADS, 2485.	

WESTERN ELEVATION

SOUTHERN ELEVATION

COLORBOND SHEET ROOFING FIXED TO MANUFACTURES SPECIFICATIONS

BLUE BOARD & SELECT RENDER

CROSS BRACING

SELECT CLADING TO GABLE END

BLUE BOARD & SELECT RENDER

CLIENT	A.MILLER		
PROPERTY DESCRIPTION	PROPOSED DWELLING ON LOT 8 D.P. 104-7760 TERRANORA ROAD TERRANORA		
SCALE	1:100	REF.	G.2421
DATE	12:04:06	SHEET 5 of 12	
GAVIN DUFFIE CONTRACT DRAFTSMAN		26 MURRABA CRES. TWEED HEADS, 2485. PH.-07 55368203 FAX:-07 55362800	

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 environmental planning instrument in force is the Tweed Local Environmental Plan 2000 and the proposal generally satisfies this instrument.

North Coast Regional Environmental Plan 1988

State Environmental Planning Policies

SEPP 1 – Development Standards - As advised above, the Applicant seeks to vary the requirement under clause 24 of LEP 2000 that the dwelling observe a thirty (30) metre setback to Terranora Road on the grounds that there is inadequate area on the site to locate the dwelling if all statutory setbacks to Terranora Road are observed.

It is considered that enforcing strict compliance with the thirty (30) metre setback to Terranora Road is both unreasonable and unnecessary and would not achieve any positive planning objectives.

SEPP 71 – Coastal Protection - The site is located within the coastal zone. Having regard to Clause 8 of SEPP 71 and based on the nature and scale of the development, the proposal is unlikely to have any adverse impacts in this coastal location. The proposed development is considered compatible with the intent for the development of the locality.

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

There are no Draft Environmental Planning Instruments applicable to this DA

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

The proposal satisfies all relevant Development Control Plans

(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

The development is anticipated to have similar impacts to that which would be envisaged for the construction of a dwelling in a rural residential area. Based on the nature and scale of the development, the proposal is considered unlikely to result in any significant adverse impacts on the existing natural or built environment.

(c) Suitability of the site for the development

The site is part of a rural residential subdivision and is considered to be suitable for the proposed development. Furthermore the proposal is considered to be consistent with the type of development intended for the site.

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

The proposal is considered to have no adverse impact on the amenity of adjoining properties. In accordance with Councils Development Control Plan No. 42, the development was not notified.

(e) Public interest

There is considered to be no adverse public interest issues involved with this proposal.

OPTIONS:

1. Approve the application subject to conditions of approval.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Under the circumstances, it is considered that the proposal to construct the dwelling with a minimum building line of six (6) metres to Terranora Road is reasonable for conditional approval

The SEPP 1 objection to reduce the statutory building line has been considered and under the circumstances it is considered that the variation is justified and should be supported.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P2 [PD-PC] Development Application DA06/0473 for a Restaurant Interior Fit Out (Shop 4) at Lot 370 DP 755701, No. 16 Elizabeth Street Pottsville

ORIGIN:

Development Assessment

FILE NO: DA06/0473

SUMMARY OF REPORT:

Council is in receipt of a development application, which seeks approval for the first use and fit out of a recently completed commercial tenancy for the purposes of a Chinese restaurant.

The development site is a mixed-use building comprising commercial units at ground level and residential above. The application was publicly notified and several submissions were received objecting to the proposal on, among others, potential noise disturbance and odour impacts.

The assessment of the application has given due consideration to the issues raised in the submissions. It is concluded that the application be supported subject to conditions.

RECOMMENDATION:

That Development Application DA06/0473 for a restaurant interior fit out (shop 4) at Lot 370 DP 755701, No. 16 Elizabeth Street Pottsville 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 Plan Nos 1, 2, 3, 4 and 6 dated 3 March 2006 and Plan No.9 dated 1 June 2006 prepared by Markos Christofis Shopfitting, Drawing Nos M01, M02 and M03 prepared by EMF Griffiths and dated June 2006, the submission from Darryl Anderson Consulting Pty Ltd dated 7 July 2006, and the signage plan dated August 2006 (as amended in RED), except where varied by the conditions of this consent.**
[GEN0005]
- 3. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts. Flashing or animated signage is not permitted.**
[GEN0075]

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

[GEN0135]

5. The use of the premise as a restaurant, the subject of this consent, is valid for a period of two (2) years from the date of determination.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. 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]

7. 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]

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.

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. [PCW0215]
[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.

11. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges. [PCW0255]
[PCW1075]
12. Detailed drawings showing equipment, shop fittings, the mechanical exhaust ventilation system and internal shop finishes are to be submitted to Council for further analysis, comment and approval prior to the commencement of any internal fitout. [PCW0585]

DURING CONSTRUCTION

13. 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]
14. 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]

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

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

[DUR1275]

16. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and installed. Mounting heights shall be in accordance with AS2293.1.

[DUR1295]

17. Doors forming exits, paths of travel to exits and parts of exits shall comply with the relevant provisions of D2.19 and D2.20 of the Building Code of Australia.

[DUR1315]

18. 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]

19. 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) completion of work and prior to occupation of the building.

[DUR2485]

20. **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]

21. 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]

22. 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:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * 50⁰C 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]

23. 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]

24. 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]

25. 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]

26. 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]

27. 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]
28. 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]
29. 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 covered to a radius of not less than 25 millimetres.
- [DUR1495]
30. 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]
31. 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]
32. Shop fitters are to liaise with the Principal Certifying Authority prior to fitting out of shop.
- [DUR1525]
33. 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]
34. 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]
35. The walls and floors of the premises must be lined, sealed or sheeted with an approved smooth impervious material capable of being easily cleaned.
- [DUR1615]

36. 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]
37. 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]
38. The premise shall be constructed and operated in accordance with the Food Act, 1989 and AS 4674-2004, Design, construction and fit out of food premises.
39. All waste storage shall be within the approved garbage storage area. Wastes shall be stored so as to not create unreasonable offensive odours.
40. All cooking gases shall be collected and discharged above the roofline to the satisfaction of the Director of Environment and Community Services. An exhaust canopy fitted with UV light odour treatment-extraction, in accordance with the details and specifications submitted to Council, shall be fitted to the premise prior to commencement of trade. A certificate confirming installation of this system shall be provided to Council.
41. Internal walls shall be of solid construction to the satisfaction of the Director of Environment and Community Services. [DURNS01]
42. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water. [DUR2595]
43. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement [DUR2685]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

44. 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]
45. 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]

46. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations. [POC0625]
47. 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]
48. 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]
49. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia. [POC0515]
50. 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]

USE

51. 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]
52. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997. [USE0135]
53. 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]
54. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises. Illuminated lighting shall only be operated during approved trading hours. [USE0205]
55. Delivery of goods to the premises shall be restricted to between the hours of 7am to 5pm Monday to Saturday and no deliveries on Sundays and Public Holidays.

56. The shop must not be used for human habitation or occupation. [USE0275]
[USE0475]
57. All loading/unloading to take place within the boundary of the subject property. [USE0525]
58. 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]
59. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements. [USE0845]
60. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate. [USE0875]
61. The premises shall be maintained in a clean and tidy manner. [USE0965]
62. All waste storage shall be within the approved garbage storage area. Wastes shall be stored so as to not create unreasonable offensive odours.
63. Servicing or pump out of the grease arrestor shall be restricted to the hours 7am to 5pm Monday to Saturday and no servicing on Sundays.
64. The LA10 noise level emitted from the premise shall not exceed the background noise level (LA90) by more than 5dB(A) between 7am and 10pm at the boundary of any affected residence. Further, noise from the premises shall not be audible within any habitable room in any residential premises between 10pm and 7am.
65. Live or excessively loud music shall not be played at the premise.
66. Hours of operation of the business are restricted to the following hours:
10am to 8pm - Tuesday to Thursday
10am to 9pm - Friday to Sunday and public holidays
67. Activities shall not be permitted to unreasonably impact the amenity of any premises.
68. Readily accessible access for patrons is to be provided to the existing toilets at the rear of the shops while ever the restaurant is trading. [USENS01]
69. A maximum of three tables and 12 chairs are permitted to be placed under the front shop awning. These chairs and tables shall not extend beyond the awning onto the road reserve without a footpath dining agreement having been approved by Council. Placement of chairs and tables shall be so as to not impede pedestrians or impact amenity. [USENS02]
-

REPORT:

Applicant: Mr K Law
Owner: Mr HA Jones
Location: Lot 370 DP 755701, No. 16 Elizabeth Street Pottsville
Zoning: 3(b) General Business
Cost: \$120000.00

BACKGROUND:

Council is in receipt of a development application that seeks approval for the first use occupation of a recently constructed mixed-use residential-commercial development for the purposes of a restaurant.

The mixed development comprising of four commercial tenancies, four residential units and associated car parking, was approved by Council at its meeting of 20 August 2003. By way of background information the original application was publicly notified from 8/1/03 to 22/1/03 generating 21 submissions, and later from 7/5/03 to 21/5/03 attracting 5 submissions. It appears that issues raised in both the submissions and by Council's EHU included potential noise and odour impacts arising from the future occupation of the commercial units.

To-date two other first use occupation applications have been approved for a health care practice in tenancy 3 and a dental surgery in tenancy 1. This application is for the occupation of tenancy 4 and comprising fitting out of a commercial kitchen and dining facilities as well as the erection of three (3) business identification signs. Trading hours are proposed at 10am to 9pm, Tuesday to Sunday.

The main issues arising in this application are: -

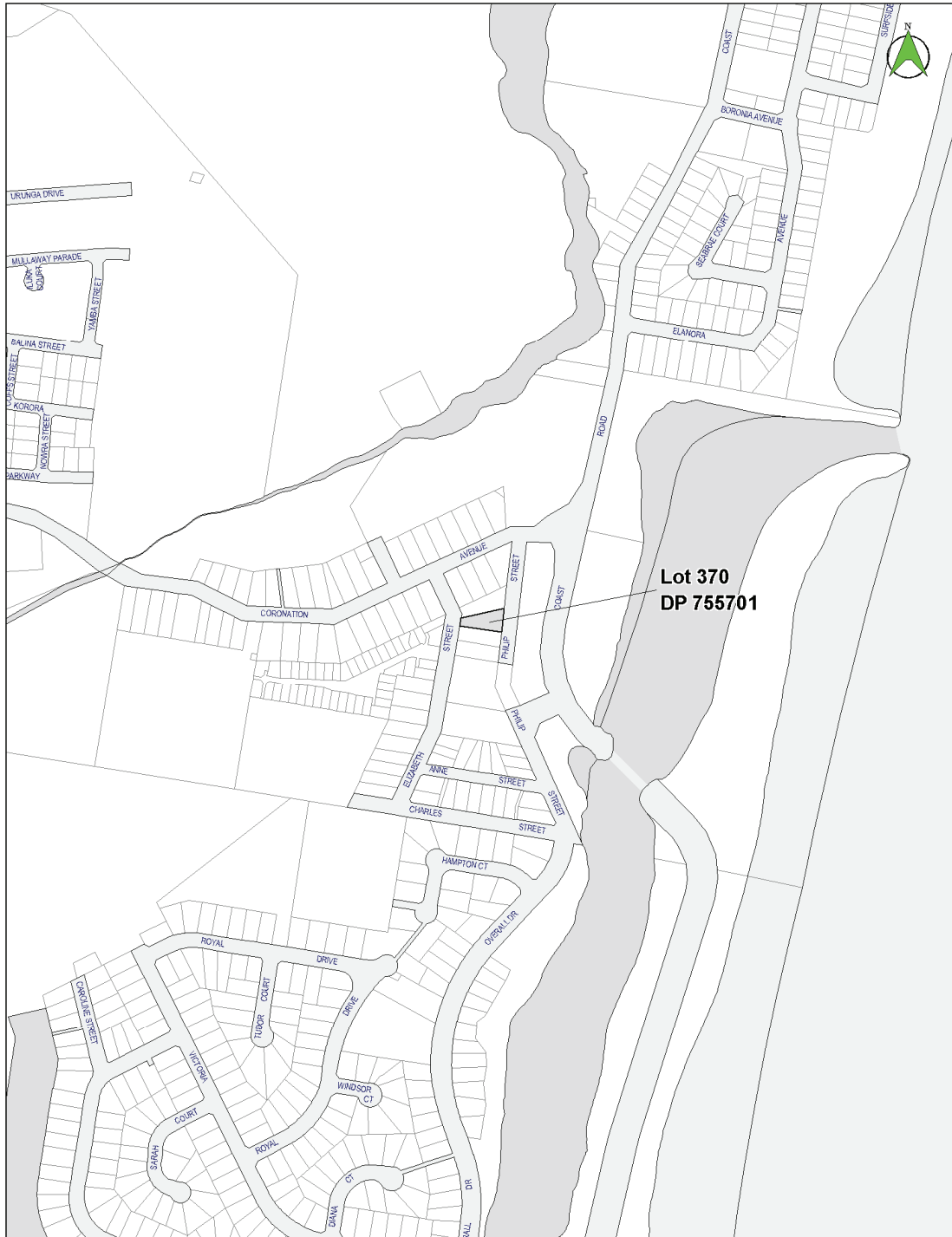
1. Trading hours (noise)
2. Odour

Council's Environment and Health Services Unit (EHU) have reviewed the application and the issues raised in the public submissions. The EHU have raised issue in relation to the potential impact on neighbouring residential premises arising from the proposed trading hours (noise) and odour. EHU has advised, based on the uncertainty as to the actual impact arising from the proposed restaurant, that support for the application is restricted because of the potential impacts on adjoining residential premises. EHU recommends that the trading hours be reduced and that the consent be limited to a trial period of 6 months.


The Development Assessment Unit (DAU) has reviewed and consulted on the recommendations provided by EHU. In the view of the DAU, based on the \$120,000 construction cost that limiting the consent to 6 months does not provide a reasonable time frame within the start-up cost could be recouped, essentially refusing the operation of the restaurant via de facto methods. DAU is of the view that should a trial period be accepted that any approval would require a minimum 2 year operating period.

This report recommends that the application be approved subject to reduced trading hours for a period of two years, after which time the applicant may apply for an extension.

SITE DIAGRAM:



**Lot 370
DP 755701**

<p>© TWEED SHIRE COUNCIL 2003 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>Tweed Shire Council Lot 370 DP 755701 No. 16 Elizabeth Street, Pottsville</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>		
	File: N:\MapInfo 7...A4P Site Plan.Wor	Author: J.Batchelor	Date: 23/July/2003	Scale: N.T.S.	Sheet: 1 of 1

Site Details

The subject tenancy is described as shop 4 of a recently completed mixed use commercial and residential development located between Elizabeth Street and Philip Street, Pottsville. The shop is on the ground floor and faces east toward Philip Street and parkland. Toward the north are three additional commercial premises of the same building with other commercial development located in the neighbouring property. The neighbouring property to the south supports a residential townhouse development.

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 tenancy is situated within the 3(b) General Business zone. Under the provisions of the Tweed Local Environmental Plan 2000 the development (refreshment room) is permissible with consent.

The primary objectives of the 3(b) zone are:

Primary

- to provide business centres in which the community's shopping, business, welfare and social needs can be met
- to provide business locations within residential areas, and to ensure that the scale and type of development is compatible with the character and amenity of the surrounding residential areas

The restaurant is consistent with the type of development both permitted and encouraged in the area. The level of compatibility has been assessed as generally satisfactory and as such is not inconsistent with the zone objectives. However, as noted in this report, the DAU recognises the issues raised in the public submissions do warrant, in this instance, the imposition of more stringent operating conditions.

Clause 47 – Advertising Signs

The application seeks consent for a total of three (3) signs for business identification purposes. The Tweed Local Environmental Plan 2000 contains provisions for signs, which are applied to development on a consistent basis. The clause aims to ensure advertising complements and conforms to both the building on which it is displayed as well as the character of the locality, does not adversely affect the locality in terms of appearance, size, illumination or overshadowing, and does not lead to visual clutter. The proposed development is consistent with these objectives. Not being prohibited signage, as defined by subclause (4), the business identification signs are supportable under the provisions of the LEP.

North Coast Regional Environmental Plan 1988

The proposed development is not inconsistent with the strategic aims and objectives of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policy No. 64 – Advertising and Signage

SEPP 64 contains provisions that aim to ensure signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of a high quality design and finish. For the purposes of the policy, the proposed signs are for business identification. As such, the Part 3 provisions do not apply.

Clause 8 requires that signage is consistent with the aims of the policy, as described above. The proposed signs will be placed both above the restaurant within designated locations provided during construction of the building as well as on the glass shopfront. It is considered the signage is compatible with the business locality and will be effective in portraying the desired message. The designated signage bays will help to ensure the proposed are of a quality finish. It is intended to illuminate the signage; conditions of consent are proposed to ensure lighting does not place unnecessary impacts on the existing amenity of surrounding development.

A Schedule 1 assessment has been completed for the proposal, and is satisfactory. The signage complies with the requirements of SEPP 64.

State Environmental Planning Policy No. 71 – Coastal Protection

The development site is located within the area defined as the coastal zone and the provisions of this policy apply. The development proposal has been considered against the Clause 2 'Aims' and Clause 8 'Matters for consideration' of the policy, and is satisfactory.

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

There is no draft Environmental Planning Instruments known to exist that would have any bearing on neither the assessment of this application nor recommendation of this report.

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

Development Control Plan No. 2 – Access and Car Parking

DCP 2 contains Council's requirements for access and car parking. As previously explained access to the restaurant will be via Philip Street.

Car parking for the commercial component of the building was approved within the road reserve under the original application (DA02/1655). A total of 30 approved car parking spaces were provided during construction. Previous applications including dental surgery (DA06/0247) and allied health centre (DA06/0499) have utilised 9 of these spaces. The restaurant requires the provision of 7 car spaces. Given the number of car spaces provided to cater to the development, it is considered the restaurant can be adequately provided for.

The development complies with DCP No. 2.

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

In accordance with cl. 92 1(a)(ii) the application has been considered against the provisions of the New South Wales Coastal Policy 1997, and is satisfactory.

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

Noise and Odour

In terms of noise, the proximity of adjacent residential development to the development site has raised concerns related to trading hours, the coming and leaving of traffic as well as proposed outdoor dining. This application has required careful consideration given the issues have been raised by neighbouring property owners.

The trading hours are proposed from 10am to 9pm, Tuesday to Sunday and although not excessive for a restaurant development the 'potential' impacts warrant a reduction, in this instance.

The proposed measures of odour mitigation include a mechanical exhaust that incorporates an Ultra Violet odour reduction system. Council's EHU have accepted, based on the absence of experience with this system, that a trial consent is warranted. EHU recommendations for trading hours are 10am to 8pm Tuesday to Thursday and 10am to 9pm Friday to Sunday. DAU generally concurs with the restricted trading hours.

(c) Suitability of the site for the development

It has been suggested that the restaurant would have been satisfactory if located in one of the other tenancies. However, DAU is of the view that because the frontage of the development is relatively small any relocation would have a negligible effect in reducing potential impacts.

Having considered the incorporation of the mechanical ventilation system, reduced trading hours and limitation (trial period) on the development consent, the site is suitable for the proposed development.

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

The development application was notified and placed on exhibition for a period of two (2) weeks from Wednesday 7 June 2006 to Thursday 22 June 2006. During this period a total of four (4) submissions were received. Additionally, further information received by the applicant subsequent to this period was forwarded to those objectors on 21 July 2006. Further addendums were invited and three (3) submissions were received. The following comments are provided in relation to the main issues outlined in the submissions:

Issue Loading bay

Concern is raised that the loading bay has not previously been utilised and that the car spaces in front of the tenancies will be utilised for the delivery of goods.

Comment A condition of consent is included requiring all loading/unloading to occur within the property boundary.

Issue Cooking odours/smells

A number of concerns have been received in relation to potential cooking odour impacts. These include prevailing northeasterly winds, which could further exacerbate such smells for adjacent residences.

Comment A number of the submissions advised that cooking smells were already being experienced from an existing takeaway premise located adjacent north of the subject site. As previously indicated within this report, the applicant will be required to install a UV odour reduction system in an attempt to mitigate any odours prior to release in the air stream. Council's assessing Environmental Health Officer has advised that these systems have been successfully utilised elsewhere in the Shire. A review of the development's performance after a period of two years will allow an evaluation of the system's effectiveness. In addition it is not considered unreasonable that restaurants within a commercial area emit cooking odours.

Issue Traffic

The submissions included concern that the premise would create additional noise and fumes from the coming and leaving of traffic.

- Comment** A significant number of commercial developments are traffic generating and while cars are often associated with adverse impacts, it is considered realistic that any potential use of the shop would generate a certain level of traffic. The proposed development may involve traffic movements after normal business hours, but as previously indicated is not dissimilar to other businesses, which could occupy the premise, e.g. a video store. This is not considered to be an issue of such magnitude that would warrant the refusal of the application.
- Issue** **Noise**
The submissions include concern that the activities such as outdoor dining within the operating times will create undesirable levels of noise. There was also concern that live or loud music would occur.
- Comment** It is recommended that trading hours be reduced during the middle of the week to 8pm. In addition outdoor dining is permitted only beneath the external awning, a nib wall between this area and the adjacent property is considered adequate to abate noise generated from patrons taking advantage of the alfresco dining area. In addition, the number of tables and chairs will be limited in this area and the applicant has confirmed that live or loud music is not proposed. Appropriate conditions of consent are provided in this report.
- Issue** **Lighting**
Concern was raised in relation to the provision of outdoor lighting beneath the awning.
- Comment** Lighting is proposed outside both beneath the awning for dining purposes as well as illumination of the signage. It will be a requirement that all lighting be switched off by the close of trade and that illuminated signs be fitted with appropriate devices to allow a reduction in intensity. No flashing or animated lights will be allowed. Conditions of consent are proposed in relation to these matters.
- Issue** **Grease arrestor**
A number of submissions requested that the grease trap, located within the front curtilage of the tenancy, be emptied within business hours.
- Comment** The applicant has provided a letter from the service provider, Solo Waste, that servicing would be carried out between 7a.m. to 10p.m., when required. A condition of consent is proposed which restricts servicing to between 7a.m. and 5p.m. Monday to Saturday.

- Issue** **Garbage bins**
Concern was raised within the submissions that garbage bins would be stored and/or collected from the front of the premise, on Philip Street, creating undesirable smells and health problems.
- Comment** A condition of consent is proposed that requires the storage of garbage bins within the designated storage area at the rear of the building. Garbage is collected at the rear of the site, on Elizabeth Street.
- Issue** **Loss of amenity**
One submission has indicated that "Council has the responsibility and capability to ensure that the quality of life of the residents is not further negatively impacted and should refuse the application."
- Comment** As discussed in this report measures are proposed to allow a trial period of the development so that actual impacts can be properly ascertained.
- Issue** **Location of shop**
It has been documented that the tenancy adjacent to the residential units is not suitable for a development which is likely to possess issues related to odour, noise, traffic volume, waste and delivery, as well as trading hours.
- Comment** As previously indicated it is considered from a development assessment perspective that location of the development within a separate tenancy of the building would not alleviate the abovementioned suggested impacts.

(e) Public interest

The development application has been considered against the relevant statutory controls, and is satisfactory. Whilst several submissions have been received the issues raised have been properly considered and as a consequence the recommended approval has been conditioned to address the concerns raised in these submissions. The development is not contrary to the greater public interest.

OPTIONS:

1. Approve the application subject to the consent conditions provided in this report.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The application has been assessed in accordance with and considered against all relevant legislation, regulations, policies and codes.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The application has been assessed against the applicable controls, including State Environmental Planning Policies, Tweed Local Environmental Plan 2000 and Development Control Plan, and is considered satisfactory. A number of submissions have been received objecting to the proposal and while the content within these submissions is acknowledged, the application is considered to be consistent with the desired planning outcome for a mixed use building. The application warrants a conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P3 [PD-PC] Section 96 Application DA05/1099.03 for Amendment to Development Consent DA05/1099 for Tourist Accommodation Consisting of 37 units at Lot 57 DP 1083567, Casuarina Way, Casuarina

ORIGIN:

Development Assessment

FILE NO: DA05/1099 Pt2

SUMMARY OF REPORT:

Council is in receipt of an application to amend the subject development consent, which granted approval for tourist accommodation consisting of 37 units. The current amendment seeks to amend Condition No. 4 and to delete Condition No. 65 on the development consent.

The proposed modifications are not supported.

The land owners consent for the current amendment has not been received to date.

RECOMMENDATION:

That Section 96 Application DA05/1099.03 for amendment to Development Consent DA05/1099 for tourist accommodation consisting of 37 units at Lot 57 DP 1083567, Casuarina Way Casuarina be refused for the following reasons: -

- 1. In accordance with Part 1 of Schedule 1 of the Environmental Planning and Assessment Regulation 2000, the owner of the land has not submitted owners consent for the making of the application.**
- 2. The proposed amendments to the consent are not considered to be consistent with the definition of tourist accommodation in accordance with the Tweed Local Environmental Plan 2000, the conditions of development consent with particular reference to Development Control Plan No. 2 and the Section 94 and Section 64 contributions.**
- 3. The proposed amendments are not considered to be in the public's interest**

REPORT:

Applicant: Resort Corp Pty Ltd
Owner: Resort Corp Life Pty Ltd
Location: Lot 57 DP 1083567 Casuarina Way Casuarina
Zoning: 2(e) Residential Tourist
Cost: Nil

BACKGROUND:

On 23 February 2006 consent was granted for a development application for tourist accommodation consisting of 37 units at Lot 57 DP 1083567, Casuarina Way, Casuarina.

The development application (DA05/1099) was assessed as tourist accommodation for the purposes of Development Control Plan No. 2 – Site Access and Parking. As the development application sought approval for tourist accommodation, assessing officers had regard for Development Control Plan No. 6 – Multi Dwelling Housing but did not enforce the provisions of this plan, as these are applicable to multi dwelling housing developments. Section 94 and Section 64 contributions were also calculated at a tourist accommodation rate.

Conditions were placed on the consent relating to the use of the tourist development, specifically condition numbers 4 and 65, which read as follows:

Condition No. 4: *This lot is approved only for tourist accommodation. The tourist accommodation units are not to be used for residential purposes excluding the manager's unit.*

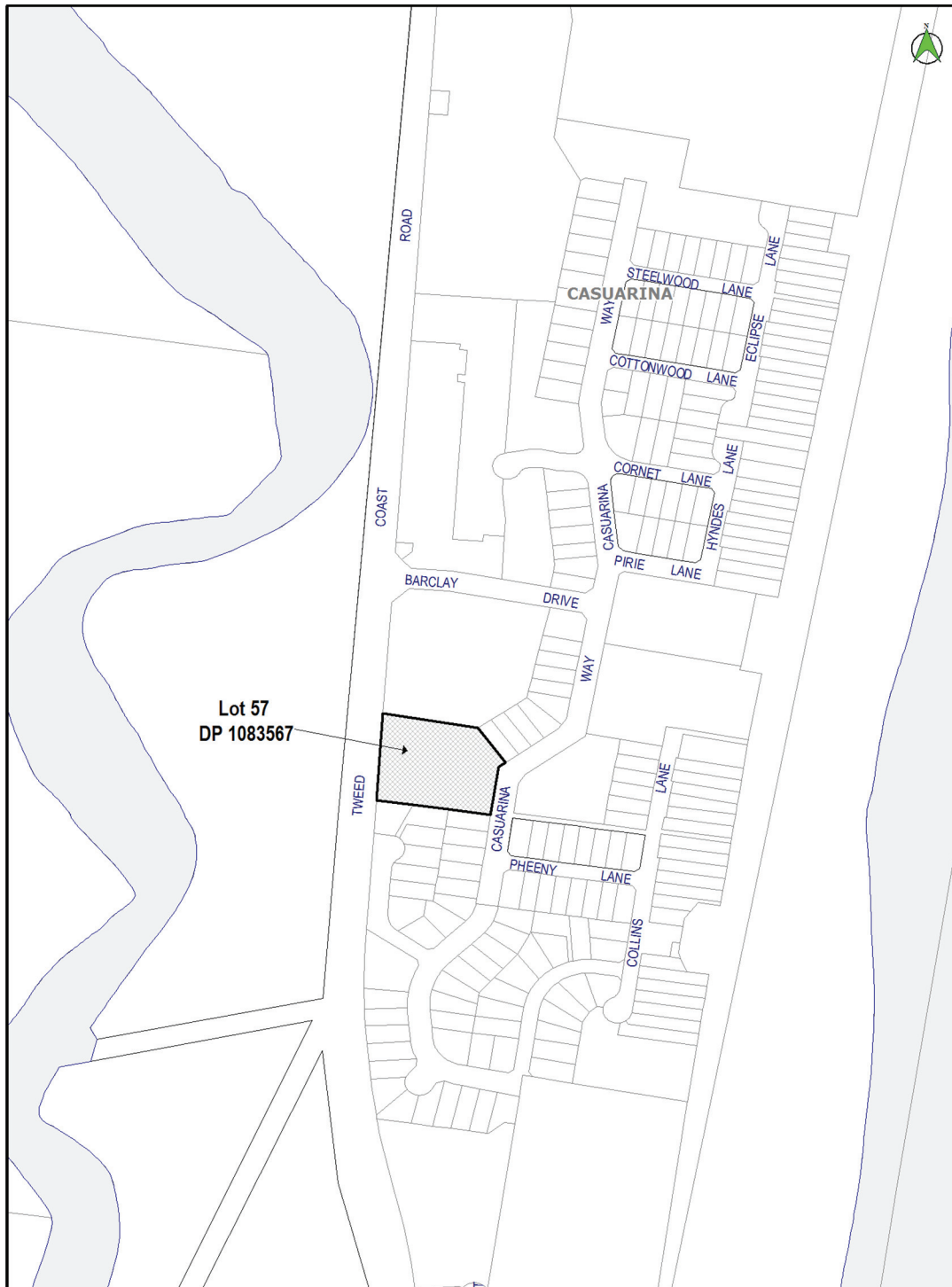
Condition No. 65: *Prior to the issue of the occupation certificate or upon registration of the subdivision certificate which ever occurs first, a restriction shall be placed on the title/s under Section 88B of the Conveyancing Act stating each unit is approved only for tourist accommodation and the tourist accommodation units are not to be used for residential purposes excluding the manager's unit.*


Council is in receipt of an application to amend the subject development consent, to delete Condition No. 65 and to amend Condition No. 4 to read as follows:

4. The units are to be used only for the purpose of tourist accommodation, as specified on the development application form.

The applicant submits that the definition of tourist accommodation in accordance with the Tweed Local Environmental Plan 2000 does not prohibit residential use of tourist development. The applicant states that condition numbers 4 and 65 are *inappropriate and unreasonable*, and are inconsistent with the definition of tourist accommodation.

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 616 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 57 DP 1083567 Casuarina Way, Casuarina</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>	
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: C.Davis</p>	<p>Date: 7/Aug/2006</p>	<p>Scale: 1:5,000</p>	<p>Sheet: 1 of 1</p>

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

Assessment

The applicant has provided the following justification for the proposed amendments:

- *The terms of these conditions which exclude residential purposes is considered to be inappropriate and unreasonable. Primarily this argument stems from the conflict of this element of the condition with the statutory definition of tourist accommodation as contained in the Tweed Local Environmental Plan (LEP) 2000.*
- *Conditions 4 and 65 in their present form conflict with the provisions of the Tweed LEP 2000. Specifically they are in conflict with the definition of tourist accommodation and also the objectives of the applicable 2(e) Residential Tourist zone.*
- *The Tweed LEP 2000 defines tourist accommodation to include a building principally used for the accommodation of tourists...The Tweed LEP 2000, by the use of the word principally clearly does not require that the building must be used exclusively for tourist accommodation.*
- *On this basis, the attempt to place covenants on the title of each unit excluding the residential use of the units inappropriately attempts to disallow what is contemplated under the Tweed LEP 2000.*
- *The applicable 2(e) zone under its primary objective specifically allows and encourages a mix of tourist and residential uses. This again is a conflict with the conditions which require the exclusion of residential uses.*
- *The legal opinion of Noel Hemmings QC clearly indicates that the conditions as they stand are also in conflict with the well established precedents of the Court and may well be beyond the jurisdiction of the consent authority.*

The current amendments are not supported. In accordance with the Tweed Local Environmental Plan 200, tourist accommodation is defined as:

"a building principally used for the accommodation of tourists but does not include a building elsewhere specifically defined in this Schedule."

The definition relates to a building/s being principally used for the accommodation of tourists. Deleting or amending condition numbers 4 and 65 as proposed by the applicant, will result in the possibility of the development being used principally for the accommodation of tourists and secondly being used for residential purposes. This is inconsistent with the development consent.

The development application was assessed as tourist accommodation for the purposes of DCP No. 2. As the original development (DA05/1099) was for tourist accommodation, assessing officers had regard for DCP No. 6 but did not enforce the provisions of this plan, which are applicable to multi dwelling housing developments. Section 94 and Section 64 contributions were also calculated at a tourist accommodation rate. It is noted that multi dwelling housing is permissible within the zone with consent, however this is not what the applicant applied for in the original development application (DA05/1099).

It is therefore considered to be inappropriate to support the proposed modifications.

Further, the land owner's consent has not been received for the subject modification.

Minimal Environmental Impact

Section 96(1A) of the EP&A Act 1979 provides that a consent authority may, on application being made by the applicant modify the consent if it is satisfied that the proposed modification is of minimal environmental impact.

As the proposed amendments relate to conditions of consent, the proposal is not considered to result in environmental impacts.

Substantially the Same Development

Section 96(1A) of the EP&A Act provides that a consent authority may, on application being made by the applicant modify the consent if it is satisfied that the proposed modification is substantially the same development as the development for which consent was originally sought.

The subject conditions were imposed on the development consent to reinforce the manner in which the development was to be used. By removing/amending condition numbers 4 and 65, the site may be used for tourist and residential accommodation purposes. This is contrary to the development consent as previously discussed in this report. It is considered that the proposed amendments are not substantially the same development as the use of the development is likely to change.

Notification

The amendment did not require advertising or notification in accordance with Development Control Plan No. 42 – Public Notification Policy. No submissions have been received to date.

Public interest

The proposed amendments to the development consent are not considered to be in the public's interests.

OPTIONS:

1. The proposed amendments be refused with reasons.
2. The proposed amendments be approved with conditions of consent.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicants are dissatisfied with Council's decision they may choose to appeal in the Land and Environment Court. If this option is taken by the applicants the Council will incur costs in defending the appeal.

POLICY IMPLICATIONS:

The amendments are considered to be inconsistent with the definition of tourist accommodation in accordance with the Tweed Local Environmental Plan 2000 and should not be supported. Approval of this application may result in similar requests from applicants of tourist accommodation developments, in the future.

CONCLUSION:

The current amendment is not considered to be consistent with the definition of tourist accommodation as per the Tweed Local Environmental Plan 2000. The development application was approved for tourist accommodation and was assessed accordingly. It is recommended that the subject modification be refused.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P4 [PD-PC] Development Application DA04/1547 for Alterations and Additions to Surf Club at Lots 459 & 471 DP 755701, Marine Parade Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA04/1547

SUMMARY OF REPORT:

Council is in receipt of a development application for the Cudgen Surf Lifesaving Club that seeks alterations and additions to lower and upper floors of the existing building.

In order to secure the clubs solvency and self-sufficiency the development application is geared to improve its income revenue capability so that much needed building maintenance and repairs, as well as life saving equipment, can be attained. This will be achieved by increasing the capacity of the kitchen to enable a 'commercial styled' operation in conjunction with the dining area. There is a small increase in balcony area. The application has been assessed on the basis that the balcony area will not increase the patronage of the club and no additional car parking is warranted.

The improvement works to the kitchen are considered appropriate to maintain the on-going use of the premises as a viable and effective surf lifesaving club that can continue to provide a high level of community service. The application is recommended for approval subject to conditions.

RECOMMENDATION:

That Development Application DA04/1547 for alterations and additions to Cudgen Surf Club at Lot 459, 471 DP 755701, Marine Parade Kingscliff 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.**
[GEN0120]
- 2. 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
 - (b1) 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
 - (b2) 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.
- [GEN0150]
3. A separate hand washbasin shall be provided in the kitchen, with warm water, hand cleaning agent and clean hand drying equipment. Separate washtubs shall be provided for cleaning and rinsing equipment.
4. The development shall be completed in accordance with the Statement of Environmental Effects and Plans CUDGEN SLSC 1 and CUDGEN SLSC 2 (as amended in RED), except where varied by the conditions of this consent.

[GEN0005]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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 Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.
- [PCC0280]
6. Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.

[PCC0290]

PRIOR TO COMMENCEMENT OF WORK

7. 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.

[PCW0010]

8. 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.

[PCW0070]

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.

[PCW0090]

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

[PCW0120]

11. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "*Tweed Shire Council Aus-Spec D7 - Stormwater Quality*" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond has been released.

[PCW0190]

12. 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.

[PCW0210]

13. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.

[PCW0220]

14. Trade Waste application fee will be applicable as per Councils Fees and Charges.

[PCW0240]

DURING CONSTRUCTION

15. 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 or complying development certificate was made).

[DUR0010]

16. 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.

[DUR0040]

17. 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.

[DUR0080]

18. 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.

[DUR0130]

19. 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.

[DUR0160]

20. 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.

[DUR0170]

21. 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.

[DUR0200]

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

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

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

[DUR0220]

23. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.

[DUR0310]

24. 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 covered to a radius of not less than 25 millimetres.

[DUR0320]

25. 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.
[DUR0330]
26. 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.
[DUR0350]
27. The applicant or operator of the proposed business is to enter into a maintenance contract which will ensure that the diversion valve is serviced by a licensed contractor at least every six months. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation.
[DUR0660]
28. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
[DUR0850]
29. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
[DUR0870]
30. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.
[DUR0880]
31. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
[DUR0900]
32. 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.**
- [DUR0910]
- 33. The burning of builders waste on site by open fire is prohibited.**
- [DUR0940]
- 34. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.**
- [DUR0960]
- 35. 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.**
- [DUR0980]
- 36. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:**
- a. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;**
 - b. external drainage prior to backfilling.**
 - c. completion of work and prior to occupation of the building.**
- [DUR1020]
- 37. 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.**
- [DUR1030]
- 38. 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.**
- [DUR1110]

39. 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:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * 50⁰C 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.

[DUR1160]

40. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.

[DUR1170]

41. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR1180]

42. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:

- i. All required erosion and sedimentation control devices have been installed and are operational.**
- ii. Required toilet facilities have been provided on the site.**
- iii. A sign has been erected on the site identifying:**
 - Lot number**
 - Builder**
 - Phone number of builder or person responsible for site.**
- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.**
- v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.**

[DUR1200]

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

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

[DUR1380]

44. Conspicuous edges are to be provided to the treads of all existing exit stairs in accordance with D2.13 of the Building Code of Australia.

45. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided throughout the whole of the building. Details of the system to be used and a certificate from the electrical engineer to certify that the system will comply with all relevant requirements of Part E4.4 of the Building Code of Australia and AS 2293.1 are to be submitted to the PCA prior to installation.

[DUR1305]

- 46 Exits are to be provided so that no point on the floor of the building shall be more than 20 metres from:

- (a) an exit; or
- (b) a point from which travel in different directions to two exits is available in which case the maximum distance to one of those exits shall not exceed 40 metres.

[DUR1285]

47. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and installed. Mounting heights shall be in accordance with AS2293.1.

[DUR1295]

48. Doors forming exits, paths of travel to exits and parts of exits shall comply with the relevant provisions of D2.19 and D2.20 of the Building Code of Australia.

[DUR1315]

49. The floor separating the storeys throughout the whole of the building is to have a '*fire protective covering*' on the underside of the floor, including beams incorporated in it, if the floor is combustible or of metal.

50. The existing AS 3786 smoke alarm system is to be extended to cover the whole of the building or be replaced by a AS1670 automatic smoke detection and alarm system complying with Specification E2.2a of the Building Code of Australia.

[DURNS02]

USE

51. 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.

[USE0160]

52. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997. [USE0170]
53. 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. [USE0220]
54. The premise shall be maintained in a clean and healthy state to the satisfaction of the Director of Environment & Community Services.
55. All storage, preparation or sale of food shall comply with the Food Act, 2003 and AS4674-2004.
56. Lighting shall not be permitted to impact the amenity of any premise.
57. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services.
58. Subject to the approval of the Liquor Administration Board trading hours at the premise are restricted as follows:
1. General trading hours:

Monday to Thursday	12 noon to 12 midnight
Friday and Saturday	7.30am to 1am
Sunday and public Holidays	7.30am - 12 midnight
 2. Sale of Alcohol

Monday to Thursday	12 noon to 12 midnight
Friday and Saturday	12 noon to 1am
Sunday and public Holidays	10am - 12 midnight
 3. Sale of food

Monday to Thursday	12 noon to 10pm
Friday and Saturday	7.30am to 11pm
Sunday and public Holidays	7.30am - 9pm

REPORT:

Applicant: Cudgen Headland SLSC
Owner: Cudgen Headland SLSC
Location: Lots 459 & 471 DP 755701, Marine Parade Kingscliff
Zoning: 6(a) Open Space
Cost: \$120000.00

BACKGROUND:

Council is in receipt of a development application seeking alterations and additions to the Cudgen Surf Club. It is proposed by the Club to carry out both ground and upper floor refurbishments.

Ground floor works include the creation of an additional 101.5m² of floor space. This is proposed by moving the existing eastern wall 3.5m toward the east for a distance north to south of 29m. These works require relocation of the existing stairs to the edge of the building. Existing rear roller doors will also be relocated to the new wall. The additional floor area allows increased space for the storage of both competition equipment as well as essential surf life saving safety equipment including weatherproof areas for rescue vessels, a new first aid room, and an upgrading of the female change room.

The upper floor works will comprise the addition of 18.7m² of balcony space on the southern elevation, where the foundations and rafters are presently existing as a void area, the inclusion of a new colour bond awning over a portion of the northern end of the eastern balcony, an extension and remodelling of the existing training room / junior lifesaver space, female change rooms and Kitchen. In addition, there will be a reduction in the size and layout of the southern male and female toilets.

Council issued conditional approval for alterations and additions to the Club in 1998, detailed by Application No. D98/117, which acknowledge the premises as a 'Club' and approved inter alia a warming kitchen. The planning report having defined the premises as a club then identified that a shortfall in car parking existed and subsequently recommended the application for refusal. Despite the shortfall of 22 car parking spaces Council recognised that the club provides an valuable service to the community and waived the requirement for further car parking in approving the application.

The infill of the void area to create a small balcony extension does, under strict application of the DCP No.2 – Access and Parking Code, generate the requirement for a further 3 spaces. This constitutes the only area of issue with this application. It is the view of the Development Assessment Unit, which is supported by Council's Traffic Engineer, that the balcony extension will not in isolation increase the patronage of the club. As such, a further waiver of the parking spaces, taken into consideration the community benefit derived from the operation of the lifesaving club, is considered warranted in this instance.

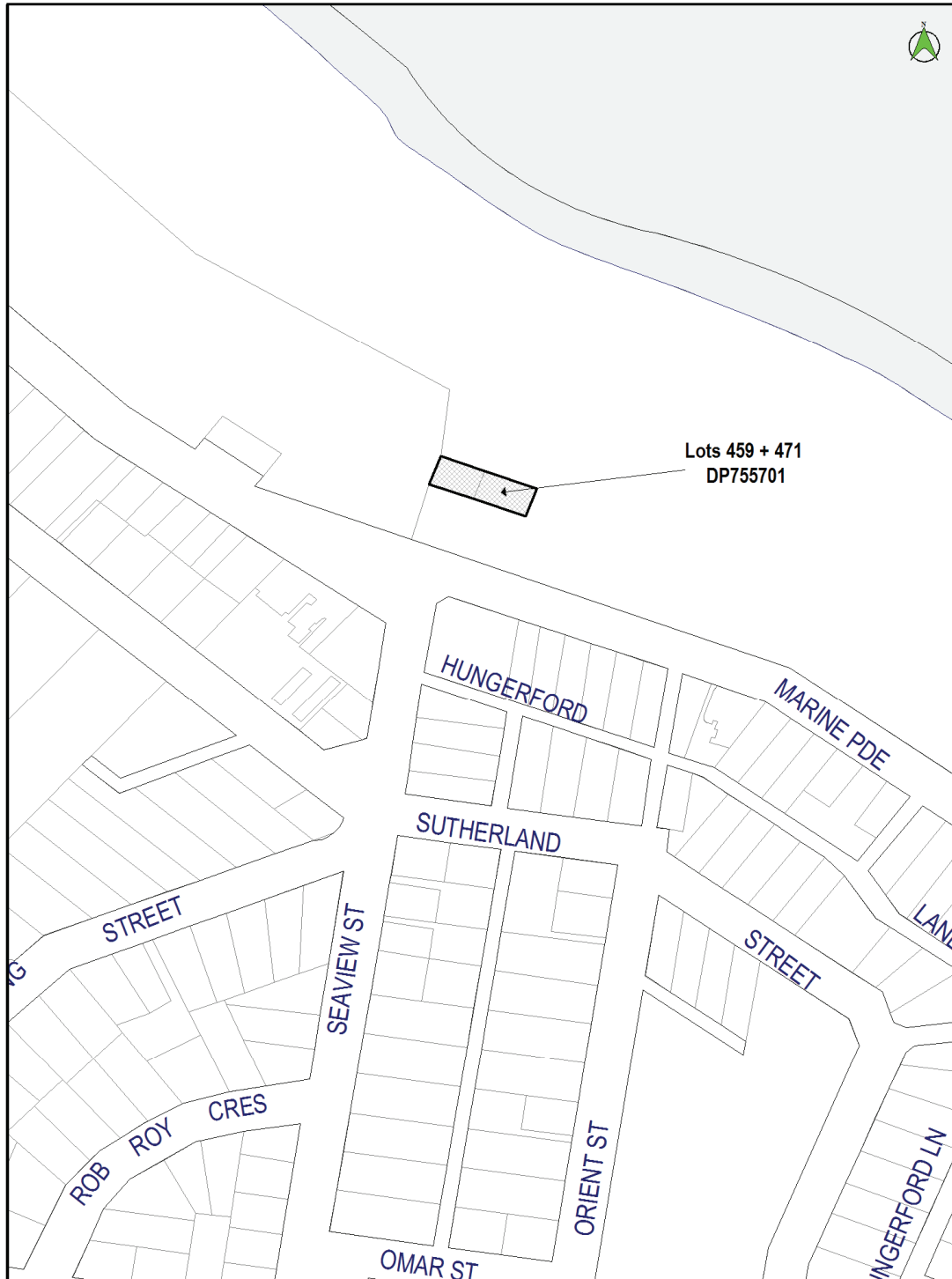
Site Details

The site is directly adjacent Kingscliff Beach to the east and a car park abutting Marine Parade to the west. To the south of the site is a coastal reserve and a caravan park adjoins the north.

An increase in the size of the building footprint is not sought by the application. The Club is presently located over a number of sites including Lot 451 and Lot 471 DP 755701. It has also come to light during assessment of the application that part of the building is also situated on part of Crown reserve 10011008. This has substantially delayed the application and has led to the requirement for a new lease arrangement between Council, the Applicant and the Department of Lands.

The Department of Lands, being owner of all the subject allotments, has provided owners consent to the lodgement of the development application.

SITE DIAGRAM:

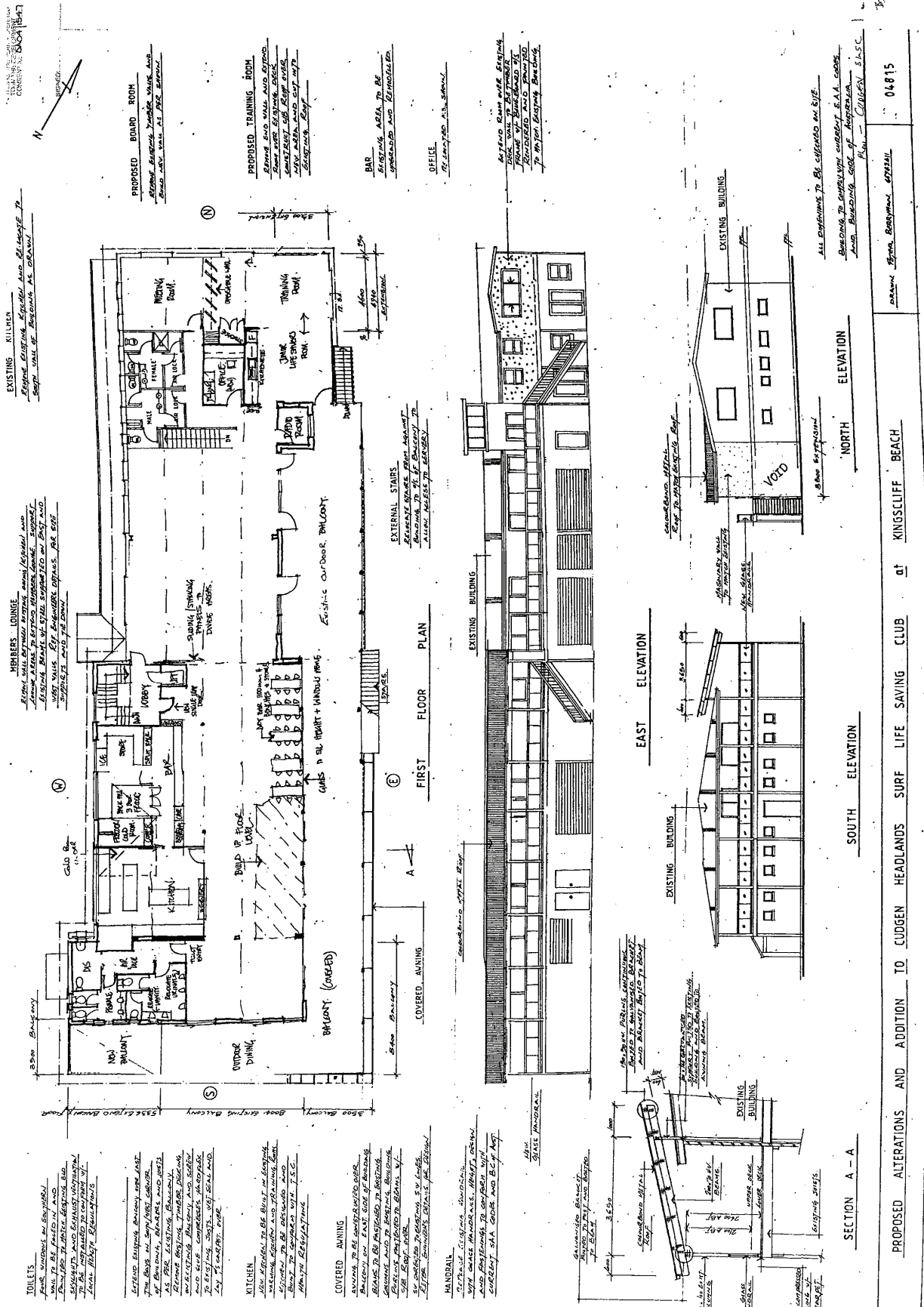


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Tweed Shire Council
 Lots 459 + 471 DP 755701
 Marine Parade, Kingscliff
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 7/Aug/2006



STRATEGIC PLANNING UNIT
Site Plan
 Scale: 1:2,500 Sheet: 1 of 1



EXISTING KILNERS
 Existing Kilners, Excavated and Demolished - 7
 Keep site of foundation at ground

MEMBERS LOUNGE
 Sit on the left hand side of the lounge
 3000 BATTERY
 3300 BATTERY
 3500 BATTERY

TOILETS
 2 x Men, 2 x Women
 1 x Baby Change

KITCHEN
 10 x 10
 10 x 10
 10 x 10

COVERED AWNING
 3000 BATTERY
 3300 BATTERY
 3500 BATTERY

HANDRAIL
 10 x 10
 10 x 10
 10 x 10

BAR
 10 x 10
 10 x 10
 10 x 10

PROPOSED TRAINING ROOM
 10 x 10
 10 x 10
 10 x 10

EXISTING BOARD ROOM
 10 x 10
 10 x 10
 10 x 10

EXTERNAL STAIRS
 10 x 10
 10 x 10
 10 x 10

ALL WORK TO BE COMPLETED
 10 x 10
 10 x 10
 10 x 10

PLAN NORTH
 10 x 10
 10 x 10
 10 x 10

SECTION A - A
 10 x 10
 10 x 10
 10 x 10

04815

PROPOSED ALTERATIONS AND ADDITION TO CUDGEN HEADLANDS SURF LIFE SAVING CLUB at KINGSCLIFF BEACH

DRAWN: SPERA BROADBENT: 07/04/06

DATE: 15/08/06

SCALE: 1:50

PROJECT NO: 04815

15/08/06

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 6(a) Open Space under the provisions of the Tweed Local Environmental Plan 2000. A Club, as per the definition of the plan, is allowed only with consent in the 6(a) zone and must also satisfy the provisions of Clause 8. The objective of the zone is to identify existing public land to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land. The Club is a vital life saving facility that is required in this locality, and which satisfies the objectives of the zone. This particular Club has, since its operation on the site since 1922, also become a local icon and is consistent with the Tweed LEP.

North Coast Regional Environmental Plan 1988

32B Development control – coastal lands

- (1) *This clause applies to land within the region to which the New South Wales Coast Government Policy applies.*
- (2) *In determining an application for consent to carry out development on such land, the council shall take into account-*
 - (a) *The New South Wales Coast Government Policy;*
 - (b) *The Coastline Management Manual; and*
 - (c) *The North Coast: Design Guidelines.*
- (3) *The council shall not consent to the carrying out of development which would impede public access to the foreshore area.*
- (4) *The council shall not consent to the carrying out of development-*
 - (a) *on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time); or*
 - (b) *elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 4pm midwinter (standard time) or 7pm midsummer (daylight saving time).*

The proposed alterations and additions will not cause any further overshadowing to beaches or waterfront open space or impede public access to the foreshore area, nor does the proposal contradict the strategic aims and objectives of The New South Wales Coast Government Policy, The Coastline Management Manual and, The North Coast: Design Guidelines.

33 Development control – coastal hazard areas

Before granting consent to development on land affected or likely to be affected by coastal processes, the council shall:

- (a) take into account the Coastline Management Manual,*
- (b) require as a condition of development consent that disturbed foreshore areas be rehabilitated, and*
- (c) require as a condition of development consent that access across foredune areas be confined to specified points.*

The Development Assessment Unit has taken into account the aims and objectives of the Coastline Management Manual, in particular Part 5.2.4(a) which refers to seawalls. Council's Draft Coastline Management Plan has proposed a seawall that is to be located adjacent to the club along the foreshore. The proposal will not impact on the seawall or contradict the strategic aims and objectives of the Coastline Management Manual. The proposal will not disturb the foreshore or increase access points.

81 Development control – development adjacent to the ocean or a waterway

- (1) The council shall not consent to a development application for development on land within 100 meters of the ocean or any substantial waterway unless it is satisfied that:*
 - (a) there is a sufficient foreshore open space which is accessible and open to the public within the vicinity of the proposed development,*
 - (b) buildings to be erected as part of the development will not detract from the amenity of the waterway, and*
 - (c) the development is consistent with the principles of any foreshore management plan applying to the area.*
- (2) Nothing in subclause (1) affects privately owned rural land where the development is for the purpose of agriculture.*

The proposal will not detract from the amenity of Kingscliff Beach and the footprint of the existing surf club will remain unaltered.

The Draft Tweed Coastline Management Plan (May 2004) identifies the site as being located in the immediate hazard zone. The Draft Plan notes a proposal for a seawall to be erected and sand nourishment to occur in front of the club. The proposed additions would not reduce the clubs setback from the dunes and as such does not contradict the principles of the Draft Tweed Coastline Management Plan. The proposed development is not inconsistent with the strategic aims and objectives of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policy No. 71 – Coastal Protection

The development site is within the area defined as a sensitive coastal location and the provisions of this policy apply. The proposed additions and alterations have been considered against the Clause 2 'Aims' and Clause 8 'Matters for Consideration', of the Policy, as satisfactory.

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

There are no Draft Environmental Planning Instruments known to exist that would have any bearing on neither the assessment of this application nor recommendation of this report.

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

Development Control Plan No. 2 – Access and Parking Code

DCP 2 contains Council's requirements for access and car parking. The proposed works essentially allow for an additional 18.7m² of balcony area. Relocation of the kids area and extension of the training room is not considered to generate additional demand for car parking. Similarly, the additional downstairs space is proposed to allow for undercover protection of Club assets from weather elements, no additional demand is created.

Council's Traffic and Transport Engineer has provided comment in relation to the proposed development:

"..18.7m² is new G.L.A. As the kitchen and existing deck would have existing rights based on category 31 table 7.1 of the TRCP, as the rate is the same for the whole club, the vehicle trip generation based on new floor area is 18.7 vehicle trips per day. Since the applicant states on p 5 that the area in question will be used for other uses other than dining which results in the proposal being classified as category 31. This means that the proposal will generate an extra 18.7 vehicle trips per day which is minimal and will easily be accommodated by the adjoining road network".

The use of the existing building structures to create an 18.7m² of outdoor balcony results in a demand for an additional three car spaces. These spaces cannot be accommodated on-site. It is considered that the additional area will have no impact on the patronage of the surf club, but rather, it will serve the needs of existing patrons. Bearing this in mind in conjunction with the community benefit derived from the club it is considered that there is sufficient circumstance to warrant the granting of approval of the balcony without the requirement for the additional car parks. In doing so it is considered unlikely that there would be any adverse impact on the locality arising from the use of the balcony and the maintenance of the status quo on car parking.

Development Control Plan No. 43 – Kingscliff

DCP 43 is a strategic based plan relating to Kingscliff, providing background information to individual precincts within the locality, precinct objectives and strategic policies. The site is located within DCP 43, in particular, the Town Centre Precinct. The vision for the area covered by DCP 43 is as follows:

“A highly attractive, low key coastal resort town with a distinctive built character, a high degree of pedestrian amenity and strong physical and visual connections with the surrounding coastal environment.”

The objectives of the town centre precinct are to reinforce a sense of place by developing those building and streetscape elements characteristic of Kingscliff and to foster a stimulating town centre environment through the development of a range of mixed commercial and residential developments, tourist accommodation and a range of cafes and restaurants incorporating outdoor dining.

The proposed development is not considered contrary to these objectives. Rather the surf club has been described as an integral component of the Kingscliff community, with iconic status, and the proposed development will reinforce this role.

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

In accordance with cl. 92 1(a)(ii) the application has been considered against the provisions of the New South Wales Coastal Policy 1997, and is satisfactory.

In accordance with Clause 43 of the EP&A Regulation 2000, Council's Building Services Unit have considered fire safety within the building and recommended appropriate conditions, which are attached to this report.

(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 development is not considered likely to cause detrimental impacts to the surrounding natural and built environment, socially or economically in the locality.

(c) Suitability of the site for the development

The site is suitable for the proposed development.

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

The proposed development was advertised and placed on public exhibition for a period of two weeks, in accordance with Council's adopted policy. No submissions were received.

(e) Public interest

The land-use the subject of the application provides an indispensable and much needed public benefit. The proposed alteration and additions will reinforce the on-going viability of the surf life saving club and its community benefits that are directly in favour of the public interest.

OPTIONS:

1. Approve the application subject to the consent conditions provided in this report.
2. Refuse the application and provide reasons for so doing.
3. Approve the application without the additional balcony space.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Resolution to adopt Option 1 above will not result in financial, legal or resource implications.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having considered the nature of the land-use activity, its role within the community and the requirement for financial stability in order to meet its obligations the application is recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P5 [PD-PC] Development Application DA06/0399 for 14 Factory Units in 2 Stages at Lot 1 DP 608374, No. 28 Machinery Drive Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: DA06/0399 Pt1

SUMMARY OF REPORT:

This report has been prepared for the determination of Development Application DA06/0399, which seeks approval for a 14 unit factory development in two stages.

There are no significant issues that cannot be effectively managed through implementation of appropriate conditions of approval. No public submissions have been received in response to its public advertisement.

The application is recommended for approval.

RECOMMENDATION:

That Development Application DA06/0399 for 14 factory units in 2 stages at Lot 1 DP 608374, No. 28 Machinery Drive Tweed Heads South be approved subject to the following conditions: -

GENERAL

- 1. No signage, business identification, advertising, building identification or the like, is approved by this consent.**
- 2. All signage shall be subject to separate development approval where statutorily required.**
- 3. The occupation of each and every unit is subject to separate development approval.**
- 4. The provision and maintenance thereafter of 47 car parking and 1 designated loading bay space in Stage 1 and a combined total of 64 car parking and 2 designated loading bays at completion of Stage 2.** [GENNS02]
- 5. Stage 2 construction of the factory units shall commence within 5 years of the issue of Occupation Certificate(s) of the Stage 1 buildings.** [GENNS03]
- 6. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.** [GEN0115]

7. The site shall be remediated in accordance with all of the provisions of the Remedial Action Plan prepared by Precise Environmental dated May 2006 Ref. PE06.06 and the provisions of the Site Audit Statement Ref. 0103-0603 by Marc Salmon dated 15 May 2006 or any revised or amended Remedial Action Plan that is submitted with an accompanying Site Audit Statement from a NSW Site Auditor Scheme accredited Site Auditor under the Contaminated Land management Act 1997.
8. A Validation Report complying with the relevant provisions of the Remedial Action Plan prepared by Precise Environmental dated May 2006 Ref. PE06.06 or the relevant provisions of any revised or amended Remedial Action Plan that is submitted with an accompanying Site Audit Statement from a NSW Site Auditor Scheme accredited Site Auditor under the Contaminated Land Management Act 1997 shall be submitted to Council within 45 days following the completion of the remedial works.
9. The option to dispose of soil material to landfill is subject to the results of the soil analysis being made available to Council's Waste Management Coordinator. The results are to be expressed in total concentrations, or leachable concentrations (TCLP) if required. The results of the soil analysis must meet the *Environmental Guidelines: Assessment, classification & Management of Non-Liquid Wastes* as published by the NSW EPA. Meeting the guideline levels does not represent approval to dispose of the material to landfill. Disposal of the material to landfill is subject to approval from Council's Waste Management Coordinator.

[GENNS01]
10. 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]
11. 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]
12. The development shall be completed in accordance with the documents listed in the table below, except where varied by the conditions of this consent.

1.	Development Application DA06/0399 lodged on 24 April 2006.		
2.	Statement of Environmental Effects, to the extent of inconsistency with the nominated approved plans, prepared by Darryl Anderson Consulting Pty Ltd dated March 2006.		
3.	Stormwater Management Plan prepared by Cozens, Regan, Williams, Prove Pty Ltd dated December 2005.		
4.	Erosion and Sediment Control Plan prepared by Cozens, Regan, Williams, Prove Pty Ltd dated December 2005.		
5.	Acid Sulfate Soils Assessment prepared by Border-Tech (geotechnical engineering services) Pty Ltd dated November 2005.		
6.	Site Overview and Soil Testing Report prepared by Border-Tech (geotechnical engineering services) Pty Ltd dated 31 October 2005.		
7.	Remedial Action Plan prepared by Precise Environmental (consulting environmental scientists) Pty Ltd dated May 2006.		
8.	Detailed (Stage 2) Site Contamination Investigation prepared by Precise Environmental (consulting environmental scientists) Pty Ltd dated 16 March 2006.		
9.	Preliminary (Stage 1) Site Contamination Investigation prepared by Oxbow Environmental Pty Ltd dated December 2005.		
10.	Site Audit Statement prepared by RES (Mr Marc C Salmon) submitted to Council on 19 May 2006.		
11.	Architectural drawings prepared by Frankland & Associates Pty Ltd: -		
	Drawing No.	Revision	Name of Plan
	TP 00 - 05171	D	Site Plan Stage 1 & 2
	TP 01 - 05171	I	Floor Plan Stage 1
	TP 02 - 05171	F	Floor Plan Stage 2
	TP 03 - 05171	E	Elevations
			Date
			12/04/06
			12/04/06
			12/04/06
			12/04/06

[GEN0005]

13. No vehicle hoists, car workshops, mechanical bays or the like are approved by this consent.
14. The building alterations depicted on the development plans is approved to the extent of it being a roofed and enclosed car storage area to one storey in height.

[GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

15. 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.

Stage 1

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector2_4	\$16,120
(b) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,023.99

Stage 2

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector2_4	\$7,376
(b) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$1,517.99

[PCC0215/PSC0175]

16. 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:

Stage 1

Water DSP4:	2.074 ET @ \$4598	\$9,536
Sewer Banora:	2.074 ET @ \$2863	\$5,938

Stage 2

Water DSP4:	0.949 ET @ \$4598	\$4,364
Sewer Banora:	0.949 ET @ \$2863	\$2,717

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]

17. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.
[PCC1115]
18. 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]
19. 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]
20. 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]
21. 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]
22. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.
[PCC1275]
23. Prior to the issue of any Construction Certificate a letter is to be provided to the satisfaction of Council's Manager Development Assessment Unit from the Waste Contractor that will service the site to the effect that the site can be suitably accessed for the removal of waste.
[PCCNS01]

24. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 2.6m AHD.
 - (b) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.
 - (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.
- [PCC0705]
25. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for any works within the road reserve. The driveway shall be in accordance with Council's 'Driveway Access to Property' specifications, having a 13m driveway width at the kerb and a 7m width at the boundary with a thickness of 200mm reinforced with F82 steel.
- [PCC0885]
26. 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]
27. 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]

28. 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".
29. All structures must be located clear of the drainage easement at the rear of the site.
30. As the connection of hardstand/carpark stormwater to the existing piped drain located within the drainage easement burdening adjoining Lot 52 DP 618988 to the east (as per Cozens Regan Williams Prove Drawing No. F.12.5 - Sk.2A) requires drainage works on private land, the written consent of the affected landowner is required prior to the issue of a Construction Certificate.

[PCC1155]

As an alternative to the above, the hardstand/carpark drainage may be connected directly to the gully pit located in the Machinery Drive kerb and gutter to the immediate north east of the site. Engineering details of these connection works shall be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.

31. All overland surcharge flows from the hardstand/carpark area shall be directed to the Machinery Drive kerb and gutter. Any changes in driveway levels during the staging of the development must adequately provide for surcharge flows from the hardstand/carpark drainage system, so that excessive ponding and stormwater flooding of the factory units will not occur.

32. The developer shall arrange with Council's Manager Works for the realignment of the portion of the public stormwater pipe that encroaches within the development site. Council shall undertake the realignment works, at no cost to the developer, provided the developer undertakes all preparatory works required by the Manager Works, including removal of all fencing, car bodies and material stockpiles along the eastern boundary of the site, and location of any Country Energy Services within the drainage easement. The scheduling of the pipe realignment works shall be at the discretion of the Manager Works, and until these realignment works are completed to the satisfaction of the Manager Works, no building works shall commence in the vicinity of this pipe.
33. Any stormwater drainage pipe relocation works undertaken in pursuance of this consent, within the easement created under D P 563193, shall comply with the Acid Sulfate Soils Management Plan submitted by Border Tech and the Erosion and Sediment Control Plan by Cozens, Regan, Williams & Prove Pty Ltd, submitted with the application. [PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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

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

- [PCW0255]
35. 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]
36. 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]
37. Prior to the commencement of building work, a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority to certify that adequate consolidation of foundation material has been achieved to support the proposed structure.
- [PCW0755]
38. 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:
- (a) The person must, at the person's own expense:
 - (i) preserve and protect the building from damage; and
 - (ii) if necessary, underpin and support the building in an approved manner.
 - (b) 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.
- [PCW0765]
39. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.
- [PCW0955]

40. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
[PCW0965]
41. 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]
42. 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]
43. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.
[PCW1075]
44. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
[PCW1085]
45. Prior to the commencement of any works on the site all required plumbing and drainage inspection fees are to be submitted to Council.
[PCW1095]
46. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.
[PCW1105]
47. 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]
48. 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]

49. 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.

50. It is the responsibility of the contractor to identify and locate all underground utility services prior to commencing works. [PCW0985]

[PCW1165]

DURING CONSTRUCTION

51. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

[DUR0785]

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

[DUR0815]

53. 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]

54. 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]

55. 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]

56. 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]

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

[DUR0095]

58. 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]

59. 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]

60. (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]

61. If the work involved in the erection or demolition of a building:
(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

- (b) building involves the enclosure of a public place,

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

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

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

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

[DUR0435]

62. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR0445]

63. 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]
64. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate. Once the approved haul route has been identified and approved by Council's Traffic and Transport Engineer, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works. [DUR0725]
65. The proposed earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion. [DUR0795]
66. 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]
67. 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]
68. 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]
69. 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]

70. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]
71. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]
72. 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 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]
73. 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]
74. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
75. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
76. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged. [DUR2525]
77. 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]
78. 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]
79. 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:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

* 50⁰C 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]

80. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR2675]

81. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement

[DUR2685]

82. The proponent shall notify Councils Engineering and Operations Division upon excavation of any disused sewer junction awaiting capping by Council.

[DUR2715]

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

[DUR2415]

84. 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]

85. 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]

86. 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]

87. 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]

88. 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]

89. Practical measures to the satisfaction of the General Manager or his delegate are to be taken to acoustically shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring or adjacent premises.

[DUR0265]

90. 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]

91. 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]

92. 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]

93. 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]

94. 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]
95. **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]
96. **All excavation works are to be carried out in accordance with the submitted Acid Sulfate Soils Assessment prepared by Border-Tech, Job No. BT 15196, dated November 2006.**
- [DUR1065]
97. **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]
98. **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]
99. **Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal a waste transporter licensed by the EPA.**
- [DUR2215]
100. **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]
101. **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]

102. All surface waters other than stormwater shall be directed to Council approved pre-treatment facilities before discharge to sewer. Details are to be submitted to and approved by Tweed Shire Council prior to installation.

[DUR2725]

103. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by Tweed Shire Council prior to installation

[DUR2735]

104. The applicant or operator of the proposed business is to enter into a maintenance contract which will ensure that the diversion valve is serviced by a licensed contractor at least every six months. Details are to be submitted to and approved by Tweed Shire Council prior to installation.

[DUR2745]

105. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

106. 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]

107. 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]

108. 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]

109. 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]

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

[POC1055]

111. Any vehicles loading / unloading outside of the designated loading bay, but within the property boundary, must do so between the hours of 6.30am - 9.30am.

[USENS01]

USE

112. 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]
113. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.
[USE0135]
114. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
[USE0145]
115. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.
[USE0205]
116. No items or goods are to be stored or displayed outside the confines of the premises.
[USE0445]
117. All trade materials, product and plant to be kept within confines of the building at all times.
[USE0515]
118. All loading/unloading to take place within the boundary of the subject property.
[USE0525]
119. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate.
[USE1055]
120. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.
[USE1455]

REPORT:

Applicant: Mr K Driesen
Owner: Mr K Driesen
Location: Lot 1 DP 608374, No. 28 Machinery Drive Tweed Heads South
Zoning: 3(c) Commerce & Trade
Cost: \$2.8 million

BACKGROUND:

This report has been prepared for the determination of Development Application DA06/0399, which seeks approval for a 14 unit factory development in two stages.

The site is currently used by D R Wreckers, as a car wreckers yard, and by Tweed City Hire. The existing on site buildings will ultimately be demolished during the development phases of both stage 1 & 2. The staged works comprise: -

Stage 1

- Demolition of the existing Twin City Hire building and part of the D R Wreckers facility.
- Construction of 8 factory units with a total gross floor area of 2153m²
- Addition to the existing D R Wreckers building comprising an increase in floor area of 171m².
- Provision of 47 on-site car parking spaces and 1 designated loading bay.
- Any required site remediation works.

Stage 2

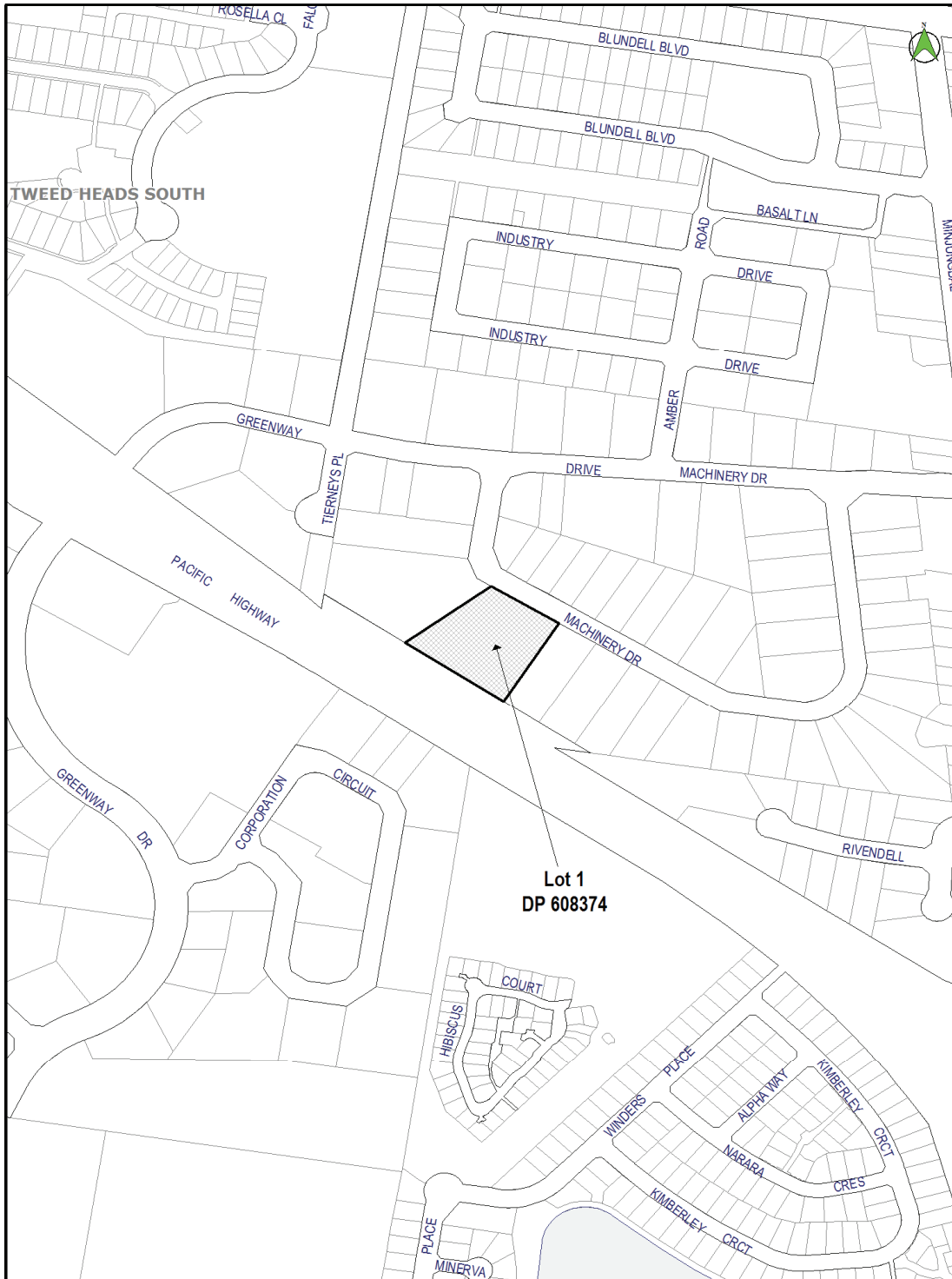
- Demolition of the remaining D R Wreckers building (including improvements).
- Construction of 6 factory units with a total gross floor area of 1757 m².
- Provision of a further 17 car spaces and additional loading bay providing a total of 64 on-site car parking spaces.

The proposal does not present any significant areas of issue or compliance. By way of background information the following areas are addressed further in this report: -

- Land contamination
- Parking and access
- Location of Council's stormwater drain

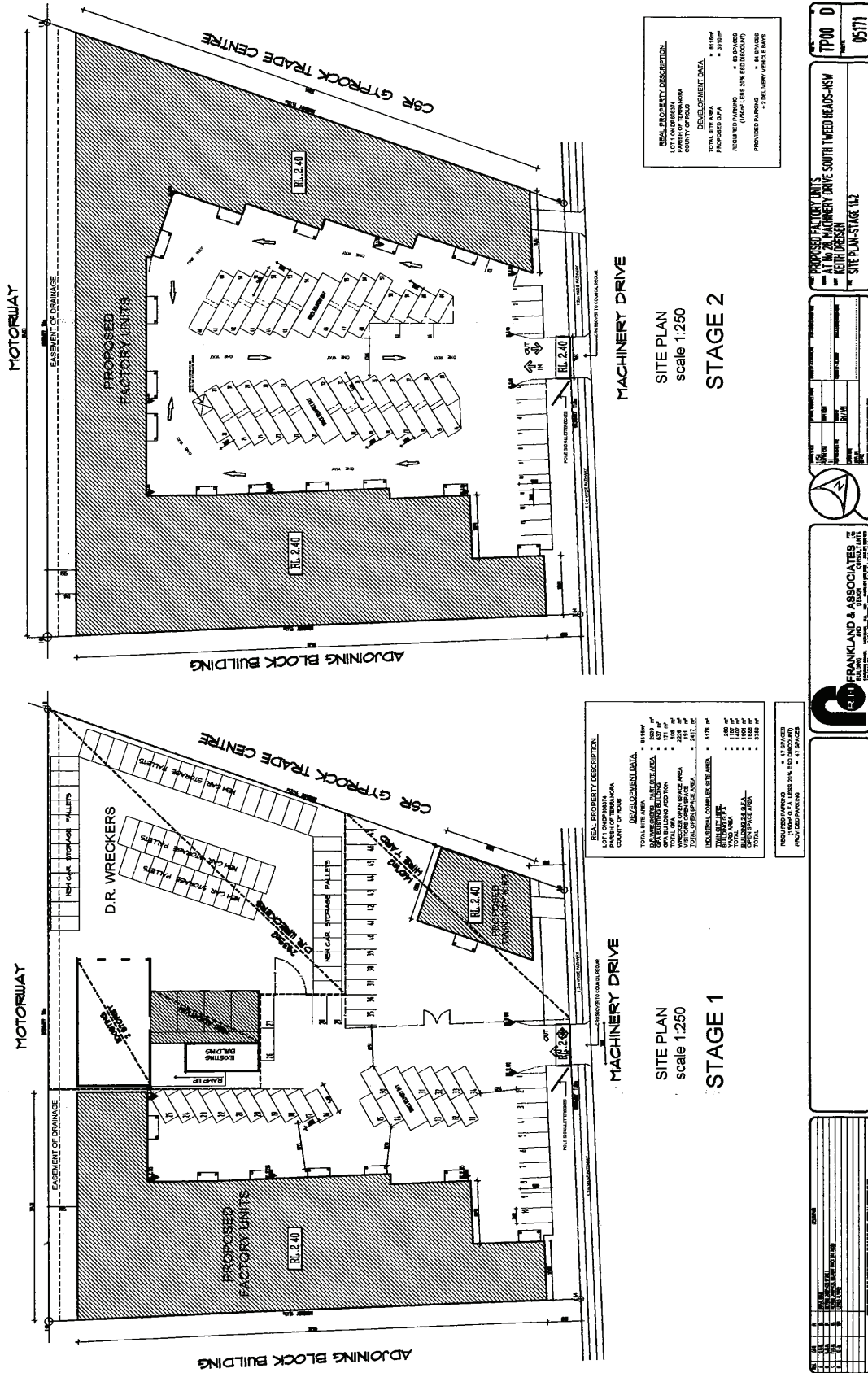
This report recommends conditional approval of the application.

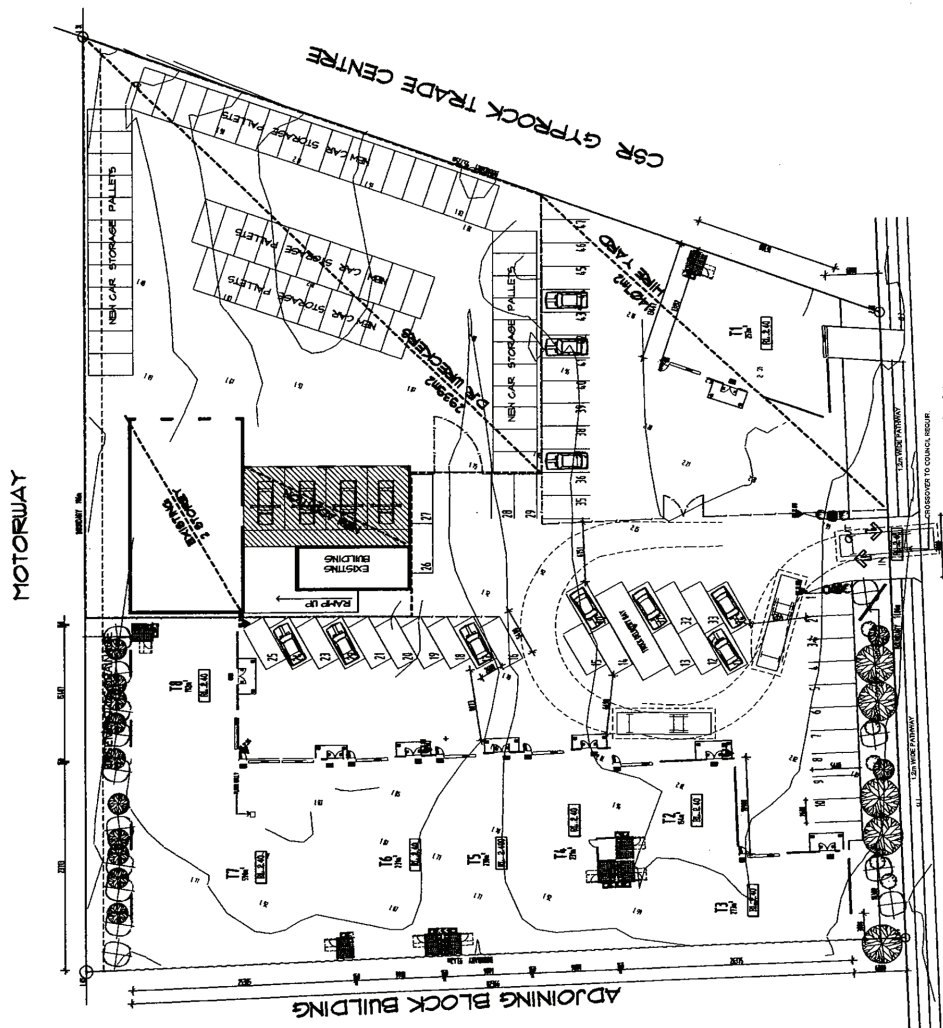
SITE DIAGRAM:



<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> Lot 1 DP 608374 Machinery Drive Tweed Heads South</p>	 <p>TWEED TWEED SHIRE COUNCIL</p>	<p>STRATEGIC PLANNING UNIT</p> <p>Site Plan</p>	
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: C.Davis</p>	<p>Date: 7/Aug/2006</p>	<p>Scale: 1:5,000</p>	<p>Sheet: 1 of 1</p>

PLANS:





STAGE 1

FLOOR PLAN
scale 1:200

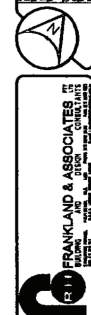
REAL PROPERTY DESCRIPTION	
LOT 1 ON DPHWDA	
PARISH OF TERRANORA	
COUNTY OF IRIBRA	
DEVELOPMENT DATA	
TOTAL SITE AREA	= 8116m ²
BASEMENT BUILDING FOOTPRINT AREA	= 237m ²
GPA BUILDING ADDITION	= 171m ²
NEW CAR STORAGE	= 222m ²
VISITOR OPEN SPACE AREA	= 191m ²
INDUSTRIAL COMPLEX SITE AREA	= 2511m ²
TOTAL	= 5176m ²
TOTAL CITY LIGHT	= 752
VAPOUR AREA	= 1127m ²
SHED AREA	= 1607m ²
OPEN SPACE AREA	= 1889m ²
TOTAL	= 5129m ²
REQUIRED PARKING	= 47 SPACES
PROPOSED PARKING	= 206 SPACES
PRODUCED PARKINGS	= 159 SPACES

NO.	DATE	DESCRIPTION
1	08/01/06	PRELIMINARY
2	15/08/06	FINAL

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PROJECT NO.	
CLIENT	
DATE	
DRAWN BY	
CHECKED BY	
DATE	

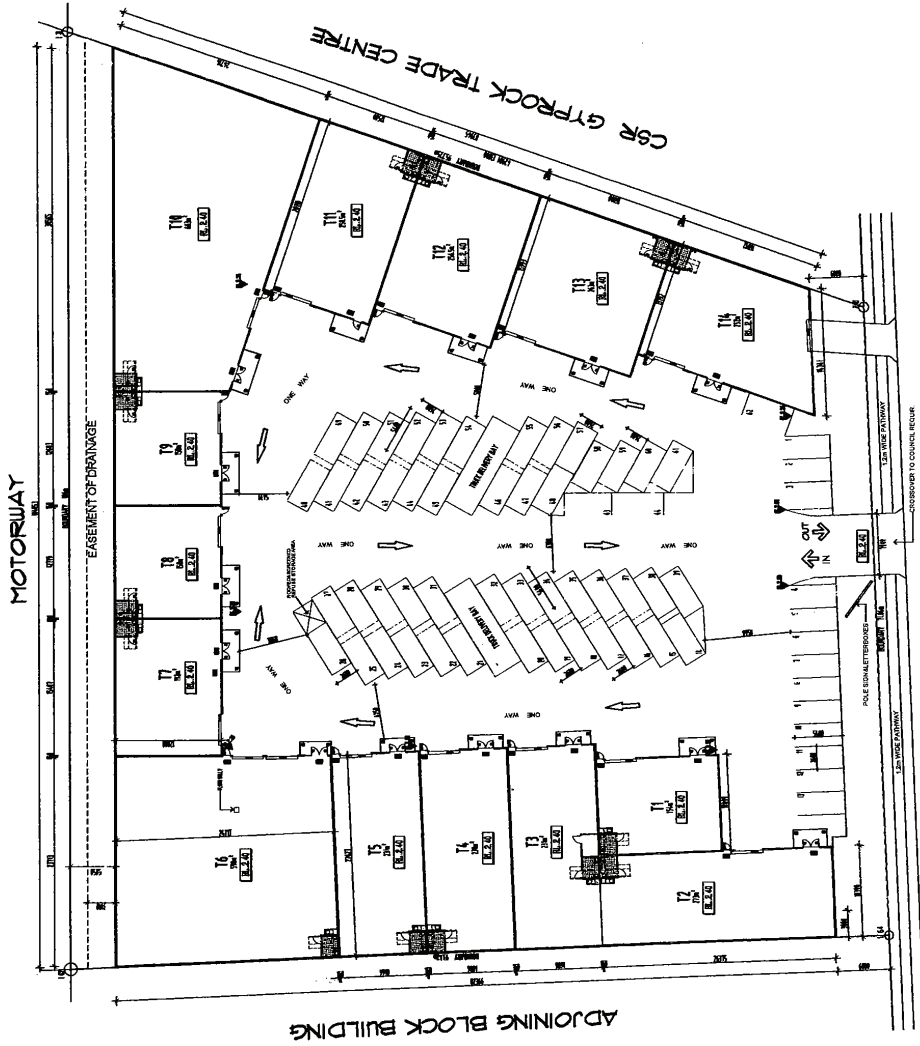
NAME	FRANKLAND & ASSOCIATES LTD
ADDRESS	101/102 SOUTH TWEED HEADS NSW
POST CODE	2471
PHONE	07 5532 2222
FAX	07 5532 2223
EMAIL	frankland@frankland.com.au



PROPOSED FACILITY DETAILS	
NAME	
ADDRESS	
POST CODE	
PHONE	
FAX	
EMAIL	

PROPOSED FACILITY DETAILS	
AT No. 78, MACHINERY DRIVE SOUTH TWEED HEADS-NSW	
BY NORTH DRSSEN	
THIS FLOOR PLAN - STAGE 1	

TP01	1
05171	



REAL PROPERTY DESCRIPTION	
LOT 1 ON DP88374	8116 sq ft
2865/406 BRINDLEY	3970 sq ft
ROAD	
QUEENSLAND	
COUNTY OF ROUS	
DEVELOPMENT DATA	
TOTAL SITE AREA	= 8116 sq ft
PROPOSED G.P.A.	= 3970 sq ft
REQUIRED PARKING	= 63 SPACES
(1/100th LESS 20% ESD DISCOUNT)	
PROVIDED PARKING	= 64 SPACES
+ 2 DELIVERY VEHICLE BAYS	

STAGE 2

FLOOR PLAN
scale 1:200

DATE: 15/08/06
DRAWN BY: TP02 F
CHECKED BY: 05171

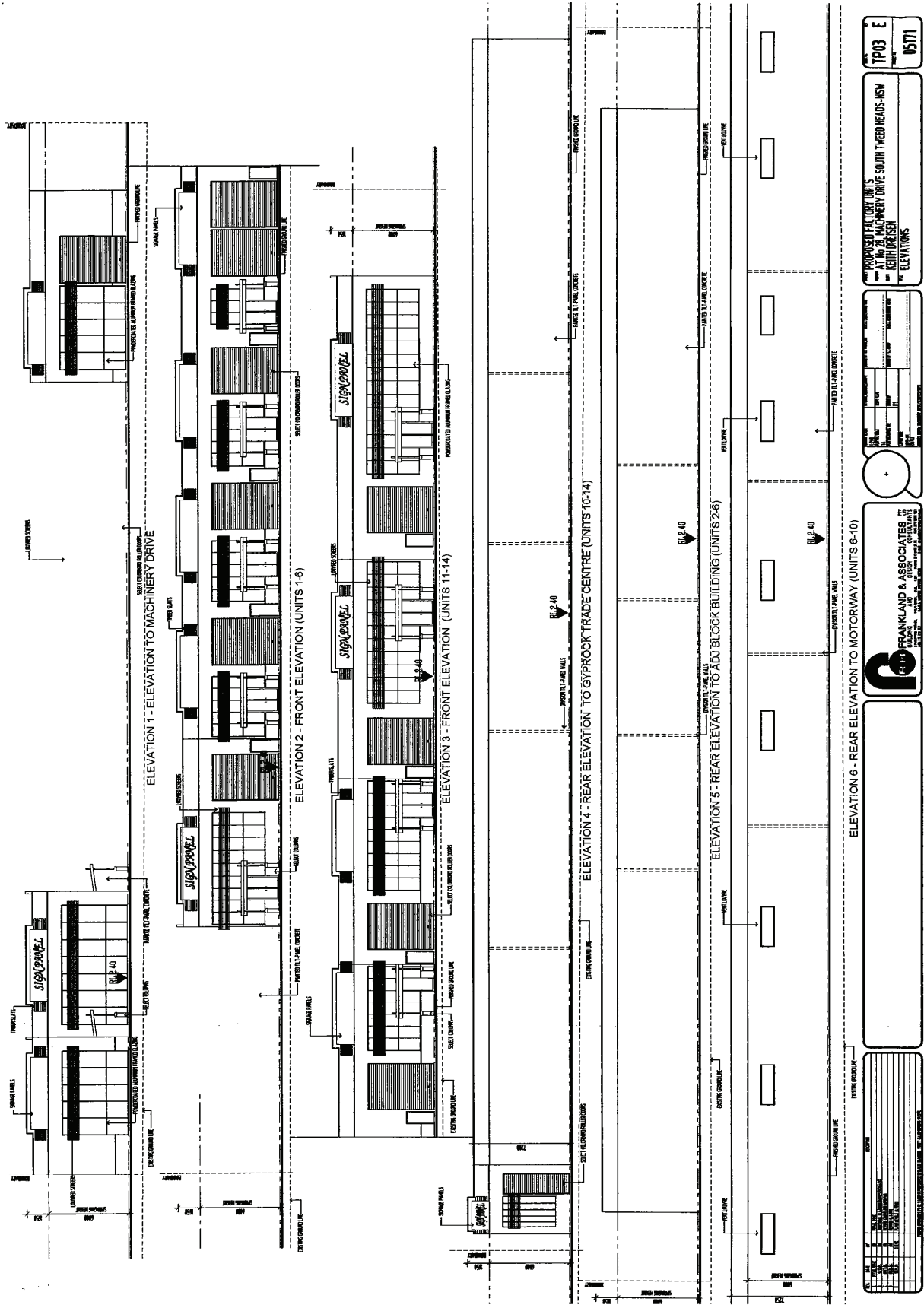
PROJECT: FACTORY WORKS
SUBJECT: CSR MACHINERY DRIVE SOUTH TWEED HEADS-NSW
KEY PLAN: SEE ATTACHED
FLOOR PLAN: STAGE 2

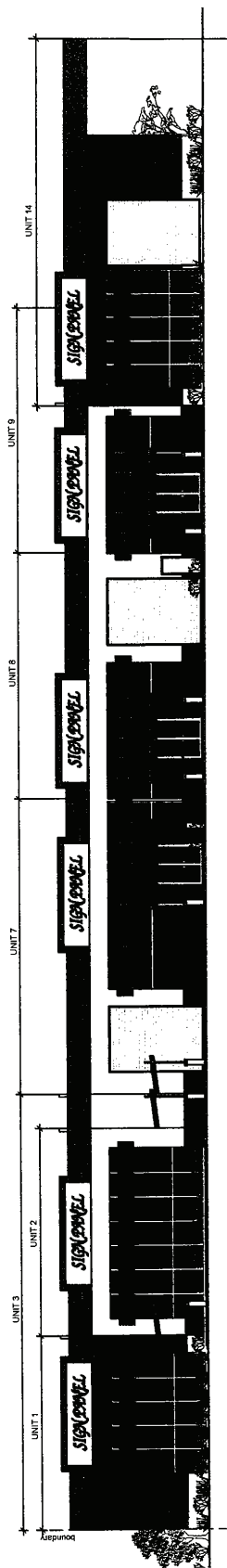


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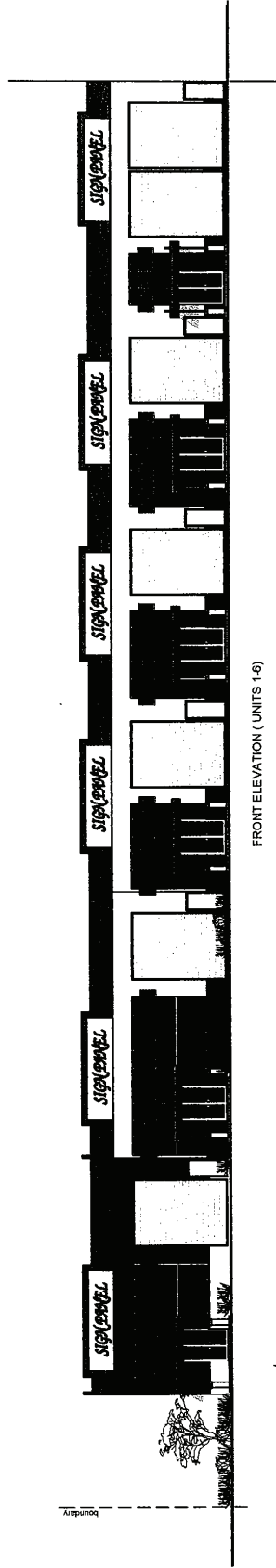
APPROVED FOR CONSTRUCTION BY:		DATE:
NAME:	POSITION:	DATE:
APPROVED FOR COUNCIL BY:		
NAME:	POSITION:	DATE:

NO.	DATE	REVISIONS
1	15/08/06	ISSUE FOR PERMITS

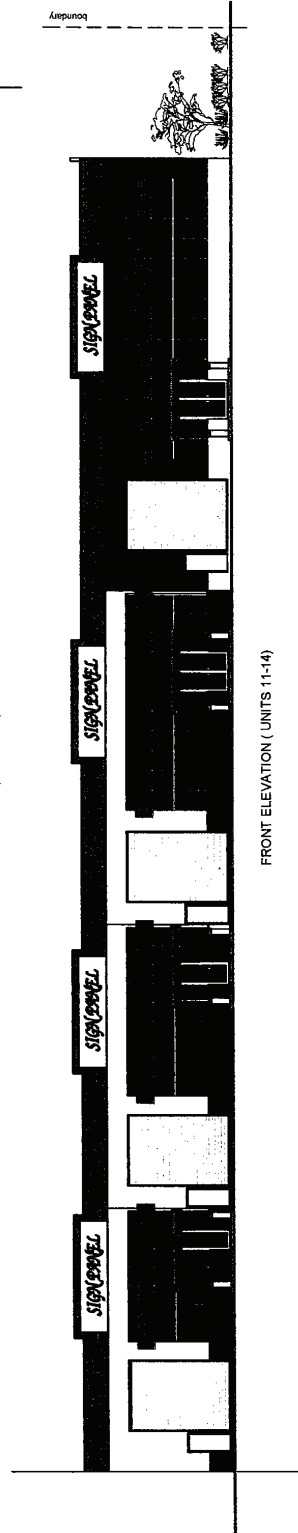




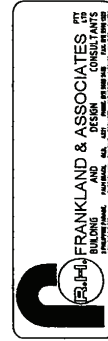
STREET ELEVATION (MACHINERY DRIVE)



FRONT ELEVATION (UNITS 1-6)



FRONT ELEVATION (UNITS 11-14)



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

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

Tweed Local Environmental Plan 2000

The land is zoned 3(c) Commerce and Trade. Factory units are a permissible land use under cl. 11 Item 2, and are consistent with the zone objectives.

North Coast Regional Environmental Plan 1988

The development's stormwater and acid sulfate soils management has been appropriately assessed and through recommended conditions of approval can be effectively managed. The development per se will not have an impact on coastal lands or hazards.

State Environmental Planning Policies

Land Contamination

State Environmental Planning Policy No.55 – Land Contamination; mandates that a Council must not consent to the carrying out of development on land unless it has considered inter alia whether the land is contaminated. Preliminary contamination investigation revealed the presence of contaminants. Further investigation and reporting has been prepared and submitted. The reports have been reviewed by a Department of Environment and Conservation accredited Auditor and the relevant 'Site Audit Statement' confirms that the site can be made suitable for the proposed factory use. In addition, Council's Environment and Health Unit have reviewed the contamination reports and have provided appropriate conditions for approval.

State Environmental Planning Policy No.64 – Advertising Signs; applies to all applications for advertising and business signage. This application includes in the building façade a parapet area that is designated for signage but does not include at this stage the details of any signage. Consequently the SEPP does not apply. Any future signage will, where statutorily required, require a separate approval, which will likely coincide with an application for occupation.

In relation to the building façades, the integrated signage panels provide a uniform approach to the provision of signage that will assist in minimising clutter and inappropriate sizing. This approach is consistent with and has been encouraged in several recent like approved developments.

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

There are no draft environmental planning instruments of significance to the assessment and recommendations of this report.

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

****Parking and Access***

Development Control Plan No.2 – Site Access and Parking provides the ratio of required car parking for land-use activities within the Shire. In this instance the development is defined under the DCP as a factory unit. The following table from the DCP identifies the parking requirement: -

4.9I - ACCESS & PARKING GENERATION - INDUSTRY SERVICE GROUP

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle parking	Delivery, Service Vehicle parking (50% must be truck size)	Resident Parking	Staff parking	Customer car parking
11	Abattoir			1/5 staff	provision for all loading/ unloading on site with no reversing on public roads		1/staff	
12	Boat repair & service				as above		1 space per 50m ² of total use area	Included in staff parking
13	Bulk store	Site area to be provided for future parking in case of conversion to Industrial/trade use at a rate of 1/75m ² GFA.			as above		1/staff	
14	Car repair station			1/2 car park	as above		1/staff	4/work bay
15	Depot				as above		10% of site for parking and access lanes, but, not driveways	included in staff parking
16	Factories	If located in commerce and trade zone Increase to 1/50m ² GFA.			as above		1/100m ² GFA	

The development has a total gross floor area for both stages at 3910m². The parking calculation is: -

GFA @ 3910 / 50 =	78.2
Less 20% concession	15.6
Total	62.6

Thus, 63 car parking spaces are required. The proposal accommodates 64. Provision is made for all loading / unloading to occur on-site. Council's Development Engineer has reviewed the access, car parking and turning templates as compliant. No issues are raised in relation to the adequacy of the on-site parking and delivery requirements.

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

The application has been prepared and assessed in accordance with the Regulations, in particular the application is not inconsistent with the 'Strategic Actions' of the NSW Coastal Policy 1997.

(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 factory units have a height of approximately 7.2m. Their design and scale is consistent with the factory units both approved and constructed in the commercial and industrial zones in the locality.

There will be no long term significant adverse impact on the built and natural environment, socially or economically in the locality as a result of the proposed development.

(c) Suitability of the site for the development

Location of Council's stormwater drain

There is an immediate constraint imposed on the development of the site resulting from the alleged unauthorised location of electricity power poles and misalignment of a stormwater drainage pipe in an adjoining easement.

The easement, created by D.P. 563193, supports a 600mm diameter Council stormwater pipe that should have been laid in the centre of the 3m-wide easement. However, in the preparation of construction detail the applicant's Surveyor identified that the pipe is located off centre and at the southern most extremity traverses the subject land. Council's Works Unit has recognised the issue and has incorporated the realignment works into its work schedule to coincide approximately with the determination of the application. This will limit the impact on the timing of construction works. In addition, and prior to the realignment of the stormwater drain, the applicant has made arrangements, at their expense, for the power poles to be removed in favour of underground electricity reticulation, which was scheduled for completion on 2 August.

Appropriate conditions of approval have been incorporated to ensure that the above works are finalised prior to the commencement of work for the factory development.

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

The application was publicly advertised from 31 May to 15 June 2006. No submissions have been received.

(e) Public interest

The development will increase the availability of factory/commercial units in the locality and by their design will improve the built environment in the immediate locality. The public interest, if at all affected, would be positively impacted by the development.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent.
2. Defer the application and provide reasons for doing so.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Determining the application in accordance with Option 1 above will not give rise to adverse legal, resource or financial implications.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed factory unit development is permissible on the land and consistent with the land-use zone objectives. The design of the buildings provides a mix of unit sizes that are provided with a uniform facia design that incorporates integrated signage zones. It will improve the availability and choice of factory units in the locality and positively contribute to the built form. The application is recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P6 [PD-PC] Development Application DA06/0351 for Alterations, Additions and Part Demolition of Tweed City shopping centre at Lot 1 DP 872305, No. 38 Minjungbal Drive & Lots 14,15,16 & 17 DP23659, Nos. 34, 36, 38 and 40 Kirkwood Road, Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: DA06/0351 Pt2

SUMMARY OF REPORT:

An application has been received for alterations and additions to the Tweed City Shopping Centre. The proposed additional floor area is 7,674 m² in area. Additional parking including basement parking is also proposed consisting of a further 227 spaces. Traffic management is also proposed consisting of additional lanes in Minjungbal Drive, directional signage and carparking reconfigurations. Upgrades of the main entrances to the mall are also proposed.

The additions will facilitate relocation of existing supermarkets, improve internal access and food court areas and provide some additional floor area for mini major outlets.

The Regional Traffic Committee has assessed the application and provided comments and conditions.

The proposal is consistent with Council's resolution of 16 November 2005 regarding retailing in Tweed Shire-.

RECOMMENDATION:

That Development Application DA06/0351 for alterations and additions to Tweed City shopping centre at Lot 1 DP 872305, No. 38 Minjungbal Drive & Lots 14,15,16 & 17 DP23659, Nos. 34, 36, 38 and 40 Kirkwood Road, Tweed Heads South 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 plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.** [GEN0015]

3. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos: -
DA-0.001B prepared by The Buchan Group and dated 23/6/2006
DA-0.110A prepared by The Buchan Group and dated 3/4/2006
DA-1.000A prepared by The Buchan Group and dated 3/4/2006
DA-1.002A prepared by The Buchan Group and dated 3/4/2006
DA-1.004A prepared by The Buchan Group and dated 3/4/2006
DA-2.000A prepared by The Buchan Group and dated 3/4/2006
DA-2.001A prepared by The Buchan Group and dated 3/4/2006
DA-2.002A prepared by The Buchan Group and dated 3/4/2006
DA-2.004A prepared by The Buchan Group and dated 3/4/2006
DA-2.005A prepared by The Buchan Group and dated 3/4/2006
DA-2.006A prepared by The Buchan Group and dated 3/4/2006
DA-2.007A prepared by The Buchan Group and dated 3/4/2006
DA-2.008A prepared by The Buchan Group and dated 3/4/2006
DA-2.009A prepared by The Buchan Group and dated 3/4/2006
DA-2.0010A prepared by The Buchan Group and dated 3/4/2006
DA-3.000A prepared by The Buchan Group and dated 3/4/2006
DA-3.001A prepared by The Buchan Group and dated 3/4/2006
DA-3.002A prepared by The Buchan Group and dated 3/4/2006
DA-8.000A prepared by The Buchan Group and dated 3/4/2006
DA-8.001A prepared by The Buchan Group and dated 3/4/2006
DA-8.002A prepared by The Buchan Group and dated 3/4/2006
DA-8.003A prepared by The Buchan Group and dated 3/4/2006
DA-8.004A prepared by The Buchan Group and dated 3/4/2006
DA-8.005A prepared by The Buchan Group and dated 3/4/2006
except where varied by the conditions of this consent.
- [GEN0005]
4. 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]
5. 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]
6. Prior to the commencement of demolition works on the site, pre-demolition testing shall be undertaken in accordance with the Remediation Action Plan - Alterations to Tweed City Shopping Centre (Potential OC Pesticides beneath building slabs) prepared LeVert Environmental Pty Ltd dated 7 July 2006. Results of this testing shall be submitted to Council's Environment and Health Services Unit for review and approval prior to any slab being removed.

7. Prior to the reuse or disposal of any spoil material on or off the site as a result of OC Pesticide contamination found, Council shall be provided with a statement from a suitably qualified person that confirms that contamination levels of the spoil material do not exceed relevant NSW Health Action Levels for the intended use.
Written details of the disposal area shall also be provided to the satisfaction of Council's General Manager or his delegate prior to the material being removed.
8. Prior to any excavation pits resulting from the removal of contaminated soil identified during pre-demolition testing being backfilled, validation sampling as per NSW Environmental Protection Authority contaminated sites guidelines shall be carried out within all excavation pits, and a Validation Report prepared by a qualified consultant shall be submitted to and approved by Council's Director Environment and Community Services.
9. The applicants are to liaise with adjoining residents regarding arrangements for access to the centre during and after construction. [GENNS01]
10. The proposed future use of the proposed food outlet tenancies must be the subject of a separate development consent. [GEN0035]
11. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts. [GEN0075]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

12. The building is to be upgraded to comply with the performance requirement EP2.2 of the *Building Code of Australia* in respect of smoke hazard management. If the upgrading works do not satisfy the deemed-to-satisfy provisions of Part E2 of the BCA it will be necessary to obtain an alternative solution addressing Performance Requirement EP2.2 as contained in Volume 1 of the *Building Code of Australia* for assessment and determination prior to issue of the Construction Certificate. Should the fire upgrading works propose a change to the external fabric of the building it will be necessary to obtain a variation to the Development Consent prior to commencement of works via a Section 96 application under the Environmental Planning & Assessment Act.
13. Prior to the issue of any Construction Certificate, the concurrence of Country Energy must be obtained regarding the proposal to erect a structure over an Easement for underground power reticulation. This concurrence is expected to require the extinguishment of an existing easement(s) and creation of a complementary easement(s).

14. The construction certificate application must incorporate: -
- (i) A plan to clearly show all turning circle vehicle movements in the car park areas, and particularly at all loading dock areas.
 - (ii) The provision of give-way signage and linemarking to improve internal circulation and avoid conflicts, at the entry to the basement parking area from Kirkwood Road.
15. Plans for all proposed food outlet fitouts, including Coles and Action supermarkets, shall be provided to Council prior to the construction certificate being issued for the fitout of the uses or use of these outlets whichever occurs first, that include the following:
- (a) Floor plan
 - (b) Layout of kitchen showing all equipment
 - (c) All internal finish details including floors, wall, ceiling and lighting
 - (d) Hydraulic design including the trade waste disposal method
 - (e) Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
 - (f) Servery areas including counters etc
16. A detailed plan of landscaping is to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. [PCCNS01]
- [PCC0585]
17. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) All mechanical and electrical plant and equipment, including ventilation, pumps, electrical wiring, outlets and switches, located in the basement level carpark below the design flood level of RL 2.6m AHD, must not be susceptible to water damage and/or must be suitably treated to withstand continuous submergence in water (subject to the requirements of the local electrical authority). [PCC0705]
18. 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) Works in Minjungbal Drive:
 - (i) Conversion of Minjungbal Drive to a three lane carriageway in both directions, for the full frontage of the shopping centre. This will require minor modifications to traffic islands, as well as new linemarking.
 - (ii) Provision of signposting for the kerbside lanes from Item (i) to be "Clearways" during peak traffic periods.
 - (iii) Erection of signage to encourage the use of the Blundell Boulevard and Kirkwood Road entrances to the centre.

- (b) Works in Kirkwood Road:
- (i) Provision of concrete path paving for the full frontage of original Lots 14,15,16 and 17 DP23659.
 - (ii) Removal of the existing (redundant) footpath crossing and layback fronting original Lot.

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]

19. 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]

20. 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*.

[PCC1105]

21. 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]

22. 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]

23. 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]

24. 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 for Lot 1 DP 872305 unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

- | | |
|---|--------------|
| (a) Tweed Road Contribution Plan:
S94 Plan No. 4 (Version 4.0)
Sector2_4 | \$573,185.30 |
| (b) Extensions to Council Administration Offices
& Technical Support Facilities
S94 Plan No. 18 | \$4,502.07 |

[PCC0215]

25. 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 for Lot 1 DP 872305 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:	20.43 ET @ \$4598	\$93,937
Sewer:	31.46 ET @ \$2863	\$90,070

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

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.

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]

26. 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]

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

[PCC1265]

28. That the applicant is to prepare detailed engineering plans for the conversion of the parking (kerb side) lanes on Minjungbal Drive from 200 metres south of Machinery Drive to 100 metres north of Kirkwood Road, including any changes to the existing signal infrastructure. On approval of these plans the works are to be constructed prior to occupation of the building extension at no cost to Tweed Shire Council.
29. Traffic signals are to be designed and installed at the intersection of the northbound lanes on Minjungbal Drive and the Tweed Heads South offramp from the Pacific Highway. Detailed design plans incorporating linemarking on the ramp to provide two left turn lanes are to be submitted and approved by the NSW RTA. Upon approval the signals are to be installed in accordance with RTA requirements prior to the occupation of the building extensions at no cost to the RTA or Tweed Shire Council.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

30. 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.
31. 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.

[PCW0215]

[PCW0225]

32. 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.

33. 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.

[PCW0255]

[PCW0665]

34. 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.

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

[PCW0985]

[PCW1075]

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

[PCW0965]

37. 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]

38. 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]

39. 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]

40. Prior to any demolition and construction works being undertaken, a Demolition and Construction Management Plan shall be prepared and submitted to Council's Director of Environment & Community Services detailing how noise, dust, waste, odour, complaints and the like will be managed during the period of demolition and construction, so as to prevent the unnecessary disturbance of neighbouring and adjacent premises.

41. Prior to the removal of any soil from the site, details of the deposition site is required, with written documentation provided by the site owner that the acid sulfate soil material will be accepted for storage and neutralisation treatment.

[PCWNS01]

DURING CONSTRUCTION

42. If the existing fence is to be demolished during the demolition and construction work for the shopping centre, the 3.0m acoustic fence constructed of either masonry, fibre cement, lapped gapless timber or similar shall be constructed in accordance with Appendix 2 Sketch 1 and 2 of the *Environmental Noise Impact Report for the Tweed City Shopping Centre*, 54 Minjungbal Dr, Tweed Heads South prepared by TTM Consulting (GC) Pty Ltd dated 23 June 2006 (ttmref: 31782 report revision B).

43. 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]

44. 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]

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

[DUR0245]

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. 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]

48. 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]

49. 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]

50. 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 and demolition.

[DUR2185]

51. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

52. 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]

53. 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]

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

[DUR2515]

55. 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]

56. 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]

57. 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:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C 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]

58. 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]

- 59. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.**

[DUR0675]

- 60. All fill and cut batters shall be contained wholly within the subject land.**

[DUR0825]

- 61. 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]

- 62. 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]

- 63. 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]

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

[DUR1945]

- 65. 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]

66. 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]
67. Prior to any works commencing, appropriate measures are to be put in place 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]
68. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
69. All waters that are to be discharged from the site shall 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]
70. Clarification of plant and equipment proposed for use by each major tenancy and the general centre redevelopment, together with a detailed assessment of noise emissions from such equipment shall be submitted to Council for review prior to installation. Prior to tenancy occupancy and on completion of installation, a further assessment of noise generated by any plant and equipment is to be undertaken by an independent source and provided to Council for further assessment.
71. All works shall be carried out in accordance with the *Acid Sulfate Investigation and Management Plan for the Tweed City Shopping Centre Redevelopment* prepared by Soil Surveys Engineering Pty Ltd dated 22 March 2006 (Ref. No: 2-4988AS).
72. All works shall be carried out in accordance with the *Dewatering Plan for Tweed City Shopping Centre Redevelopment* prepared by Soil Surveys Engineering Pty Ltd dated 22 March 2006 (Ref. No: 2-4988dewater).
73. All works shall be carried out in accordance with the *Environmental Noise Impact Report for the Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by TTM Consulting (GC) Pty Ltd dated 23 June 2006 (ttmref: 31782 report revision B) and Environmental Noise Impact Assessment Addendum 1 dated 21 April 2006 (ttmref: Letter 31782) except where varied by these conditions.

74. All spaces between the timber palings of the existing timber fence along the southern boundary of the site shall be sealed with no gaps in accordance with the *Environmental Noise Impact Report for the Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by TTM Consulting (GC) Pty Ltd dated 23 June 2006 (ttmref: 31782 report revision B).
75. A 2.0m fence constructed of masonry, fibre cement, lapped gapless timber or similar shall be constructed in the northern carpark areas as indicated in Appendix A sketch 1 and 2 of the *Environmental Noise Impact Report for the Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by TTM Consulting (GC) Pty Ltd dated 23 June 2006 (ttmref: 31782 report revision B).
76. The 3.0m acoustic fence constructed of either masonry, fibre cement, lapped gapless timber or similar shall be constructed in accordance with Appendix 2 Sketch 1 and 2 of the *Environmental Noise Impact Report for the Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by TTM Consulting (GC) Pty Ltd dated 23 June 2006 (ttmref: 31782 report revision B).
77. All works shall comply with the *Landscape Intent Statement - Tweed City Landscape* prepared by S.P.L.A.T. dated March 2006.
78. The burning off of trees, associated vegetation felled by clearing operations, and building waste is prohibited. [DURNS01]
79. All pumps used for onsite dewatering operations shall be installed on the site in a location that will minimise any noise disturbance to neighbouring premises and be acoustically shielded where directed or required so as to prevent the emission of offensive noise as a result of their operation. [DUR0235]
80. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by Tweed Shire Council. [DUR0255]
81. 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]
82. 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]

83. 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]

84. 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 covered to a radius of not less than 25 millimetres.

[DUR1495]

85. 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]

86. All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises.

[DUR1535]

87. 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]

88. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room.

[DUR1565]

89. 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.

[DUR2205]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

90. 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]

91. 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]

92. 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]

93. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate. [POC0855]
94. 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]
95. Creation of an appropriate easement over all existing sewer mains within the site, in accordance with Council's standards. It is recommended that easement creation be carried out in conjunction with consolidation of the site.
96. The existing disused vehicular footpath crossing and layback fronting Lot 14 Kirkwood Road, is to be removed and replaced with kerb and gutter to match existing, and the remaining footpath area turfed, to the satisfaction of Council. [POCNS01]
97. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
98. 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]
99. Prior to commencement of operations and on completion of fit out of food premises an inspection is to be arranged with Council's Environmental Health Officer for final approval of each premises. [POC0615]
100. 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]
101. 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]
102. All loading/unloading to take place within the boundary of the subject property. [USE0525]

103. 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]
104. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.
- [USE0875]
105. The delivery of goods, servicing of waste, and use of the loading docks, forklifts, and the like shall be restricted to between the hours of 7am to 6pm Monday to Friday and 8am to 6pm Saturday, Sunday and public holidays.
106. The use of any compactor(s) located with the Coles, Action or other proposed eastern loading bays area(s) shall be restricted to between 8.30am to 6pm Monday to Friday and 10am to 4pm Saturday, Sunday and public holidays. A sign outlining these hours shall be attached to the wall near each compactor to advise all staff of the restricted hours of operation.
107. The Coles, Action and other proposed eastern loading bay doors shall be kept closed except for when allowing entry of a delivery truck or removal of waste.
108. The disposal of trade waste shall be to the satisfaction of Council's Trade Waste Connections Officer - Water Unit.
109. All proposed loading bay doors shall be of a low noise electric (not chain-operated) type that is acceptable to Council's Director of Environment & Community Services.

[USENS01]

REPORT:

Applicant: J Lloyd - DBReef
Owner: SAS Trustee Corporation
Location: Lot 1 DP 872305, No. 38 Minjungbal Drive & Lots 14, 15, 16 & 17 DP 23659, Nos. 34, 36, 38 and 40 Kirkwood Road, Tweed Heads South.
Zoning: 3(b) General Business
Cost: \$36,400,000

BACKGROUND:

The original centre opened in 1982 with expansions in 1986 and 1997.

Tweed City is the established district shopping centre for the Tweed. It contains nationally recognised supermarkets and discount department stores, speciality shops, food outlets and a cinema with a total GLA of 42,894m². 1967 carparking spaces are currently provided with 715 located in the basement. The application involves increasing the floor area by 7674m² to 50,568m² of GLA. Parking will increase by 240 spaces to 2207 spaces.

Vehicular access to the site is via 2 signalised points along Minjungbal Drive at Machinery Drive and Blundell Boulevard and an unsignalised access point on Kirkwood Road.

Seventeen public submissions have been received regarding the proposal.

Key Issues

Retail Policy

On 16 November 2005 Council considered a report regarding a retail strategy for the Tweed. The report was prepared by Core Economics. Council resolved as follows-

- 1. The character of existing towns and villages and the retail facilities they already have be protected.*
- 2. Where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones.*
- 3. Reinforce Tweed Heads south as the major district retail centre by encouraging the expansion and when Tweed's population demands that increased range and level of shopping.*
- 4. Maintain and wherever possible enhance the special appeal of the retail centre of Murwillumbah and those village centres of similar style.*
- 5. Limit the scale of new large scale retail centres in the coastal region to a level which caters for the majority of chore type shopping needs. This concept to reflect the need to reduce fuel consumption and to support sustainability within each centre through discouraging vehicle use and encouraging walking and cycling.*

6. *Council does not support the establishment of another district retail shopping centre.*
7. *The retail concepts in these recommendations form the basis of locality plans in the Shire and any retail development applications which are submitted in the interim of these locality plans being prepared and approved by Council be assessed so that the above retail strategies are supported and not compromised.*

The retail strategy report recommended the following policy framework for Tweed Heads South:-

Expansion of Tweed Heads south to cater to future demand. Precinct to increase as demands dictates. Retail showrooms to be accommodated at Chinderah as Tweed South areas reach capacity and demand dictates.

Traffic

Council's Traffic Engineer has provided the following assessment-

- The proposal will generate an additional 4000 vpd or 400vph (peak).
- Current peak hour traffic generation is 2100 vph;
Proposed peak hour traffic generation is 2500 vph;
An increase of 19%.
- Adequate intersection capacity exists at Blundell Bvde and Kirkwood Rd intersections with Minjungbal Drive.
- Machinery Drive intersection is at LOS D (Level of Service) now with worst movement LOS E.
- The Applicant proposes to convert parking lanes on Minjungbal Drive to traffic lanes creating 3 lanes in each direction, between Soorley St and 100m north of Kirkwood Rd.
- SIDRAA modelling indicates this measure adds sufficient capacity to the intersections until 2016.
- After 2016 the extension of Kirkwood Rd is required with or without access to the Pacific Highway to provide alternatives for traffic in Banora Point and South Tweed.
- The mid block capacity on Minjungbal Drive exceeds demand but the signalised intersection effectively control the capacity of Minjungbal Drive.
- Council's Traffic Consultant, Veitch Lister Consulting, predicts LOS D in 2030 on Minjungbal Drive with no Kirkwood Road access to the Pacific Highway.

- Parsons Brinkerhoff Model predicts LOS D on Minjungbal Drive with no access to the Pacific Highway at Kirkwood Road.

DISCUSSION

Minjungbal Drive Traffic Impact

Council's traffic modelling and RTA modelling indicate that Minjungbal Drive has adequate 'mid block capacity' to cater for this development and future traffic growth.

The problem area is the capacity of the intersections of side streets with Minjungbal Drive, especially Machinery Drive. The capacity of the intersections in effect determines the capacity of Minjungbal Drive.

The applicant's traffic report identifies the intersection capacity of Machinery Drive and Minjungbal Drive as an issue and has submitted traffic analysis data indicating that by converting the parking lanes on Minjungbal Drive to traffic lanes between Rivendell and 100 metres north of Kirkwood Road, adequate intersection capacity would exist until the year 2016. At this time Kirkwood Road would need to be connected to Fraser Drive to provide an alternative traffic route.

The RTA are responsible for control and maintenance of all traffic signals in NSW and were requested to consider the applicant's traffic analysis.

After requesting additional information, the RTA have advised that the proposed conversion of the parking lane on each side of Minjungbal Drive to a traffic lane will provide the required additional capacity at the subject intersections to cater for the proposed development up to 2016.

There are adverse impacts on some existing developments on this section of Minjungbal Drive whose customers utilise the on street parking. The extent of the parking lane conversion is from 210 metres south of Machinery Drive to 100 metres north of Kirkwood Road, which impacts on approximately 80 on road car spaces. Offsetting this impact on properties fronting this section of Minjungbal Drive is that they have on site parking which is a requirement of DCP2 and therefore do not need to rely on street parking. A survey by the applicant indicated that during the peak traffic hours only 17 of the available on street parks were occupied and it is also noted no submissions in this regard were made during the development exhibition period.

It is also noted that the increased traffic capacity provided by this proposal will benefit existing road users as well as patrons of the proposal.

The applicant has submitted a letter to Council advising they will meet the costs of converting the subject section of Minjungbal Drive to 3 lanes in each direction.

To minimise the impact on parking, the kerbside lanes could be operated as a clearway applying only to peak hours, but this aspect would need the endorsement of the Local Traffic Committee and can be addressed at a later time.

South Tweed Highway Offramp / Minjungbal Drive Intersection

The RTA have advised Council that due to additional traffic exiting on the above ramp as a result of the proposed development, that the intersection will need to be signalised. Whilst the applicant does not agree with the RTA's assessment and request, they have agreed to a condition in this regard being placed on an approval consent to enable the application to be considered by Council. Of concern to Council is the impact these signals will have on existing traffic on Minjungbal Drive which will be faced with an extra set of signals northbound.

The applicant has submitted an additional traffic analysis on the proposed signalisation that indicates the Level of Service for traffic at the signals will be satisfactory (LOS C) in terms of additional delay and queue length and improve access from the off ramp to Minjungbal Drive by allowing 2 left turn lanes to be developed. In summary there will be additional delays for local traffic on Minjungbal Drive, but improved access to Minjungbal Drive for traffic leaving the highway affects this.

It needs to be noted that this impact of the proposed development has not been included in any public exhibition.

Design

Upgrading of the main entrances to the mall is proposed. The proposed work will provide improved definition to the entry/exit points utilising awnings, feature panelling and graphics.

Landscaping

Landscaping works are proposed for the western building entrance, Blundell Boulevard entrance, Northern building entrance, Kirkwood Road entry and carpark, eastern buffer, and the western carpark. The landscaping is proposed to provide shading, screening and visual appeal.

Fencing

A 3.0 metre high acoustic fence is proposed along part the eastern boundary to mitigate noise from the loading dock area. A 2.0 metre high fence is proposed on the northern boundary areas adjoining the neighbouring properties to maintain amenity for these residencies. Elimination of gaps in the southern boundary fencing is also proposed. The proponents have undertaken to liaise with adjoining owners to the east and north regarding existing private access arrangements during construction and following completion of the centre's additions.

Shopping Trolleys

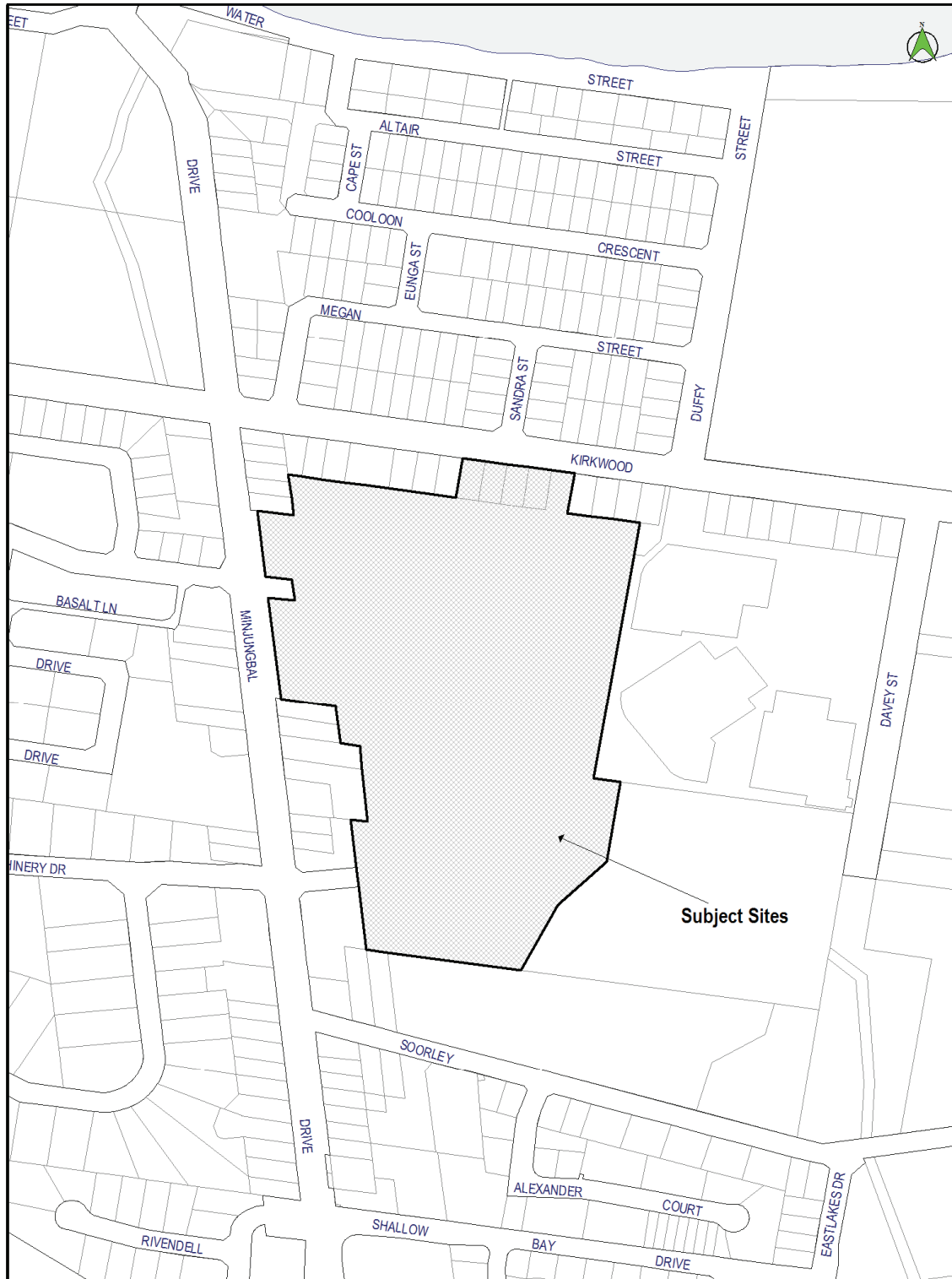
The applicants have provided the following advice regarding shopping trolleys: -


"We note that in DA05/1291 for the shopping centre at Banora Point, Council has, as a condition of consent, requested that a coin operated trolley system be implemented at the Centre. We would strongly resist such condition being attached to the development consent at Tweed City for the following reasons:

- a) Tweed City Shopping Centre management has installed trolley bays and "cattle grates" at the entrances to the Centre in order to reduce the incidents of trolleys leaving the centre. We attach photos and press articles showing the installation at Kirkwood Road. The system has reduced the trolleys leaving the centre by over 70% and has gained positive feedback from the local community.*
- b) A coin operated system on a site as large as Tweed City would be subject to vandalism and whilst we have very little vandalism activity or anti social behaviour at the Centre (note the lack of graffiti at the Centre), we would not be keen to implement a measure that could possibly encourage it.*
- c) Unlike the Banora Centre and the Aldi store in Machinery Drive, Tweed City is a multi supermarket and multi discount department store based centre. Retrospectively applying a coin operated system will provide numerous issues with the major tenants who remain untouched and technically not subject to the conditions of consent for the redevelopment. In addition the changeover of some 2,200 trolleys estimated to be used by customers of the centre at a cost of \$400 per trolley will provide a considerable imposition for the major tenants of the centre.*
- d) Most importantly our customers are not in favour of such a system. Given the overwhelming older demographic of our customer base such a system could encourage harassment in the carpark of our customers for the retrieval of the money.*

Whilst coin operated systems have their place - airports being a prime example -we are of the firm belief that such facilities are not appropriate for the Tweed City Shopping Centre."

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>Lots 14-17 DP 23659 Kirkwood Road, Tweed Heads South Lot 1 DP 872305 Mingungbal Drive, Tweed Heads South</p>		<p>STRATEGIC PLANNING UNIT</p> <p>Site Plan</p>	
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: C.Davis</p>	<p>Date: 7/Aug/2006</p>	<p>Scale: 1:5,000</p>	<p>Sheet: 1 of 1</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 zoned 3(b) General Business. The proposed uses (shops, commercial premises and refreshment rooms) are permissible with consent in the 3(b) zone. The objectives of the zone are-

Primary Objectives

- To provide business centres in which the communities shopping, business, welfare and social needs can be met.
- To provide business locations within residential areas, and to ensure that the scale and type of development is compatible with the character and amenity of the surrounding residential areas.

Secondary Objectives

- To provide for tourist oriented development.
- To encourage upper floor residential or tourist accommodation.”

The additional northern carparking area is located on land zoned 2(b) Medium Density Residential. Carparks are permissible in the zone subject to development consent.

Clause 15 Essential Services—Essential services are available to the site.

Clause 16 Height of Buildings—The subject site is within a three storey height limit area. The proposal consists of two storeys has defined by the Tweed LEP 2000.

Clause 17 Social Impact Assessment—The clause requires Council to consider the social and economic of the development. The applicants have submitted a socio-economic impact assessment report with the application. This issue is further dealt with under the DCP section of this report.

Clause 22 Development near designated roads—This clause applies as Minjungbal Drive is a designated road. Council is required to be satisfied that the development will not constitute a traffic hazard or materially affect the capacity or efficiency of the road, access and parking arrangements do not impede through traffic on the road, future road improvements are not hindered, the development is not sensitive to noise, scenic values are not affected and access where practical can be provided by a road other than the designated road.

The proposal includes adding a north and south bound lane to Minjungbal Drive for the frontage of the site to cater for additional traffic generated by the development. Reconfiguring of the carpark adjacent to the Blundell Boulevard entrance is proposed to improve traffic flow in this area of the site. The development is not sensitive to noise nor will scenic values be adversely affected and the access points are existing.

Clause 34 Flooding .The subject site is floodprone. Clause 34 requires consideration of flood related impacts. The proposal is considered acceptable in relation to flooding. Further comment regarding flooding is provided in the DCP section.

Clause 35 Acid sulfate soils. The site is categorised as Class 2 and an Acid Sulfate Soils Management Plan has been prepared for the site and is considered acceptable.

Clause 39 Bushfire. A small area of the north eastern corner of the site is mapped as bushfire buffer area. This constraint will not have any implications for the proposed development.

North Coast Regional Environmental Plan 1988

The proposal is not contrary to the REP. The provisions of the Coastal Policy, Coastline Management Manual and the North Coast Design guidelines are satisfied. Clause 47 of the REP is satisfied as the site can be serviced by public transport and is accessible from urban areas.

State Environmental Planning Policies

SEPP-11 Traffic Generating Developments. The application was referred to the Regional Traffic Committee as required by the SEPP. Additional information was required by the RTA and the applicant liaised directly with the RTA on traffic issues. The RTA has provided comments and conditions for the proposal.

SEPP-55 Remediation of Land. The relevant matter with this Policy relates to potential pesticides beneath building slabs. A Remediation Action Plan has been submitted which satisfies council's requirements for pre demolition testing.

SEPP-71 Coastal Protection. The matters for consideration under clause 8 of the policy are considered to be satisfied.

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

There are no draft EPI's applicable.

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

DCP-2 Carparking. A carparking analysis has been submitted with the application. The report has assessed existing carparking requirements and requirements for the additional floor space. DCP -2 requires 1604 spaces to be provided and 2207 are proposed.

DCP-5 Development of Flood Liable Land. The design flood level for the site is RL 2.6m AHD. The floor level of the proposed additions is RL 4.0 AHD. The DCP requires flood free storage for stock and equipment for commercial development. The basement carpark will be below the design flood level and will not be protected from the inflow of water to a level 500mm above the design flood level. The existing basement carpark is below the design flood level and it is considered unreasonable to require flood proofing of part of the additional basement carpark.

DCP-45 Socio-Economic Impact. The DCP requires a socio economic assessment to be carried out for retail developments that are greater than 1,500m² GFA. The applicants have identified the following key socio-economic benefits of the proposal-

- The proposed redevelopment will provide a direct investment of \$36.4 Million into the local construction industry.
- Based on the estimated construction cost, the proposed expansion of the centre is likely to create 350 job years (i.e. 350 jobs for 1 year). The multiplier effect of this construction work is likely to create an additional 490 job years, making a total of 840 job years during the construction period.
- It has been estimated that the operation of the new shopping centre will generate a further 340 additional permanent jobs. By applying the retail multiplier factor, it is estimated that the expanded uses will generate a further 379 indirect jobs making a total of 720 on-going jobs.
- In addition indirect benefits are also likely to be created for the local community by way of an improved regional image and the efficient provision of sub-regional shopping facilities in line with demonstrated retail demand and normal market expectations.

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

Government Coastal Policy. The proposal is not contrary to the Coastal Policy.

Demolition. Demolition of 5,479m² is proposed. A condition will be imposed requiring compliance with the Australian Standard AS-2601.

(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**

Contamination – The site has been used for the Tweed City Shopping Centre since approximately 1986. The proposed construction area is an existing external carpark for the site. The Tweed Heads topographic maps dated 1974 and 1985 show the site as vacant land and the shopping centre respectively. No contaminating activities have been noted for the proposed development area.

Demolition – The demolition works within the Centre and for the existing dwelling in located at 34 Kirkwood Rd, Tweed Heads South will involve removal of slab on ground construction. A remediation action plan has been submitted for pesticides beneath building slabs and is considered acceptable.

Acid Sulfate Soil – An *Acid Sulfate Investigation for Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by Soil Surveys Engineering Pty Ltd dated 22 March 2006 (Ref. No: 2-4988AS) has been submitted.

The excavation across the northern part of the Centre will be to a depth of approximately 2m. A total of 7 boreholes to depths between 4.0 and 40.5m were drilled. All ASS samples were taken from the upper 4.0m of the soil profile between 1-5 November 2004. One standpipe to 4.0m was created for groundwater sample testing.

The existing structures on the site are typically single level masonry and concrete. The subsurface profile typically consists of pavement gravels overlaying sand filled to a depth of between 0.8 and 1.6m in the development area. The upper natural level consists of a sand profile to the depth of investigation.

Testing revealed that ASS and PASS are present beyond 2.5m in all boreholes with the exception of borehole 3, whereby ASS may be present at 1.0m. Given the excavation levels for the proposed development, it is likely that ASS will not generally be encountered. Due to the results of borehole 3 however, an Acid Sulfate Soil Management Plan has been provided.

The soil excavated as part of the redevelopment will be removed from the site. Neutralising of the ASS will be required either prior to removal or immediately upon removal. A testing rate of 1 test per 500m³ of excavated soil is required during earthworks operation. All disturbed material is to be treated on the same day of excavation. Validation testing is required to confirm neutralisation. Conditions to apply.

Dewatering – A *Dewatering Plan for Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by Soil Surveys Engineering Pty Ltd dated 22 March 2006 (Ref. No: 2-4988 dewater) has been submitted.

The excavation across the northern part of the Centre will be to a depth of approximately 2m. Groundwater was noted at between 1.7 and 2.4m below the existing ground surface level. Spear pumps or sumps will be used around the perimeter of each footing to lower the water table during excavation. Water will be directed to a holding tank or lined pit prior to discharge. Testing of the water will be undertaken to ensure waters are within the appropriate guidelines.

Although only minor dewatering is proposed, if significant dewatering is required during the construction period, groundwater monitoring wells will be installed, with periodic monitoring and sampling undertaken. Conditions to apply.

Noise – An *Environmental Noise Impact Report for the Tweed City Shopping Centre, 54 Minjungbal Dr, Tweed Heads South* prepared by TTM Consulting (GC) Pty Ltd dated 22 March 2006 (ttmref: 31782 report) has been submitted.

The proposal is for the alterations and additions to the existing shopping centre that will include 2 major retailers (relocation of Coles and Action supermarkets) and a number of new retail specialty shops.

The proposed operation hours of the retail tenants is assumed to be in accordance with the normal retail hours currently used at the site, 8am to 9pm Monday to Friday, and 9am to 5pm Saturday and Sunday. Extended hours during stocktaking and Christmas periods may extend trading hours to midnight at times. Hours of operation for the Coles and Action supermarkets are Monday to Saturday 6.30am to 9.00pm and Sunday 8.30 to 6.00pm. Operating hours for the loading docks, deliveries, garbage removals is between 7.00am and 6.00pm Monday to Friday and 8.00am to 6.00pm Saturday and Sunday.

The proposed site layout for the new carpark provides screening and has been designed to maximise the barrier effects for noise attenuation for this area by moving from mainly outdoor parking to a basement carpark. Transport vehicles will access the loading dock area, located adjacent to the eastern boundary via Kirkwood Rd, turning into the access road located at the northeast boundary. Transport vehicles are to travel in a southerly direction only to access the loading docks located on the eastern property boundary and exit via the existing truck exit lane at the south-eastern section of the site and Minjungbal Drive. Note the trucks will need to reverse into the loading docks only. Transport vehicles will be restricted to access the site during daytime hours only.

An unattended noise monitor was located at 33 Kirkwood Rd at the north of the site between 16-20 March 2005. Background noise levels were found to be 46, 37, and 35 dB(A) for the day, evening, and night respectively. Predictions of future noise impact from potential on-site activity were produced. The noise monitor was located at a quiet location on a nearby site on the site.

Traffic Noise – Traffic noise associated with the subject site is covered by the NSW EPA Industrial Noise Policy (INP) if vehicles are not on a public road. If on a public road, the NSW EPA Road Traffic Noise Guidelines (55 dB(A) day and 50 dB(A) night) apply. The increase in shopping areas is not considered to have a significant impact upon the number of vehicles using the northeastern area of the centre. As such, the proposed increase in traffic noise from vehicles entering/exiting the site is considered negligible.

As the traffic noise generated by the site relates primarily to the impacts upon the neighbouring residences, specifically along the northeastern boundary, by trucks and vehicles within the site itself not on a public road, INP criteria below shall apply.

On-site Activity Noise – The INP, which includes commercial premises under the scope of the policy, considers noise sources such as truck and other vehicle movements, truck reversing alarms, mechanical plant and equipment (including air conditioning, waste compactors, and forklift operation etc), car door closure, carpark activity etc.

A review of the existing site plan shows that the eastern development area is currently used to access the loading docks of Action Supermarket and Best & Less, and provides additional parking and access to the existing basement carpark at the southern end of the subject site. The proposed loading docks (10m from boundary) will be moved approximately 20m closer to the neighbouring property boundary to the east than the existing loading docks. It is noted in Council's records that there have been many complaints raised over the years, mainly relating to hours of operation for the compactors and vehicle delivery times. Conditions to apply.

As noted in the Landscape Intent Statement – Tweed City Landscape prepared by S.P.L.A.T. dated March 2006, the majority of the existing landscape buffer along the eastern site boundary is to be retained. It is proposed that plantings be provided to areas where there might be existing gaps. Where additional acoustic fencing is to be installed, it will be coordinated with the existing planted buffer locations. Condition to apply.

Additional information Addendum 1, provided by TTM Consulting (GC) Pty Ltd dated 21 April 2006 (ttmrefL Letter 31782 Tweed) also advises that certain cooling systems, exhaust and supply fans, and similar infrastructure will be installed on the roof of the centre, and designed to comply with EPA Assessment Criteria.

The proposed rooftop plant locations have been provided, including noise exposure levels at different distances from the mechanical plant. It is proposed that the maximum noise levels that would impact nearby residents would be between 29 and 35 dB(A). This is equivalent to the measured background levels at the site, and is unlikely to impact upon neighbouring properties.

A further detailed acoustic assessment will be conducted and submitted prior to the construction certificate being issued to ensure compliance with assessment criteria prior to construction. On completion of works, compliance measures will be conducted to ensure compliance of noise emissions from the plant and associated equipment. Conditions to apply.

Lighting – It is likely that externally mounted lighting, including security lighting, and illuminated signage will be installed at the site that may impact neighbouring and adjacent properties. Condition to apply.

Dust – Standard condition to be applied during construction.

Use – The intended use the tenancies, with the exception of Coles and Action supermarkets is not known and any such use will require the submission of a separate DA. Note that any proposed food premises, nail technicians etc may require special provisions relating to mechanical exhaust to prevent any disruption to neighbouring residents from offensive odours. Appropriate conditions can be applied to these subsequent DAs to address any potential environmental concerns. Condition to apply.

Retailing Impacts

The Retail strategy nominates that existing major retail centres are to expand as demand dictates and Council's resolution of 16 November 2006 includes-

2. *Where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones.*
3. *Reinforce Tweed Heads south as the major district retail centre by encouraging the expansion and when Tweed's population demands that increased range and level of shopping.*

The applicants have made the following analysis regarding demand-

- "The main trade area was found to contain 93,700 people at the time of the 2001 Census of Population and Housing. The primary trade area accounts for 43,600 people or 47% of the total. The main trade area population has increased from just 69,100 people in 1991 and growth over the past decade has averaged 2,500 people, or 3.1%, per annum.

Over the forecast period, the trade area is expected to maintain steady growth, averaging 2,000 people per annum. By 2016, the trade area population is forecasted to increase to 124,200 people, an increase of 30,500 people since 2001.

The Tweed City trade area is generally characterised by lower than average income levels, an older population and smaller household sizes, and has a relative high proportion of retirees. The exception is the secondary south sector, which is a predominantly a family area with a young age profile and lower income levels, compared to the remainder of the trade area.”

- “Total retail expenditure by the trade area residents in 2005 is estimated at \$905.5 million, including \$443 million, or half the total, generated by the residents of the total primary sector.”

The trade area market is expected to grow on average by 3.3% per annum between 2005-2016, reaching \$1,298 million by 2016 (expressed in constant 2005 dollar terms and excluding GST). Therefore retail expenditure growth across the trade area is forecast at \$393 million over the next 11 years. Around 58% of this growth is accounted for by the total primary sector which is the area of most importance to the subject development proposal. This growth is particularly influenced by strong population growth forecast in the primary south and primary west sectors.”

- “Tweed City achieved a total retail turnover of \$179 million in the year to June 2005, including \$81.2 million of food turn over and \$98.6 million of non-food turnover. The supermarkets account for 40% of the total. The speciality shops achieve a total turnover of \$62.2 million, a reasonably strong trading level. In particular, the food court is currently small and inadequate and therefore is currently over-performing.”
- “In general terms, our analysis shows that the proposed expansion to Tweed City would result in trade area residents directing \$36.6 million less to other centres in 2010, as compared with what they would spend at other centres in 2010 if the expansion did not proceed. This represents a 4% reduction in the amount of spending directed by trade area residents to other centres and is a measure of the overall impact on turnover of all retailers expected to be servicing the needs of trade area residents at that time.”

However, due to strong demand in the retail market, it is also apparent that other centres and stores are forecast to achieve a \$105.1 million increase in turnover, as compared with current levels (i.e. 2005), despite the proposed expansion. This represents a substantial 13.8% increase in turnover.”

- “Our analysis demonstrates that there is an overwhelming community demand and need for a development such as that proposed on this site. This is due to the following considerations:
 - The existing centre is performing well, suggesting strong market support.
 - The expansion to the centre will provide an improved supermarket and fresh food offer, and strong demand exists for additional speciality shops and services. The assessment of market potential therefore points to the likelihood of a very successful expansion to the shopping centre.
 - Population and spending growth in the area indicate a need for additional facilities over the forecast period. This need is further supported by the Draft Retail Strategy prepared by Core Economics.
 - In this case, the overall provision of retail services and facilities is not reduced, but rather is improved, by the proposed expansion.
 - The subject development would improve convenience and the quality of services to the community served by the centre. It is unlikely to result in a reduction of retail facilities and services elsewhere and should not result in an increase in vacancy rates.”

The analysis acknowledges the proposed expansion will direct trade away from other existing outlets in the area in 2010 however this balanced by an increase in growth during this period for the other existing outlets. The Economic Impact Assessment finds that the impact on other centres is not excessive and is within the bounds of a normal competitive environment.

Development Engineering

Existing Title Restrictions

Lot 1 is encumbered by numerous easements for electrical purposes, with the proposed works conflicting with at least one of these. Concurrence of the local electrical authority (Country Energy) will be necessary.

Lot 1 is also affected by an easement for access, a Right of Carriageway, and an easement for access, all of which are clear of the proposed works.

Lots 14,15,16 & 17 are unencumbered, but will be required to be consolidated with Lot 1.

Geotechnical / Earthworks

Excavation for the basement parking area (approx. 2m deep) will be required.

Roads

Road Network / Horizontal Alignment

Both road frontages are fully constructed, and no new roadwork of any significance is required. Minor works however, are proposed as follows – per the Traffic Engineering Report by TTM Consulting;

- the conversion of Minjungbal Drive to three lanes, with signposting for clearways during peak periods. This will require modification of some median islands and new linemarking;
- the provision of signage to encourage increased usage of the Blundell Blvde and Kirkwood Road entrances;

Road Vertical alignment

No concerns.

Road typical cross sections

Kirkwood Road has a very wide road reserve, with two carriageways separated by a median island.

Minjungbal Drive is generally two lanes of through traffic, excluding turning bays.

Intersections

The site is fronted by three intersections – all on Minjungbal Drive and all controlled by traffic signals.

Bus routes / Shelters

The bus stop on the Minjungbal Drive frontage can remain as it will be similar to other situations.

There is also an internal bus stop facility (for small buses), in the north-east portion of the site, which will be relocated to the western side of the centre.

Access

The site has 3 access points, and these will remain unchanged. Internal reconfiguration will occur at the northern access point off Kirkwood Road, as well as minor alterations at the Blundell Blvde entry.

Footpaths / Cycleway

The Minjungbal Drive frontage is provided with path paving. The Kirkwood Road frontage includes 4 residential lots that will be utilised for car parking – and this frontage will require path paving. An existing footpath crossing fronting Lot 14 will also need to be removed and the footpath area restored.

Traffic Generation

The submitted Traffic Engineering Report by TTM Consulting claims that an increase of 400 vph will be generated by this development. Traffic surveys and capacity analysis indicates that there is adequate capacity at the Minjungbal Dr / Blundell Blvde and Minjungbal Dr / Kirkwood Rd intersections to accommodate the additional traffic being generated. However, increases in through traffic volumes on both Minjungbal Dr and Machinery Dr – more as a result of progressive redevelopment and population growth than due to the Tweed City redevelopment will result in a progressive increase in traffic congestion at that intersection.

Manoeuvring

Minor concern raised regarding possible conflict at the Kirkwood Rd entry - at the basement car park entry. Prioritising / give way signage / linemarking will be required to (primarily) avoid conflicts with basement egress traffic and “through” traffic heading east.

Stormwater Drainage

Allotment drainage / IAD

The site has a legal point of discharge in the NE corner, to a drainage easement. This is where the site’s stormwater is currently directed. Some reconfiguration of internal stormwater works will be required. Council’s stormwater Engineer has provided further comments as follows-

The development proposal will not significantly change stormwater runoff volumes for the site, as roof areas will replace hardstand and carparking areas. Discharge of runoff from the new roof catchments to the existing site drainage systems is permissible, without significant upgrading works required.

The applicant has proposed to install permanent stormwater quality control device(s) to treat stormwater prior to discharge to the public realm. Devices need to be adequately sized to provide oil and sediment storage for all new impervious catchments (including undercover carparking but excluding roof areas). Devices must also be able to cater for the contributing stormwater flow, so in order to minimise sizing, “clean” roof water should be discharged downstream of treatment devices.

Conditions have been imposed accordingly.

Road Drainage network / Trunk Drainage / Downstream Discharge

No concerns have been raised by the Engineering and Operations Department.

Stormwater Quality Management

Construction Phase

Council’s Stormwater Engineer comments as follows;

No erosion and sediment control plan has been provided with the DA, however the applicant will provide a detailed site specific plan prior to construction, to Council requirements. Given the urban character of the site, standard control measures should be adequate.

Standard conditions will be imposed accordingly.

Operational Phase

See allotment drainage above.

Services/Utilities

Water Supply

An existing water service runs along both road frontages of the site. No concerns are raised in this regard. Standard Sec.64 contributions apply.

Effluent disposal

No concerns are raised regarding the extra sewage discharge volume being directed to Council's system. Standard Sec.64 charges apply.

All new structures are well clear of the sewer mains.

An existing sewer main traverses the north-eastern corner of the site, which is not covered by an easement. This opportunity will be taken to create the required easements.

Electricity

No concerns are raised regarding connection to existing services, however the proposed building works will go over an existing internal easement. This will require comment from Country Energy and possibly relocation of internal infrastructure and extinguishment / recreation of easements.

Telecommunication

No engineering concerns.

Waste (garbage) service / Emergency Services / Mail Services

No concerns are raised regarding access to and by these services.

Natural Hazards

Flooding

Council's Flooding Engineer has provided the following comments;

The design flood level for the site is 2.6m AHD. Existing ground levels for the site are generally at or slightly above this level. While DCP5 does not prescribe a minimum floor level for commercial development, existing/proposed retail floor levels of 3-4m AHD will ensure adequate flooding protection.

The proposal includes a basement carpark below design flood level. Generally, this is only permissible if the basement level can be protected to 500mm above the design flood level. However, as the basement carpark is an extension of an existing facility, and the existing basement carpark does not have this level of flooding freeboard, it is not considered necessary or useful to apply this requirement to the subject development. As access to the mall will be severely restricted during a Q100 flood, it is unlikely that vehicles and motorists will be in the basement carpark at the time of inundation, and subsequent damages will be minimal.

It is likely, however, that integral items of mechanical and electrical plant will be located within the basement level. These should be designed and treated to be able to withstand complete submergence up to the design flood level, or relocated out of the basement.

Building Code of Australia

The proposed new works will not change the current building classifications of class 6 (shops) and class 7a (carpark).

Under the provisions of part 94 of the Environmental Planning and Assessment Act 1979 Council may require the building to be upgraded where:-

- (a) The proposed building work, together with any other building work completed or authorised within the previous three years, represents more than half the total volume of the building, as it was before any such work commenced, measured over its roof and external walls, or
- (b) The measures contained in the building are inadequate:
 - (i) To protect the persons using the building and to facilitate their egress from the building, in the event of fire, or
 - (ii) To restrict the spread of fire from the building to other buildings nearby.

Concerning (a) & (b)

The existing shopping centre had major additions carried out in 1996/97 which fully complied with the provisions of the Building Code of Australia with the exception of certain requirements relating to the required smoke exhaust system under Specification E2.2.

While Council imposed conditions requiring compliance with the Building Code of Australia, a section 82 application was made to the Department of Local Government seeking a concession to the provisions of Clause C2.3 (b) (i) of the Building Code of Australia which required that large isolated buildings to comply with the "Deemed to Satisfy" provisions of Specification E2.2, which related to smoke control systems.

The concession was granted on the basis that the proposed method of smoke control complies with the performance objectives.

In 1999 a cinema complex was added to the existing shopping centre, which also complied with the BCA.

It is therefore considered that the whole building should be upgraded to comply with the performance requirement of EP2.2 BCA in respect of smoke hazard management. If the upgrading works do not satisfy the deemed-to-satisfy provisions of Part E2 of the Building Code of Australia it will be necessary to obtain an alternative solution addressing Performance Requirement of EP2.2 as contained in Volume 1 of the Building Code of Australia to the PCA for assessment and determination prior to the issue of the Construction Certificate.

Should the fire upgrading works propose a change to the external fabric of the building it will be necessary to obtain a variation to the Development Consent before works commencing via a Section 96 application under the Environmental Planning & Assessment Act.

A condition is proposed regarding the above.

(c) Suitability of the site for the development

The proposal is an extension of the existing complex and the site is suitable for the development.

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

The application is classified as integrated development as it requires an approval from the Department of Natural Resources for dewatering purposes. The Department has provided these terms and conditions which have been incorporated into the recommendation.

The application was publicly exhibited in accordance with the Act and seventeen submissions were received.

The applicants undertook their own consultation as set out below-

- a) 20 March 2006 – Presentation to 170 retailers to present DA plans & answer their questions.
- b) 8 meetings with over 120 neighbours.
- c) In – Centre display of plans with centre staff available to answer questions. Feedback forms were made available to all shoppers by centre management. The feedback received will be used for the leasing programme and the design development.
- d) Presentations to local members of Parliament.
- e) Presentation to Tweed Chamber of Commerce with over 130 members in attendance.
- f) Over 80 individual meetings to date by the leasing & centre management teams to discuss specific retailer requirements since 18 April 2006.

The submissions were provided to the applicants and they have provided the following general responses and the itemised responses in the table following-

- **Truck Deliveries**

In the first phase of public consultation we were advised by residents that there have been some infringements in relation to deliveries to site. We have undertaken at all times to act upon any such issues as we are advised. We can in fact only act when we know there is a problem.

As such we are implementing the following:

The road at the eastern side of the site will have restricted access between 9PM and 6.30AM. We have notified all the major tenants of this change and they have in turn advised their suppliers. Within the next four weeks we will be implementing a physical lock-down of this area on a nightly basis.

- **Air-conditioning plant**

The plant will be located on the rooftop at the rear of the building to line up with the cool-rooms and refrigeration layout of the supermarkets.

There will be an acoustic barrier around the plant. Hours of operation will vary for various plant and equipment, but will generally coincide with the hours of operation of the centre (for example, the carpark fan and common mall centre air conditioning). The refrigeration plant will run 24 hours and will be similar in noise to the current Woolworths plant, albeit that it will be more modern technology. In addition we have proposed a 3m high acoustic boundary fence, a detailed impact assessment of which was submitted with the Addendum 1 on 26 April 2006. We have proposed to work with our neighbours to ensure a mutual outcome in terms of aesthetic impact.

- **Inter-Property Access and Acoustic Fence**

We will work with our neighbours to resolve these issues.

- **Chinderah Site**

We make the following comments in relation to the submissions by Gales Holdings, their supporters and consultant submission:

a) The “Either/Or” Argument

There is an implication the submissions of an “either/or” for Tweed City vs Chinderah ie there can only have one or the other. This is not what is contemplated in our report. We have forecast other development in the next 10 years and have factored in some form of DDS based centre in the interests of being prudent with our economic forecast. Such a centre should *inter alia* fit with Council’s retail hierarchy and the allocation of associated infrastructure spend by Council. We would review and make comments on any application where appropriate at the time it is before Council and the subject of a public consultation period.

There are also certain market imperatives before such a development can be established. They include (but are not limited to):

- (i) A sufficient catchment population conveniently located relative to competitive alternatives.
- (ii) The willingness of anchor tenants to locate to that centre.

What we are concerned about, is any dilution of infrastructure spend away from the strategy for provision of infrastructure for Tweed Heads South, infrastructure that services not only Tweed City Shopping Centre but a vast array of businesses in the South Tweed Industrial Area centred around Machinery Drive.

b) Competitor Submission

It is a natural part of business that competitive centres will make submissions. As stated above we have contemplated a small DDS based centre in our numbers. How and where that is located is a matter for Council in the retail hierarchy. We have not proposed the Tweed City redevelopment as “one or the other” however we are meeting Council’s goals in relation to retail hierarchy and the efficient allocation of public expenditure on infrastructure etc. Rezoning of land and approvals between Council and other land owners is a matter for Council and those owners. When those plans are put forward in the public domain we will take the opportunity, where appropriate, to comment upon them.

Most importantly our development proposal is in accordance with Tweed City as the principal retail centre is in line with Council’s retail hierarchy.

c) The “Process” Issues

We see issues relating to the survey of residents (desirable of a centre at Chinderah), the perceived demand for a district centre at Chinderah, the (alleged) corruption of the planning process, etc. as process issues. These are matters between Council and Gales and we make no further comment upon them.

- **Traffic and Transport**

We wish to emphasise the key issues on this component of our DA.

a) Public Transport

20% of all customers arrive at the Centre by means other than car and the majority of these people use the bus.

The Centre is serviced by Surfside Buslines both within the Centre boundary and on Minjungbal Drive. We are currently working with Surfside on location of on site bus stops during construction and for the completed Centre. The development approval will enable us to have meaningful discussions regarding timetables, set down and pick up areas on site and the possibility of terminating at Tweed City instead of Tweed Centro to avoid changing buses.

1 in 10 of our customers are non resident (tourists) and will either travel by car (hired) or bus.

b) Regional Traffic Network

The approach to the regional traffic network is a two fold approach.

As part of the traffic plan submitted to Tweed Council we have proposed that Minjungbal Drive be re-linemarked to create three through-lanes north and south bound, in place of the two lanes and a partial carparking lane as is currently in place. This will assist in moving traffic through the area and help prevent traffic banking up at the turning lanes to both the centre and the South Tweed Industrial area. In addition, the new underground carpark will rebalance the traffic around the site taking pressure off the Machinery Drive intersection entry to the centre. Most importantly, this will assist Council in the short term as the broader regional road network continues to be upgraded

In relation to the broader network, DRFM is providing \$577,000 in s.94 contribution payments towards improvements to the regional traffic network. Council has a programme in place to implement such a strategy.

This is a sound partnership approach and we look forward to working with council to implement the changes as the development unfolds.

Letter No	Council Reference	Key Point Summary of Letter	DRFM Response				
1	1394309	Noise	<p>Truck Deliveries: In the first phase of public consultation we were advised by residents that there have been some infringements in relation to deliveries to site. We have undertaken at all times to act upon any such issues as we are advised. We can in fact only act when we know there is a problem.</p> <p>As such we are implementing the following:</p> <p>The road at the eastern side of the site will have restricted access between 9PM and 6.30AM. We have notified all the major tenants of this change and they have in turn advised their suppliers. Within the next four weeks we will be implementing a physical lock-down of this area on a nightly basis.</p> <p>Air-conditioning plant: The plant will be located on the rooftop at the rear of the building to line up with the cool-rooms and refrigeration layout of the supermarkets. There will be an acoustic barrier around the plant. Hours of operation will vary for various plant and equipment, but will generally coincide with the hours of operation of the centre (for example, the carpark fan and common mall centre air conditioning). The refrigeration plant will run 24 hours and will be similar in noise to the current Woolworths plant, albeit that it will be more modern technology. In addition we have proposed a 3m high acoustic boundary fence, a detailed impact assessment of which was submitted with the Addendum 1 on 26 April 2006. We have proposed to work with our neighbours to ensure a mutual outcome in terms of aesthetic impact.</p> <p>Loading dock: Hours will be determined by Council however we have requested the hours for the current centre being:</p> <table data-bbox="951 1839 1401 1895"> <tr> <td>Mon-Sat</td> <td>6.30am – 9.00pm</td> </tr> <tr> <td>Sun</td> <td>8.30am - 6.00pm</td> </tr> </table>	Mon-Sat	6.30am – 9.00pm	Sun	8.30am - 6.00pm
Mon-Sat	6.30am – 9.00pm						
Sun	8.30am - 6.00pm						

		Dust	<p>In order to lessen the impacts of noise and dust arising from the site during construction the following measures are undertaken:</p> <p>The perimeter edge will have fencing covered with shade cloth covering it. The effect of this is two fold - it acts as a safety barrier for division of construction and public activities; and it assists in the containment of construction material. Good housekeeping practices. The Head Contractor will be required to maintain a clean site. The benefits of this are safety and dust reduction which all assist with good work practices; All equipment either owned or hired by Head Contractor or its sub contractors is required to incorporate appropriate silencing equipment in accordance with Australian Standards and /or Council requirements.</p> <p>We have not engaged a builder and as such the detail of these issues has not been finalised. However it is our intention to ensure that noise suppression, dust suppression and materials delivery and handling are conducted in an orderly manner to minimise impact to customers and neighbours. When we have appointed a builder we will undertake a series of presentations regarding construction and staging similar to the DA presentations that many of the residents recently attended.</p>
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		Traffic	<p>The intention of our development application traffic management plan is to provide easier access and lessen congestion on Minjungbal Drive and the surrounding feeder roads. Results from our traffic survey and as detailed in our traffic report show that Kirkwood Road currently takes approximately 5% of the traffic into the Centre. With the additions it is estimated that during peak hour the traffic to and around the centre will increase by 400 vehicles per hour, of which 20% (80 vehicles per hour increase)to Kirkwood Road. Based on this minimal increase to the current traffic volumes, no works are justified to the existing access arrangements for Kirkwood Road.</p> <p>Therefore based on the above minimal increase in traffic volumes and our proposed improved traffic flow to the surrounding road network and Centre access, we will be improving both the amenity of the Centre, surrounding area and roads and will not be adding any significant pollution increase.</p>
		Inter-property Access	<p>We are very cognizant of the importance our neighbours (adjoining residents) place upon this issue and are actively seeking a safe solution for the duration of the construction period.</p>
		Boundary Fence	<p>There is absolutely no suggestion that we will remove the fence permanently albeit that in replacing the current fence 2.0m high with a new 3.0m high acoustic fence we will provide temporary fencing for security.</p> <p>We propose to minimise "wall area" and maximise planting on both sides of the fence. We understand the residents concerns and we will endeavour to provide a design which is equivalent to the planting that is currently in place. We have separately undertaken with the Pinehurst residents to work with them on the look and location of the fence. We make this undertaking to all residents in the precinct adjacent to the Centre. We would prefer to work with a committee of residents who have the authority to work with us and ultimately agree the design.</p>

2	-	Regional Traffic Network	As part of the traffic plan submitted to Tweed Council we have proposed that Minjungbal Drive be re-linemarked to create three through-lanes north and south bound, in place of the two lanes and a partial carparking lane as is currently in place. This will assist in moving traffic through the area and help prevent traffic banking up at the turning lanes to both the centre and the South Tweed Industrial area. In addition, the new underground carpark will rebalance the traffic around the site taking pressure off the Machinery Drive intersection entry to the centre.
		Transport	<p>20% of all customers arrive at the Centre by means other than car and the majority of these people use the bus.</p> <p>The Centre is serviced by Surfside Buslines both within the Centre boundary and on Minjungbal Drive. We are currently working with Surfside on location of on site bus stops during construction and for the completed Centre and the development approval will enable us to having meaningful discussions regarding timetables, set down and pick up areas on site and the possibility of terminating at Tweed City instead of Tweed Centro to avoid changing buses.</p> <p>1 in 10 of our customers are non resident (tourists) and will either travel by car (hired) or bus.</p>
		Retail Experience	The redevelopment will provide both new areas of the centre and a refresh of the existing centre. In addition we have proposed new elevations at the Kmart entry and the new Coles entry and a new food court under the existing high level roof with an increase in seating. We propose an active edge at each of our entrances and in particular at the Kmart entry to link food and cinemas. Most importantly with approximately 40 new tenancies and renewals of a further 60 tenancies the centre will showcase a new retail offer for Tweed. At our core we are a subregional centre which is all about convenience and our ambience and retail offer will match this vision.

		Escape Expenditure	<p>We agree that many people are travelling to centres such as Robina and Pacific Fair and the reason we are undertaking the additions to the centre is to improve our offer, maintain expenditure and jobs in the Tweed and provide opportunities for local businesses. Robina at 85,000sqm and Pacific Fair at 105,000sqm have the critical mass to provide the facilities the letter is discussing and we will work towards these in the forthcoming years and decades to provide them to the Tweed Coast in line with increases in population.</p>
		Chinderah Site	<p>There is an implication in this and other letters of an “either/or” for Tweed City vs Chinderah ie there can only have one or the other. This is not what is contemplated in our report. We have forecast other development in the next 10 years and have factored in some form of DDS based centre in the interests of being prudent with our economic forecast. Such a centre should <i>inter alia</i> fit with Council’s retail hierarchy and the allocation of associated infrastructure spend by Council. We would review and make comments on any application where appropriate at the time it is before Council and the subject of a public consultation period.</p> <p>There are also certain market imperatives before such a development can be established. They include (but are not limited to):</p> <ul style="list-style-type: none"> A sufficient catchment population conveniently located relative to competitive alternatives. The willingness of anchor tenants to locate to that centre. <p>What we are concerned about, is any dilution of infrastructure spend away from the strategy for provision of infrastructure for Tweed Heads South, infrastructure that services not only Tweed City Shopping Centre but a vast array of businesses in the South Tweed Industrial Area centred around Machinery Drive.</p>

3	1386299	Shopping Trolleys	Tweed City Shopping Centre management has installed trolley bays and "cattle grates" at the entrances to the Centre in order to reduce the incidents of trolleys leaving the centre. The system has reduced the trolleys leaving the centre by over 70% and has gained positive feedback from the local community.
4	1391116	Council Process - Core Economics Report Oct 2003	This is a "process" issue and therefore a matter for council.
		Traffic	The submission discusses issues associated with the regional traffic network. DRFM is providing \$577,000 in s.94 contribution payments towards improvements to the regional traffic network. Council has a programme in place to implement such a strategy. In terms of other work please see our comments above.
		Chinderah Site	Please note our comments above

5	1392765	<p>Open Space Sufficiency of Car Parking No open vistas for better orientation No sufficient exits No solution to entry exit via roads Eating area unfriendly "catacombs" (SR) Space for open air performing, exhibitions, Competitions General comments on Tweed Area</p>	<p>The assessment appears harsh. As stated above, the redevelopment will provide both new areas of the centre and a refresh of the existing centre. In addition we have proposed treatment of elevations at the Kmart entry and the new Coles entry and a new food court under the existing high level roof with an increase in seating. We propose an active edge at each of our entrances and in particular at the Kmart entry to link food and cinemas. Most importantly with approximately 40 new tenancies and renewals of a further 60 tenancies the centre will showcase a new retail offer for Tweed. At our core we are a subregional centre which is all about convenience and our ambience and retail offer will match this vision.</p> <p>The basic layout provides for 3 strong malls with very clear site lines anchored by major tenants with a new food court and centre court area in the heart of the centre. The centre court, heavily used by both community groups (at no cost) and retailers alike provide a busy active heart of the centre in an air-conditioned environment which in summer in particular is appreciated by our customer base.</p> <p>Carparking provision for the development exceeds both Council and RTA requirements and in addition over 400 new underground carspaces will be added to the centre.</p> <p>We will of course provide emergency exits in accordance with BCA requirements as part of the Construction Certificate process.</p> <p>We make no comments to the general items raised in the last paragraph.</p>
6	1396656	<p>Inter property Access and Boundary Fence</p>	<p>We are very cognizant of the importance our neighbours (adjoining residents) place upon this issue and are actively seeking a safe solution for the construction period and a permanent solution at the completion of the development. This is a matter we have and will continue to take up directly with our neighbours. In relation to the boundary fence see comments above.</p>

		Roof Air-conditioning Plan and delivery trucks.	Please see our comments above in relation to these matters.
7	1399930	Existing Truck Noise	Please see our comments above in relation to this matter.
8	1399252	Chinderah Site	Please see our comments above in relation to this matter.
9	1390450	Bore	<p>This is a matter for Council. As a point of clarification in relation to the construction phase we make the following comments:</p> <p>During the design process much consideration was given to the level of the existing water table on the site. The result of this has been that the finished floor level of the basement carpark will be above the standing water table (similar to the southern end of the centre). However during construction some de-watering of the basement area will be necessary to construct pad footings. This dewatering will be achieved by the pumping out the areas excavated for the pad footings for a short period of time prior to the concrete being poured. The expected drawdown is 0.5m maximum and the distance from each point will be no more than 2 metres from the footing excavation. Therefore we envisage no impact on the dam in the gardens for the construction of the pad footings. Any other pumping of water will be a result of too much water in the excavation (e.g. a large downpour whilst excavating for the basement carpark) however this will be removed in accordance with safe environmental practices.</p>
10	1404041	Gales Holdings	
		“Current Excess in retail floorspace in Tweed Urban North and the great dearth in retail floorspace in the Coast”	<p>Disagree</p> <p>Council is well aware of the strong growth profile of the area. Provision of retail floorspace cannot be broken into “blocks’ to service areas. Both Tweed City and Tweed Centro service larger catchments. The table on page 2 of the letter indicates an oversupply of retail floorspace. This would indicate retailers are trading at poor sales levels which would manifest themselves vacancies. This is simply not the case and demand for retail at Tweed City Shopping Centre is strong.</p>

		<p>“The entirely incorrect statement in the EIA (sic) (item 23, page v) that the high usage of Tweed City for non-food shopping by residents of the secondary south sector of the trade area reflects convenience”.</p>	<p>Disagree</p> <p>Customers are attracted to centres of various types for various reasons including range and variety. We currently support 3 supermarkets with varying offers in our centre attracting 5.7m visitors. The range and variety is outside the supermarkets and includes comparison shopping and everyday needs and services.</p> <p>In addition we have proposed more underground carparking, a new more convenient at grade carpark at the front door to the new Coles/Action Mall and a stronger retail offer.</p>
		<p>“The likely argument that, should the increase in retail floorspace on the proposal eventuate, approval of a new centre at Chinderah is not warranted because of the excess floorspace”.</p>	<p>Disagree</p> <p>We have forecast other development in the next 10 years and have factored in some form of DDS based centre in the interests of being prudent with our economic forecast. Such a centre should <i>inter alia</i> fit with Council’s retail hierarchy and the allocation of associated infrastructure spend by Council. We would review and make comments on any application where appropriate at the time it is before Council and the subject of a public consultation period in the same way the writer has.</p> <p>There are also certain market imperatives before such a development can be established. They include (but are not limited to):</p> <ul style="list-style-type: none"> A sufficient catchment population conveniently located relative to competitive alternatives. The willingness of anchor tenants to locate to that centre. <p>What we are concerned about, is any dilution of infrastructure spend away from the strategy for provision of infrastructure for Tweed Heads South, infrastructure that services not only Tweed City Shopping Centre but a vast array of businesses in the South Tweed Industrial Area centred around Machinery Drive.</p>

		“The effect of traffic and parking, and the further impact on this by the increasing population from the Coast and west being forced to travel to Urban north”.	We are well in excess of both Council and RTA parking guidelines. Please note our comments on traffic and our traffic strategy above.
		“The extremely strong desire by residents of the Coast for a new District Centre”.	This is a matter for Council and the writer of the submission. We do not believe this to be an “Either/Or” argument.
		“The extremely strong desire for the respondents to the Coastal Survey for an Inquiry into Retail Planning”.	This does not relate to the application and is a matter for the Council.
		“The corruption of the planning process...”.	This does not relate to the application and is a matter for the Council.
10	1391116		See response to Letter 4
10	-	5 Year Plan	This does not relate to the Tweed City Shopping Centre redevelopment and as such we make no comments.
10			See response to Letter 5
10			See response to Letter 5
10		Chinderah Site	Please see our comments above in relation to this matter.
10		Escape expenditure to Robina, Pacific Fair etc. Amenity of Tweed City Regional Traffic	Please see our comments above in relation to this matter.
10		Chinderah Site	Please see our comments above in relation to this matter.
10		Support of Chinderah Site	Please see our comments above in relation to this matter.

10		Support of Chinderah Site- no reference to Tweed City	Please see our comments above in relation to this matter.
10		Support of Chinderah Site- no reference to Tweed City	Please see our comments above in relation to this matter.
Letter 11	1401042	Market Share – the Tweed City Shopping Centre redevelopment will preclude other development such as Chinderah	<p>There is an implication in this and other letters of an “either/or” for Tweed City vs Chinderah ie there can only have one or the other. This is not what is contemplated in our report. We have forecast other development in the next 10 years and have factored in some form of DDS based centre in the interests of being prudent with our economic forecast. Such a centre should <i>inter alia</i> fit with Council’s retail hierarchy and the allocation of associated infrastructure spend by Council. We would review and make comments on any application where appropriate at the time it is before Council and the subject of a public consultation period.</p> <p>There are also certain market imperatives before such a development can be established. They include (but are not limited to): A sufficient catchment population conveniently located relative to competitive alternatives. The willingness of anchor tenants to locate to that centre.</p> <p>What we are concerned about, is any dilution of infrastructure spend away from the strategy for provision of infrastructure for Tweed Heads South, infrastructure that services not only Tweed City Shopping Centre but a vast array of businesses in the South Tweed Industrial Area centred around Machinery Drive.</p>
		Escape Expenditure	We may have in fact underestimated the impact of escape expenditure however we believe our numbers are appropriately conservative for this exercise. As a consequence the assessed impact on local centres is higher than it is in fact likely to be.

		Flametree Park Approval (Coles)	We have made an assumption of another supermarket in the primary trade area without specific reference to Flame Tree Park in the knowledge that approval was possible but if not an expansion of the Banora Village was more likely.
		Impact on other Tweed Centres	We have outlined what we believe our impact on other centres to be. However it should be noted that the market as a whole is growing. Put simply, the impact on centres such as Banora will mean that whilst they will experience growth the extent of growth may not be as great. The status quo is not an argument against development.

		<p>Contradictions between reports.</p>	<p>We refer specifically to the quotes from the Letter.</p> <p>“Anecdotal evidence suggests that customers would rather utilise the services of a neighbourhood centre (for super market shopping) with easy access and parking than visit a large regional shopping centre with congested access and parking facilities”.</p> <p>Response: We agree and this is why we have proposed more underground carparking, a new more convenient at grade carpark at the front door to the new Coles/Action Mall and a stronger retail offer. More importantly it should also be recognised that customers are attracted to centres of various types for various reasons including range and variety. We currently support 3 supermarkets with varying offers in our centre attracting 5.7m visitors. The range and variety is outside the supermarkets and includes comparison shopping and everyday needs and services. It should also be noted that Tweed City is not a regional shopping centre but a subregional supermarket based centre.</p> <p>“The popularity of major regional shopping centres for purchase of groceries and convenience is declining”.</p> <p>Response: Tweed City is NOT a major regional centre. This comment would relate to centres such as Robina and Pacific Fair and relates to the proportion of total turnover of the centre rather than the performance of the supermarkets in centres of this type.</p> <p>Tweed City – Although Action, Coles and Woolworths at Tweed City are not included in the catchment it is highly possible that the Banora Point development will draw up to 10% of the current trading for each of these supermarkets.</p> <p>We have allowed for one supermarket in the catchment (as well as an additional supermarket at Kingscliff and one at Cobaki Lakes). These assumptions are prudent. Expansion of Banora as an impact on Tweed City has been taken into account.</p>
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		Support of Tweed Coast residents for centre at Chinderah.	There is an implication in this and other letters of an “either/or” for Tweed City vs Chinderah ie there can only have one or the other. This is not what is contemplated in our report. We have forecast other development in the next 10 years and have factored in some form of DDS based centre in the interests of being prudent with our economic forecast. Such a centre should <i>inter alia</i> fit with Council’s retail hierarchy and the allocation of associated infrastructure spend. We would review and make comments on any application where appropriate at the time it is before Council and the subject of a public consultation period.
		Support of economic consultants to Chinderah.	We have contemplated a small DDS based centre however, as outlined above, our assessment shows it is unlikely to be supported for sometime due to the population and retailer (Majors tenant) demand.
		Surplus retail floorspace to the year 2024.	Council are well aware of the strong growth profile of the area. Provision of retail floorspace cannot be broken into “blocks’ to service areas. Both Tweed City and Tweed Centro service larger catchments. The table on page 7 of the letter indicates an oversupply of retail floorspace. This would indicate retailers are trading at poor sales levels which would manifest themselves vacancies. This is simply not the case and demand for retail at Tweed City Shopping Centre is strong.

The proponents have undertaken to liaise with the adjoining property owners regarding the fencing and private access arrangements. A condition is proposed to require the proponents to discuss this issue with the neighbours with a view of forming mutually acceptable arrangements.

The submission lodged on behalf of Gales Holding’s points at that prevention of escape expenditure will not be as great as identified in the application, the economic report didn’t take into account the new supermarket at Flame Tree therefore further impacting on existing outlets, a large number of Tweed Coast residents want a new district centre at Chinderah, need has not been demonstrated for the additional floor area and access is poor.

It is considered that the applicants have provided reasonable responses to the issues raised above which are found in the above table under Letter 11. It should be also noted that no submissions were received from the existing retail centres in the locality.

Additionally the land at Chinderah is not zoned to permit a district retailing centre. Putting this forward as an alternative site is not reasonable in the context of assessing the application before Council.

(e) Public interest

It is considered that the proposal is within the public interest as it provides additional retail floor space for a growing population, it accords with Council's retail strategy and measures for traffic management are proposed.

OPTIONS:

1. Approve the application as per the recommendation.
2. Refuse the application for specified reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicants are dissatisfied with Council's determination they have a right of appeal in the Land and Environment Court.

POLICY IMPLICATIONS:

The proposal is consistent with Council's resolution and strategy regarding retailing in the Tweed.

CONCLUSION:

The proposal is considered acceptable as it facilitates improved internal operating conditions for the complex, provides additional retailing services for the Tweed community and will generate additional direct and indirect employment and economic benefits for the area such as convenience, choice price/costs reduction and cross utilisation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.
