



AGENDA

Part 1

PLANNING COMMITTEE MEETING

Tuesday 13 November 2007

Chairman: Mr Max Boyd AM

Administrators: Mr Max Boyd AM
Mr Garry Payne AM



THIS
PAGE
IS
BLANK

ITEMS FOR CONSIDERATION OF THE COMMITTEE:

ITEM	PRECIS	PAGE
	REPORTS THROUGH GENERAL MANAGER	5
	REPORTS FROM DIRECTOR PLANNING & REGULATION	5
P1	[PR-PC] Development Application DA06/1332 for an Animal Establishment for Greyhounds at Lot 3 DP 701833, No. 3808 Kyogle Road, Mount Burrell	7
P2	[PR-PC] Development Application DA07/0530 for a Viewing Deck & Foreshore Improvements at Lot 7010 DP 1055324, Pandanus Parade, Cabarita Beach	19
P3	[PR-PC] Development Application DA07/0547 for a Three (3) Storey Commercial Building Including Café at Lot 11 DP 21242; Lot 1 DP 397057; Lot 1 DP 781718, No. 38-42 Pearl Street, Kingscliff	39
P4	[PR-PC] Development Application DA07/0232 for Factory Units at Lot 666 DP 1094312, No. 57-61 Ourimbah Road, Tweed Heads	89
P5	[PR-PC] Development Application DA07/0484 for a 3 Storey Multi-Dwelling Housing Development Comprising 20 Units (16 x Two Bedroom Units and 4 x Three Bedroom Units) at Lot 172 DP 1031933, Kamala Crescent, Casuarina	See Part 2
P6	[PR-PC] Development Application DA07/0805 for Construction of Cudgen Creek Pedestrian/Cycle Boardwalk Between Clough Way and Marine Parade and Pedestrian/Cycle Path Between Cudgen Creek and Moss Street, Kingscliff	See Part 2
P7	[PR-PC] Bogangar/Cabarita Beach Locality Plan	See Part 2



THIS
PAGE
IS
BLANK

REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

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.



THIS
PAGE
IS
BLANK

P1 [PR-PC] Development Application DA06/1332 for an Animal Establishment for Greyhounds at Lot 3 DP 701833, No. 3808 Kyogle Road, Mount Burrell

ORIGIN:

Development Assessment

FILE NO: DA06/1332 Pt1

SUMMARY OF REPORT:

The Development Assessment Panel at a meeting on 26 August 2005 refused a Development Application for greyhound kennels. A request for a S.82A 'Review of Determination' resulted in Council again refusing the proposal on 30 November 2005. At that time, an Appeal was lodged with the Land & Environment Court but was later withdrawn.

The applicant has since engaged an Acoustic Engineer to prepare a more substantial Noise Report and also a Planning Consultant to assist in lodgement of a new application. That application is the subject of this report.

Local complaint and concern about noise from the barking dogs remains constant with disturbances being diarised and documented. The neighbours have also engaged an Acoustic Engineer to substantiate their claims.

In summary, the issue of noise emissions remains contentious. The applicant has not satisfactorily demonstrated that the impact of barking can be reasonably reduced or eradicated to an acceptable level. In the physical context of the valley and in view of the record of complaint which appears to be accurate and documented over an extended period, it is recommended that the permanent siting of this dog breeding establishment should not be approved.

RECOMMENDATION:

That Development Application DA06/1332 for an animal establishment for greyhounds at Lot 3 DP 701833, No. 3808 Kyogle Road, Mount Burrell be refused for the following reasons: -

- 1. The proposed development fails to satisfy the primary objective for the 1(a) Rural zone under the Tweed Local Environmental Plan 2000 in that it would not protect the rural character and amenity.**
- 2. The proposed development fails to satisfy Clause 17 of the Tweed Local Environmental Plan 2000 in that it would have a significant social impact upon the local community.**



3. The proposed development fails to satisfy Clause 15 of the Tweed Local Environmental Plan 2000 in that it cannot ensure there will be adequate measures to protect the environment and the community's health.
4. The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it is not supported by adequate information to allow a proper assessment in relation to impact upon the rural and natural environment.
5. The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it would have an unreasonable and adverse impact upon the rural environment and neighbouring properties in terms of noise emissions.
6. The proposed development fails to satisfy Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that the suitability of the site has not been adequately demonstrated.
7. The proposed development fails to satisfy Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 in that because the adverse impacts cannot be properly assessed, it is not in the public interest.
8. The proposed development fails to satisfy Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that the application has attracted a number of public submissions in the negative which have raised matters which are considered to have merit.

REPORT:

Applicant: Mrs LL Green
Owner: Mr A Sinclair and Mrs LL Green
Location: Lot 3 DP 701833, No. 3808 Kyogle Road, Mount Burrell
Zoning: 1(a) Rural
Cost: \$3,000

BACKGROUND:

- Council first received complaints concerning noise emissions in December 2004. As a consequence, Council officers inspected the premises on 12 January 2005. Although advised by the owners that there were 20 dogs on site, 30 were counted and appeared to be housed in less than sanitary or suitable accommodation.
- The owners were advised to remove all but two dogs which were allowed as domestic pets, **OR** seek Development Consent for the unauthorised land use. They were advised at the time that it was **unlikely** that any application would be approved given the existing level of complaint concerning environmental disruption from barking.
- A Development Application was lodged on 17 June 2005 and advertised for public comment. Five objections and a petition (with 24 signatories) were received. The Development Assessment Panel (DAP) refused the application on 26 August 2005 for the following reasons:
 - "1. *The proposed development fails to satisfy the primary objective for the 1(a) Rural zone under the Tweed Local Environmental Plan 2000 in that it would not protect the rural character and amenity.*
 2. *The proposed development fails to satisfy Clause 17 of the Tweed Local Environmental Plan 2000 in that it would have a significant social impact upon the local community.*
 3. *The proposed development fails to satisfy Clause 15 of the Tweed Local Environmental Plan 2000 in that it cannot ensure there will be adequate measures to protect the environment and the community's health.*
 4. *The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it is not supported by adequate information to allow a proper assessment in relation to impact upon the rural and natural environment.*
 5. *The proposed development fails to satisfy Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 in that it would have an unreasonable and adverse impact upon the rural environment and neighbouring properties in terms of noise emissions.*



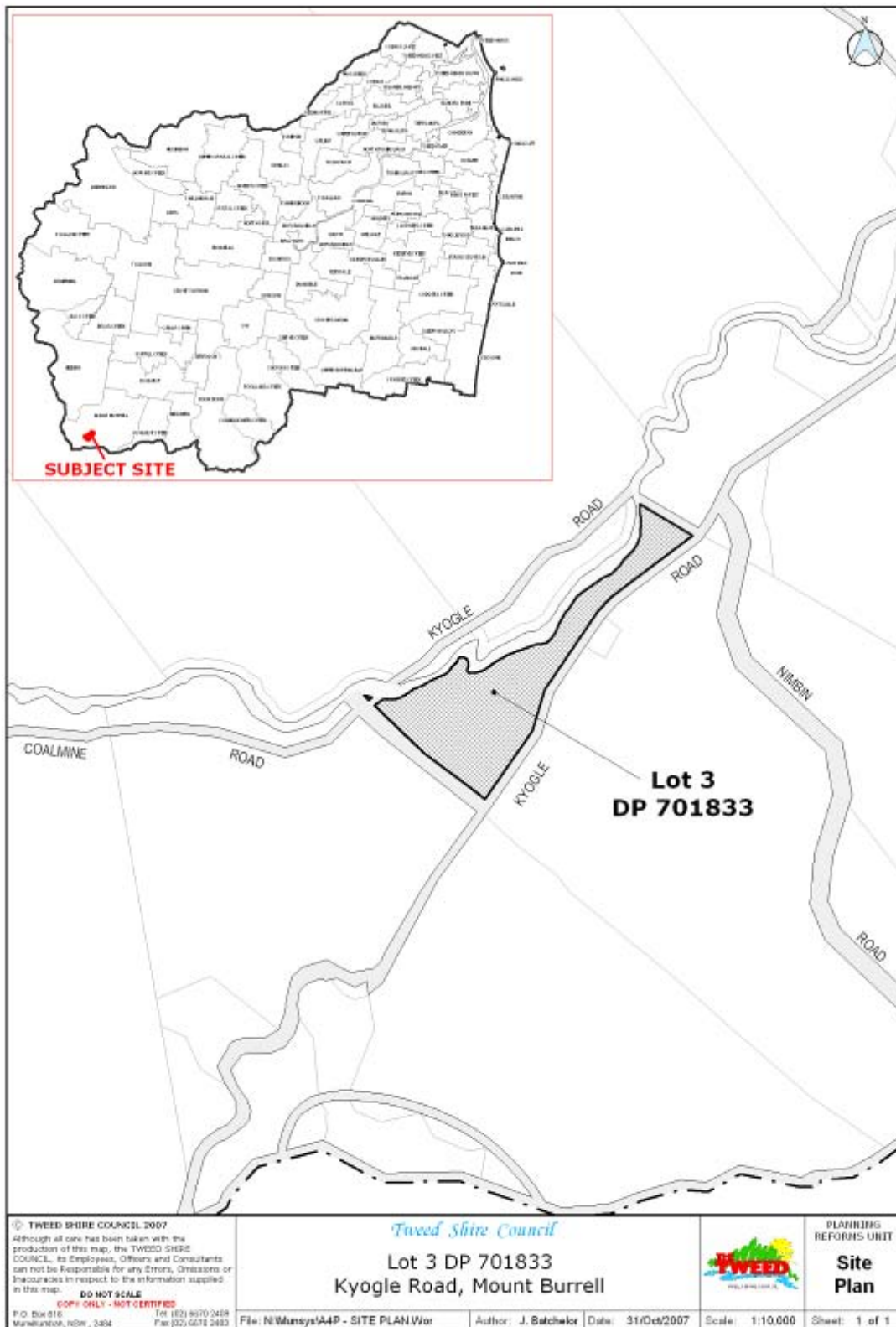
6. *The proposed development fails to satisfy Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979 in that the suitability of the site has not been adequately demonstrated.*
 7. *The proposed development fails to satisfy Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979 in that because the adverse impacts cannot be properly assessed, it is not in the public interest.*
 8. *The proposed development fails to satisfy Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979 in that the application has attracted a number of public submissions in the negative which have raised matters which are considered to have merit."*
- The applicant then lodged an Appeal with the Land & Environment Court on 16 September 2005. This Appeal was later withdrawn.
 - In addition to lodging the Appeal, the applicant sought a Review of Determination under S82A. A recommendation for Refusal was again upheld by Council on 30 November 2005
 - The applicant then engaged an Acoustic Engineer and a Planning Consultant to prepare a more substantial proposal. This new material will be considered in this report.
 - It should be noted that Council has continued to receive complaints from neighbours concerning the noise from barking. Complainants then engaged their own Acoustic Engineer to assess the impacts. That submission has now been assessed by Council's Environmental Health Officers and is considered to be critical in any final recommendation.

Proposal:

- The applicants propose to adapt an existing shed constructed of colorbond, into a set of accommodation kennels for greyhounds. There is no detail provided except that they intend to insulate the roof and walls, and pipe music to calm the dogs.
- Up to 30 dogs would be bred for racing and sale. 11 adults with the remainder being pups.
- Effluent would be disposed of through a 78 Li settling tank with a central baffle and an outlet filter in conjunction with 10m² of centrally fed ETA bed. This proposal (based on report from Pooh Solutions), is an improvement on the previous application which simply nominated a worm farm with no specific details given.
- A dog run separated into 6 separate yards measuring 42m x 5m are proposed (and currently operational). It would be surrounded by an 1800mm high colorbond fence. This application identifies plant species which would be planted around the exercise yard to visually screen it.

An exercise machine would be housed within the main shed.

SITE DIAGRAM:



© TWEED SHIRE COUNCIL 2007
 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 Tel: (02) 9670 2428
 Murwillumbah, NSW, 2484 Fax: (02) 6672 2882

Tweed Shire Council
Lot 3 DP 701833
Kyogle Road, Mount Burrell



PLANNING REFORMS UNIT
Site Plan
 File: N:\Munsys\AAP - SITE PLAN\War Author: J. Batchelor Date: 31/Oct/2007 Scale: 1:10,000 Sheet: 1 of 1



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

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

Tweed Local Environmental Plan 2000

- The subject land is zoned Rural 1(a) where the two primary objectives are to:
 - *“enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development*
 - *to protect rural character and amenity.”*
- The proposed use is classified as an “Animal Establishment” which is defined as:

“a building or place used for any one or more of the purposes of intensive animal husbandry, or the boarding, training or keeping of animals...generally requiring the importation of feed from outside the land on which the establishment is conducted.”

- It is considered that although it maybe “ecologically sustainable development”, this particular land use does not satisfy the other primary objective in that it would not necessarily protect the amenity of the rural area. There is a pre-existing record of complaint concerning noise, apart from the 13 representations lodged during public notification (discussed later in report).

North Coast Regional Environmental Plan 1988

It generally satisfies the NCRP.

State Environmental Planning Policies

No particular SEPPS are relevant.

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

None relevant.

(a) (iii) Tweed Development Control Plan

Section A11 - Public Notification of Development Proposals

The proposal was publicly notified in accordance with the DCP. The substance of written objections is examined later in this report.

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

None relevant.

(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/amenity

- Although it is proposed to insulate the roof and walls, the shed would still remain open on one side (facing south) with no enclosure devices. The idea of noise containment is dubious, especially since significant noise is generated outdoors in the 'exercise run' – not contained within the kennels where the dogs are often more settled.

- The information submitted in the application in regard to 'distances to neighbours' is both inaccurate and contradictory. These facts are critical when assessing likely impacts above ambient noise levels.

To illustrate, several of the plans are not drawn to scale and the stated dimensions contradict other plans submitted – for example, one plan is notated with the house being 33m from the Kyogle Road and the next plan shows 100m.

The key issue is the separation from neighbours. The application indicates that one neighbour to the south is 600m distance, whereas in fact the residence is 430 m from the kennels and only 380m from the exercise run where the pups would be kept.

- As noise is pivotal in any appraisal of an animal establishment, the applicant has lodged a 'Noise Assessment' report prepared by Garry Hall. Council's Environmental Health Officers considered there were several procedural and technical problems with how that Acoustic Report was prepared and how its conclusions were reached. A request for further information resulted in some clarification, but on balance, it was still not supported by the Environmental Health Officer. A 'Noise Management Plan' has still not been submitted in the form of a working document and the applicant has been given numerous opportunities to address outstanding issues without success. No alternative management arrangements were offered like changing the early 'exercise' hours (5:30am), or relocating the exercise run further to the east.
- To provide an alternative perspective, the objectors engaged their own acoustic expert to comment upon the application's Noise Report, and to offer a second independent comment.

- That Engineer concurs with the applicant's expert specifying a "design goal being 35dB(A)" – but points out that the performance figures and a neighbours documented reports of night time noise outbreaks (29 x in 8 week period) suggest that the dogs do not meet the agreed "design goal being 35dB(A)" and therefore fails the test of satisfying the Industrial Noise Policy. The Engineer concludes that "the noise generated by the kennels does adversely impact on the neighbouring receptors by at least 7, 9 and 12 dB(A)."
- This view is supported by Council's Environmental Health Officer.

On-site Sewage Management System

- Effluent from the kennels would be disposed of through a 78 Li settling tank with a central baffle and an outlet filter in conjunction with 10m² of centrally fed ETA bed. This proposal (based on report from Pooh Solutions), is an improvement on the previous application which simply nominated a worm farm with no specific details given.
- The proposed on-site grey water treatment and disposal method for wash-down water is considered acceptable.
- The disposal of solid waste to landfill is considered too heavy a load for Council's waste contractor – with on-site composting being encouraged.
- It is concluded that the proposed OSMS would be adequate to maintain standards of hygiene.

Animal Welfare

- The standard of animal habitation and sanitation was considered poor when inspected in January 2005. The applicant has not demonstrated how the establishment will comply with the 'NSW Agricultural Code of Practice - Dogs & Cats in Animal Boarding Establishments'. The applicant claims she "*has managed a dog pound in City of Knox (Vic.) and has 40 years experience in breeding and managing kennels with a spotless record.*"

In conclusion, the Environmental Health Officer does not support the proposed development primarily because of concerns over the Acoustic Reports methodology and findings, and the extensive level of local complaint.

(c) Suitability of the site for the development

- In view of the anecdotal evidence presented by the neighbours who now have the benefit of 35 months hindsight, it is considered to be an unsuitable site. Although it is a rural property of moderate size (9.25 ha), it appears the natural 'amphitheatre' topography allows the sound to carry to an unreasonable extent so as to create an environmental nuisance.

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

Following public notification between 6 to 20 December 2006, thirteen (13) letters were received – although another three letters of complaint have been received since. This level of negative response is significant for three reasons.

It represents written correspondence from **all adjacent neighbours**. It is rare that 100% of neighbours complain about a development proposal.

Secondly, thirteen separate letters from a low density rural population just prior to Christmas is considered to be a significant response. It represents genuine concern and should be assessed together with other letters of complaint received by Council in the past two years from local residents.

Thirdly, these complaints and representations have been consistent over time – with residents having had to write to Council a second time in response to a fresh application (DA06/1332) – the first application (DA05/0701) having been refused. Their submissions are not anticipating a future possible environmental impact – but rather represent a commentary with hindsight as the kennels already exist.

The following is a summary of those submissions:



Ground of objection	Response
<p>Noise</p> <ul style="list-style-type: none"> ▪ Extended and intermittent periods of barking and howling experienced for more than 2 years – normally lasting 90 -120 mins at dawn, during afternoon and late at night. It is particularly disturbing when barking outbursts occur during night. ▪ Proposed design makes no real attempt to mitigate noise. If approved, there would be a permanent nuisance from noise. ▪ Written complaints were submitted before DA lodged – the record of complaint precedes the application. 	<ul style="list-style-type: none"> ▪ The written complaints have been consistent and unabated – extending before the application was lodged. ▪ The submissions are quite detailed and specific – with diarised accounts having been recorded documenting the precise time of disturbance. ▪ In view of these submissions which represent all neighbours, and taking into account the concerns of the Environment and Health Services Unit about the methodology and conclusions of the applicant's acoustic report, the application is recommended for refusal.
<p>Effluent</p> <ul style="list-style-type: none"> ▪ The quantity of dog excrement is a concern given the proximity of the Tweed River. A composting bin may or may not be managed adequately to cope with the loads of faeces generated. Concerns about disease – particularly an outbreak of canine Parvo virus or hydatid. 	<ul style="list-style-type: none"> ▪ An improved system for the disposal of effluent has now been proposed with a 78 Li settling tank with a central baffle, outlet filter with a 10m2 of centrally fed ETA bed. ▪ Council's Waste Management Officer advises that the proposed Onsite Sewer Management System would be adequate to maintain standards of hygiene.
<p>Water quality</p> <ul style="list-style-type: none"> ▪ Contamination of the creek is a concern if excrement filters through and is not properly treated. Nutrient and bacteria levels may pollute the waterways. 	<ul style="list-style-type: none"> ▪ Advice from Council's Waste Management Officer suggests that effluent should be successfully resolved on site. There is consequently no evidence of any environmental threat to the river system.

Ground of objection	Response
<p>Social Fabric</p> <ul style="list-style-type: none"> ▪ The community has advised of “intimidation and tension” as a result of this land use which has had an adverse social impact upon the local residents. 	<ul style="list-style-type: none"> ▪ This is a difficult aspect of land use planning to accurately comment upon – except to say that it is important issue for the authors of the representations. Although a subjective matter, it still represents a valid consideration which should be taken into account in the balance of any assessment and ultimate decision.
<p>Animal Care</p> <ul style="list-style-type: none"> ▪ No indication of how well the dogs will be cared for – of any overseeing body or scrutiny of living standards for the greyhounds. 	<ul style="list-style-type: none"> ▪ This issue is not a primary planning consideration – but is more properly assessed and controlled by animal welfare organisations. There is no particular evidence at this stage of any unreasonable breach in terms of care.

In summary, it is apparent there is considerable community unrest and resistance to any permanent establishment of the greyhound breeding kennel.

Finally, one of the complainants has submitted a doctor’s report confirming poor health and ailments as a direct consequence of stress caused by the barking dogs.

(e) Public interest

It is not considered to be in the public interest to permit a landuse to become established when there is a known record of complaint. It would not create any significant employment or social benefit, but is known to create a measure of social unrest within the existing neighbourhood.

OPTIONS:

1. Refuse the application based on the eight reasons for refusal provided.
2. Refuse the application but modify the reasons for refusal.



3. Approve the proposal in principle and request appropriate conditions for approval be submitted to the next Council meeting.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with Council's decision, the applicant can lodge an appeal which would be determined by the Land and Environment Court.

POLICY IMPLICATIONS:

Nil

CONCLUSION:

Although an Acoustic Report has been submitted in this second application, there are still real concerns about its methodology and conclusions. The independent reports from acoustic experts are polarised in their conclusion which suggests that noise emissions are still a critical and inconclusive issue. The local testimony challenges the applicant's expert advice. The local complaints and concerns about barking remain constant with disturbances being diarised and documented.

On balance, it is considered that the applicant's proposition that noise is incidental and manageable is not substantiated. On the contrary, in view of sustained and documented concern about the local environmental disturbance, the proposal is recommended for refusal.

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 [PR-PC] Development Application DA07/0530 for a Viewing Deck & Foreshore Improvements at Lot 7010 DP 1055324, Pandanus Parade, Cabarita Beach

ORIGIN:

Development Assessment

FILE NO: DA07/0530 Pt1

SUMMARY OF REPORT:

Council is in receipt of an application for a viewing deck and foreshore improvements on part of the public reserve at the eastern end of Pandanus Parade, Cabarita. The proposed works incorporates a large timber beach viewing deck, stabilized beach access and formalised paving of the foreshore area between the proposed viewing deck and the existing Pandanus Parade road reserve.

The proposed works are designed to: improve the public amenity of the Cabarita foreshore; improve emergency access and visual surveillance from the existing Surf Club; and mitigate any further dunal erosion in the area. Although works will result in the loss of approximately 80m² of dunal vegetation, a Plan of Management has been prepared which incorporates appropriate mitigation measures relating to the proposed development.

Whilst the applicant will be responsible for the funding and construction of the proposal, all works will be supervised by Council's Recreation Services Unit, with the applicant having no proprietary interest in the viewing deck or the public foreshore area. The proposal is based on a design initiated by Council's (former) Landscape Architect and is considered to result in significant public and environmental improvement to the subject site.

RECOMMENDATION:

That Development Application DA07/0530 for a viewing deck & foreshore improvements at Lot 7010 DP 1055324, Pandanus Parade Cabarita Beach be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:**
 - **LH-WD-01 (Rev H) (as amended in red) prepared by Imagine and dated 12 July 2007;**
 - **LP-WD-01 (Rev C) prepared by Imagine and dated 12 July 2007;**



- LP-WD-02 (Rev B) prepared by Imagine and dated 12 July 2007;
 - LPS-WD-01 (Rev C) prepared by Imagine and dated 12 July 2007;
 - LD-01 (Rev A) (as amended in red) prepared by Imagine and dated 26 April 2007;
 - LD-03 (Rev A) prepared by Imagine and dated 26 April 2007, except where varied by the conditions of this consent.
- [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
- [GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
- [GEN0135]
4. All battered and exposed dunal areas shall be stabilised and revegetated by planting or seeding with native grasses and groundcovers, in accordance with the species list provided on Page 9 of the *Dunal Vegetation Management Report* by Habitat Environment Management Pty Ltd and dated May 2007, or other suitable interim protection provided as soon as soil is disturbed. Seeding or direct planting shall be undertaken in any part of the development within 14 days of completion of earthworks or clearing.
5. Maintenance of the site after Practical Completion is to be undertaken by the approved contractor until establishment and for a period to be negotiated with Council's Recreation Services Unit.
6. Hard landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.
- [GENNS01]
7. The layout and selection of furniture shown the approved plans are to be undertaken by Tweed Shire Council.
8. All timber construction material is to be of marine grade hardwood.
- [GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

PRIOR TO COMMENCEMENT OF WORK

- 10. 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]*
- 11. 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]*
- 12. 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]

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

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

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

[PCW0775]

14. All erosion and sedimentation control measures shall be adequately installed and maintained until such time as all works are complete and the site vegetation re-established.

[PCWNS01]

15. A representative from Council's Recreation Services Unit must approve on site:

- (a) Identification of vegetation to be removed and retained, in accordance with approved plans;
- (b) All construction and planting set outs, prior to work commencing; and
- (c) Plant stock prior to installation.

16. Clearing of native vegetation is restricted to that necessary for the construction of the viewing platform, walkway and associated infrastructure. Vegetated dunal areas to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:
- (a) with a minimum height of 1.2 metres,
 - (b) outside the dripline of any trees,
 - (c) of steel star pickets at a maximum distance of 2 metres between pickets,
 - (d) using a minimum of 3 strands of steel wire, to enclose the vegetated area, and
 - (e) with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter for visibility.

The fence is to be maintained for the duration of the site clearing, preparation and construction works. No building materials, stockpiles or other items are to be placed or stored and no excavation or level changes are to occur within the fenced off areas.

[PCWNS02]

DURING CONSTRUCTION

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

[DUR0005]

18. 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]

19. 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]

- 20. 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]

- 21. 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]

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

[DUR0405]

- 23. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.**

[DUR0415]

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

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

[DUR1005]

- 25. 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]



26. 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 (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]

27. 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]

28. 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]

29. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

30. 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]



REPORT:

Applicant: Resort Corporation Pty Ltd
Owner: Department of Lands
Location: Lot 7010 DP 1055324 Pandanus Parade, Cabarita Beach
Zoning: 6(a) Open Space
Cost: \$150,000

BACKGROUND:

Development consent (DA05/1472) was granted on 25 May 2006 for foreshore rehabilitation works on the subject site. The approval was limited to embellishment works on the public foreshore. Due to the lack of detail at the time, removal of any dunal vegetation was prohibited, with any such works to be subject to a separate development application.

Proposed Development

The principal objective of the proposed works, as stated by the applicant, is to...*'improve public amenity and ensure no loss of significant vegetation and maintain dunal stability.*

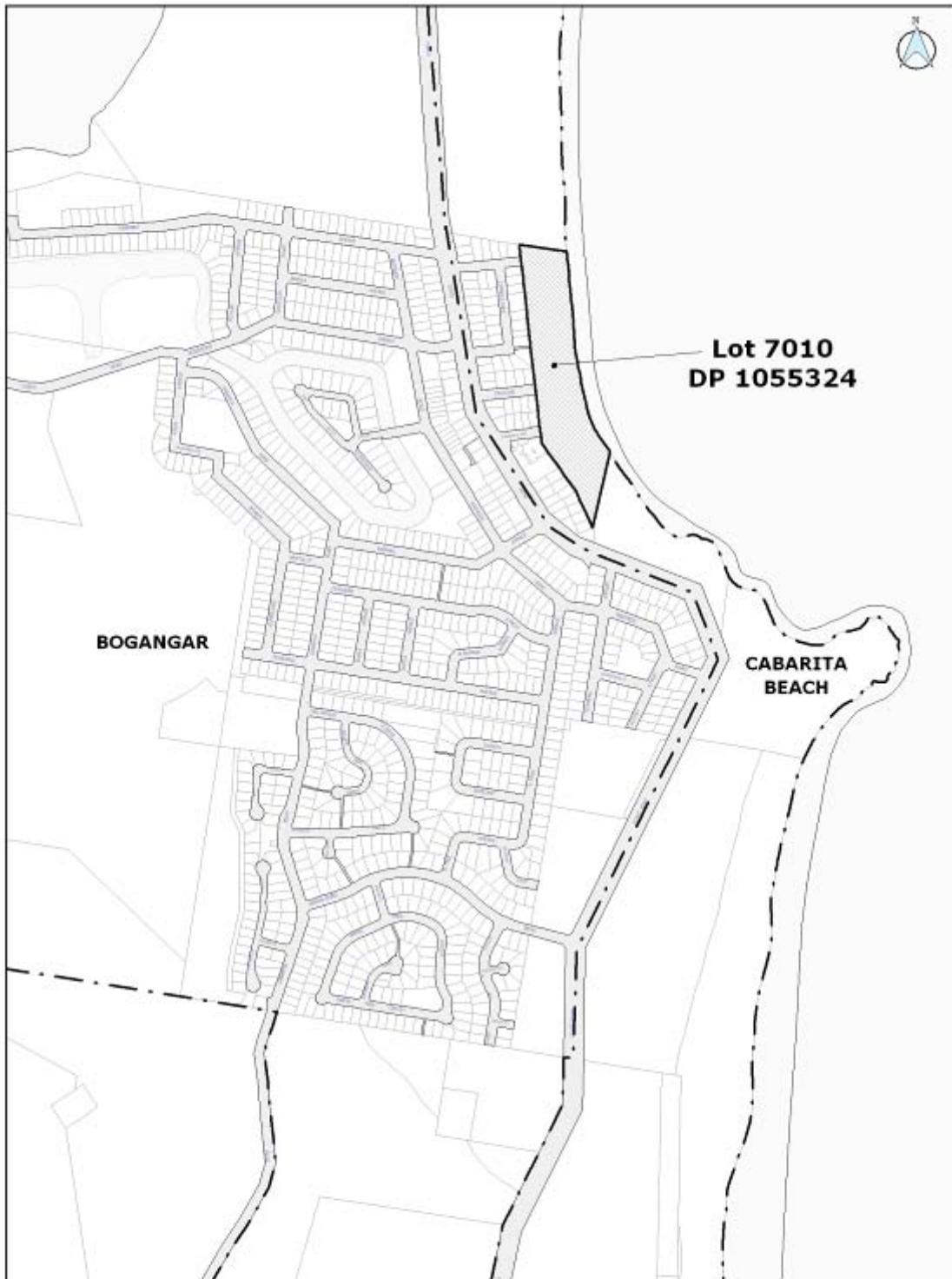
The proposed works include the following activities:


- *Removal of weed species;*
- *Removal of Macaranga sp;*
- *Removal of Banksia sp and Casuarina sp;*
- *Widening of beach access pathway to facilitate emergency and pedestrian access;*
- *Construct viewing deck and shower facilities to facilitate sustainable, low impact use and passage of pedestrians between Pandanus Pde and beach;*
- *Cover all exposed areas with endemic dunal ground covers and grasses.'*

The proposed foreshore improvement works also include the paving of the foreshore area which is intended to reinforce the pedestrian connection along Pandanus Parade to the beach.

The proposed development was placed on exhibition for a period of two weeks. During this time, Council received five (5) written submissions. The issues raised by the submissions have been addressed later in this report.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2007 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 on this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murumbidgee NSW 2484 Tel: (02) 6670 2489 Fax: (02) 6670 2485</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 7010 DP 1055324 Pandanus Parade, Cabarita Beach</p>		<p>PLANNING REPORTS UNIT Site Plan</p>
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>		<p>Author: J. Batchelor</p>	<p>Date: 31/Oct/2007</p>
<p>Scale: 1:10,000</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 majority of the subject land is zoned 6(a) Open Space under the Tweed Local Environmental Plan 2000. The primary objective is to:

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

The proposed development is considered to be consistent with the zone objectives.

Clause 17 of the TLEP refers to social impact assessment. Although the applicant has not provided a socio economic impact statement, a copy of Council's Socio-Economic Checklist did accompany the Statement of Environmental Effects, noting a significant positive social and economic benefit to the community. No further action was considered necessary in this regard.

Clause 25 of the TLEP refers to development in or adjacent to land zoned 7(a). The applicant has noted that no development is proposed within 50m of the 7(a) zone and has therefore submitted that a Plan of Management is not required under this Clause. In addition, a Dunal Vegetation Management Plan was submitted demonstrating how any potential impacts to the area would be managed and mitigated.

Clause 35 of the LEP refers to the management of acid sulfate soils. The subject site is identified as Class 4 and 5 lands, with the viewing deck within Class 4 ASS land. Class 4 requires a Management Plan for any works 2m below ground level. The relatively minor works involved with the proposed development is not considered to require an ASS Management Plan.

Clause 36 of the TLEP relates to coastal erosion outside zone 7(f). Given that the proposed works aim to improve beach access and may result in the rehabilitation of existing degraded areas adjacent to the access area, the development is not considered to be inconsistent with Clause 36.

Clause 39A of the TLEP relates to bushfire protection. Council's mapping system indicates that the northern and southern portions of the subject site are classified as bushfire prone. Discussions with the Local Branch of the Rural Fire Services have determined that referral was not required for proposed works such as stairs and park benches.



North Coast Regional Environmental Plan 1988

In accordance with Clause 32B of the NCREP, the proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual.

The proposal does not incorporate any physical restriction of access to a foreshore area or detrimental impacts upon the coastal character and amenity of the site. The proposed viewing deck is not expected to result in any significant overshadowing of the beach and foreshore area before the prescribed times.

Clause 33 of NCREP relates to coastal hazard areas. The proposed development is considered to be consistent with the provisions of this clause.

The proposed rehabilitation works is considered to be consistent with the provisions of Clause 81 of the NCREP in relation to development adjacent to the ocean.

State Environmental Planning Policies

State Environmental Planning Policy No. 26 – Littoral Rainforests

A Littoral Rainforest area exists to the south of the subject site, on Norries Headland. Any proposed development within a 100m buffer of the mapped SEPP 26 area requires concurrence from the Director – General, pursuant to Section 79B of the Environmental Planning and Assessment Act, 1979. As the proposed works are located just north of the 100m buffer area, referral to the Department of Planning for the concurrence of the Director – General was not required.

State Environmental Planning Policy No. 71 – Coastal Protection

The subject site is partly located within a sensitive coastal location, being land within 100m above the mean high water mark of the sea. Although the works are within a sensitive coastal location, the SEPP no longer requires development of this type to be referred to the Department of Planning.

As noted above, the proposed works are located outside the 100m buffer of the nearby SEPP 26 – Littoral Rainforest area to the south. As such, the application did not require referral to the Department for concurrence.

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically 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

The draft planning instruments that have been advertised do not contain provisions which affect the proposed development. No further assessment is required.

(a) (iii) Development Control Plan (DCP)

The principal development control plan governing the proposed development is DCP B19. The level of compliance with the parameters of the DCP is identified below.

Development Control Plan B19 – Bogangar / Cabarita Beach Locality Plan

The proposed development is located within the Coastal Foreshore Precinct of DCP B19. The objectives of the precinct are to:

- *Protect and enhance the natural environment (dunal system, vegetation, and the beach system);*
- *Provision of limited access to the beach through approved specified access tracks;*
- *Encourage development of foreshore/beautification improvements through the provisions of tables, bench seating, amenities, shaded areas, viewing areas and the like. Formalised through the development of a Foreshore Masterplan for the area;*
- *Prohibit development not consistent with an approved Foreshore Management Plan;*
- *Provide for suitable pedestrian linkages between the village and the beach; and*
- *Ensure effective integration between the natural environment and adjoining land uses and Precincts.*

The proposed viewing deck and foreshore improvement works are in accordance with the objectives of the Coastal Foreshore Precinct for DCP B19.

The proposal also meets the overall objectives with regard views within the precinct, by way of complimenting the important view corridor to the beach along Pandanus Parade.



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

NSW Coastal Policy

The subject land is within the coastal policy area. There are several strategic actions within the policy applicable to this development application, such as: stormwater quality; coastal hazards; and public foreshore access. The proposed development is considered to be consistent with the objectives, strategies and actions of the policy.

Tweed Coastline Management Plan

Council's Waterways and Coast Coordinator has advised that the proposed development would appear to be consistent with the Tweed Coastline Management Plan, 1995, with particular regard to Action BC7 – *Increase foreshore facilities between Pandanus Parade and Cypress Court, such as BBQ's, picnic shelters and seating and viewing platforms.*

Council's Recreation Services has undertaken the development, design and supply of coastal park furniture for the entire Tweed Coast including the area identified in the subject development application. Given that this study is not yet finalised, it is recommended that the placement of any proposed furniture within the public reserve and viewing deck be deferred to a later date to ensure continuity along the entire foreshore.

(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

Dunal Vegetation

The applicant has provided a Dunal Vegetation Management Report (Habitat Environmental Management Pty Ltd, May 2007) to support the proposed clearing of existing dunal vegetation for the proposed viewing deck and beach access. Council's Senior Environmental Scientist has assessed the proposed works and provided the following comments:

'The Tweed Vegetation Management Plan classes the dunal vegetation in the area as "highly modified/disturbed" and, to the north of the current walkway, as "post-mining regeneration". A site visit has confirmed that while some native species exist and are important for retention of dunal stability, the habitat value is moderate and some species may have been planted.

The Dunal Vegetation Management Report discusses removal of Macaranga, Banksia and Casuarina species comprising 80m² of vegetation. It is usual in such circumstances to request compensatory habitat to replace that lost, however, Stewart Brawley has indicated that he would prefer the Recreation Services outdoor staff manage the dunal vegetation in that area due to the sensitive nature of dunal areas and the ongoing commitment to maintaining a view corridor for the Cabarita Surf Club.

The report also discusses weed removal within remaining dunal vegetation (although no details are provided) and replanting of groundcovers and shrubs. Although weeds will be managed by Council staff, it is considered that all open areas should be stabilised with native grasses, groundcovers and shrubs. Such work is not included on any plan within the SEE, nor is any planting schedule (quantities, locations, sizes etc) included. In fact, the proposed plant species recommended in the Dunal vegetation management report do not coincide with any species listed on the Landscape Plans. Number and density of species to be planted needs to be overseen to achieve a stable environment post construction’.

Appropriate conditions of consent have been applied in this regard.

Public Health

Council’s Environment & Health Unit has provided the following comment:

‘No shade provisions have been made within the viewing deck platform nor surrounding landscaped areas where table and chairs have been provided. Whilst Council maintains a policy for play grounds no provisions have been allocated within open public places. The Cancer Council supports the implementation of Council policies for open public places to reduce exposure by the general population to UV radiation. It is recommended that consideration be given to the inclusion of either natural shade provision or man-built structures placed in consideration of the sun’s daily and annual path’.

Whilst it is acknowledged that shade provisions are desirable, they have not been included with this application. This issue will be forwarded to the Manager of Recreation Services for further assessment, which needs to take into account potential impact upon the view corridor from the adjacent Cabarita Surf Club. Preliminary discussions with the Manager of Recreation Services indicated that shade provisions are likely to be provided within the public reserve (but not necessarily on the viewing deck itself), similar to that provided at other Council viewing decks within the Shire.

Views

The proposed works will not result in any view loss for the local community. In effect, the proposal will increase the views for the community by way of a formal viewing platform with disabled access leading directly from the car parking area in Pandanus Parade and improving access to existing pedestrian access paths along the reserve. The community at large will benefit from the uninterrupted vista from Pandanus Street through to the ocean.

Overshadowing

The proposed development is not considered to result in any significant impact upon the surrounding environment with regard to overshadowing. The viewing deck, being constructed at grade with the public foreshore area and a maximum of 1m above the dune area, is not expected to create any significant overshadowing of the foreshore and adjacent beaches.

Foreshore Paving Design

The paving design proposed for the Cabarita Foreshore integrates both the existing finishes in front of The Beach development and the CSLSC, whilst also introducing a third paving type that reinforces the pedestrian connection along Pandanus Parade to the beach. This connects both developments together, whilst not predicating one over the other and emphasising the public nature of the pedestrian space (versus a commercial space). This third paving type could potentially be used in Pandanus Parade should it become a pedestrian zone in the future, to further emphasis the connection to the beach.

On-going Maintenance

The applicant has indicated that they will have no proprietary interest in the viewing deck or the public use areas. Although the proposed deck and beach access is to be constructed by the applicant (in consultation with Council), the on-going maintenance of the site will be undertaken by Tweed Shire Council.

(c) Suitability of the site for the development

The site is generally considered to be suitable for the proposed development.

Construction

Council's Building Services Unit and Recreation Services Unit have assessed the proposed development in terms of construction, with no objection. Council's Building Services Unit has provided appropriate conditions of consent. It is noted that the proposed viewing deck incorporates treated pine in its construction. This is inappropriate for such a marine environment. A condition of consent has been applied requiring the use of marine grade hardwood in the construction of the viewing deck. As noted on the plans, the layout and selection of furniture (picnic table and seating) is to be undertaken by Tweed Shire Council's Recreation Services Unit. Any furniture incorporated with the proposal is to be in accordance with Council's (yet to be completed) Coastal Park Furniture Strategy.

Flora and Fauna

As noted above, Council's Senior Environmental Scientist has assessed the proposed works and provided comments and appropriate conditions of consent in this regard.

Coastal Erosion

Prior to the Tweed Shire Coastline Hazard Definition Study by WBM Oceanics Council was utilising the hazards as identified in Draft Development Control Plan No. 8 - Development of Land Liable to Coastal Erosion. The draft DCP identified the land as being within the immediate impact line, and the existing erosion escarpment running through the middle of the public reserve.

The Tweed Coastline Hazard Definition Study (Final Report) indicates the location of the proposed works is within the Maximum 50 yr Hazard Line (running along the western boundary of the site) and the Immediate Hazard Line (running through the middle of the site).

Council's Waterways and Coast Coordinator has assessed the proposal in terms of coastal erosion, and has no objections to the works.

Emergency Services Accessibility

Council's Environment & Health Unit raised the issue of beach access being a minimum of 4.5m wide to adequately accommodate emergency vehicles whilst also considering pedestrian issues. Although a 4.5m wide access path would be desirable, it is not considered to be appropriate in this instance. A 4.5m wide access would result in additional dunal vegetation having to be removed, which is undesirable and unnecessary.

The proposed access is approximately 3m in width, which will accommodate emergency vehicles in the instances where such vehicular access is needed. At such times, pedestrian access could give way to vehicles using the path. Given that such instances are likely to be limited and the access track is only 15m in length, the proposed width is considered to be acceptable. Another alternative was investigated, involving separate access paths for pedestrians and emergency vehicles. This option was not supported by the Lands Department. As such the dual use option has been proposed.

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

The proposed development was advertised for 14 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Five written submissions were received, with the majority supporting the proposal in principal. The following table addressed the issues raised in the submissions.

Table 1 – Public Submission Issues

Issue	Assessment
<i>Only concern is whether the applicant will be able to claim proprietary interest in the viewing deck or will it be freely open to the public.</i>	The applicant has submitted in writing that they (Resort Corp) 'have no proprietary interest in the viewing deck or the public use areas in any respect. These will be owned by the current landowner. Resort Corp will have no exclusive access or other rights to use the viewing deck or other areas, greater than any member of the public'. Tweed Shire Council will continue to be the Trustees of the Reserve and will be responsible for the maintenance of the viewing deck and foreshore area in general.
<i>No particular issue apart from noting that detailed design would have helped in understanding the proposal better.</i>	The plans associated with the proposed development are quite conceptual at this stage, with detailed design for the construction of the works to be provided at a later date for Council's approval.
<i>Minimum number of mature banksias & casuarina trees to be removed.</i>	The applicant has provided a Dunal Vegetation Management report. Council's Senior Environmental Scientist has assessed the application with no objection, subject to conditions of consent. These include the requirement of a representative of Council's Recreation Services Unit to approve on site the identification of vegetation to be removed and retained, in accordance with approved plans.
<i>Community gets an opportunity to have input into the design of the proposed furniture.</i>	Council is undertaking a study into the design of furniture for the entire Tweed Coast. Any proposed furniture would need to be in accordance with designs recommended within the report upon its completion. Tweed Shire Council will be responsible for the final location and selection of furniture incorporated within the public reserve.
<i>Suggested paving appears to be very messy and perhaps a more flowing integrated design could be created.</i>	The paving design proposed for the Cabarita Foreshore integrates both the existing finishes in front of The Beach development and the CSLSC, whilst also introducing a third paving type that reinforces the pedestrian connection along Pandanus Parade to the beach. This connects both developments together, whilst not predicating one over the other and emphasising the public nature of the pedestrian space (versus a commercial space). This third paving type could potentially be used in Pandanus Parade should it become a pedestrian zone in the future, to further emphasis the connection to the beach
<i>Commendment to the applicant for submitting a proposal which will benefit the community of Cabarita Beach.</i>	Although the proposed development is being funded and constructed by a private developer, the proposed works are in accordance with designs by Council's Landscape Architect. The works are considered to be of significant public benefit to the local community.
<i>Possible safety issues - Will the deck have protective railings i.e. for the safety of children?</i>	The proposed viewing deck will incorporate protective railings for the safety of the community. The works will be required to comply with all relevant standards with regard construction and safety issues.
<i>Assurances that no vegetation will be cleared at the southern end of the site i.e. in front of the Beach</i>	The only vegetation that is to be cleared is that which is only necessary to allow the construction of the viewing deck and beach access. Council's Recreation Services will approve on site the identification of vegetation to be removed and retained, in accordance with approved plans.

Issue	Assessment
<p><i>Too much clearing of vegetation in the area. Crown land not for use by property developers to improve their private development. Any improvements should be TSC at the request of the local community.</i></p>	<p>The location of the viewing deck has been assessed as the most appropriate for the area, with minimal removal of vegetation. The dunal vegetation in the proposed location has been acknowledged by the Tweed Vegetation Management Plan as being “highly modified / disturbed”. No unnecessary removal of vegetation will occur, with TSC being involved with the overseeing of the works and Recreation Services outdoor staff managing the dunal vegetation in the area. Appropriate conditions of consent have been recommended in this regard, to ensure the protection of the remainder of the dunal vegetation.</p>
<p><i>Large deck is not an improvement. Mature banksias and macarangas have given character to the area – should not be sacrificed to the ‘vision’ of a developer. Trees have been trimmed to provide views for lifesavers, but still provide windbreak and screen.</i></p>	<p>The proposed development is considered to accord with the objectives and aims for the locality. As noted elsewhere in this report, the works are consistent with Council’s DCP B19 – Bogangar / Cabarita Beach Locality Plan. The viewing deck and foreshore improvements in general compliment the important view corridor to the beach along Pandanus Parade. Minimal vegetation removal is to occur to allow the construction of the proposed works, which are considered to be of significant public benefit to the local community.</p>

(e) Public interest

Despite the issues raised by the submissions, the proposed deck and foreshore improvements are not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the controls and the intended development for the locality.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the proposed development is not supported, Council would not benefit from the applicant funding and constructing the proposed works, which are based on the design from Council’s (former) Landscape Architect for the public foreshore.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is considered to demonstrate substantial compliance with the relevant policy and statutory requirements outlined within Council’s controls for the area.



PLANNING COMMITTEE MEETING DATE: TUESDAY 13 NOVEMBER 2007

The proposed works are not considered likely to result in any significant impact upon the natural environment, and will enhance the public amenity of the foreshore area in general for the whole of the local community to benefit.

The application is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P3 [PR-PC] Development Application DA07/0547 for a Three (3) Storey Commercial Building Including Café at Lot 11 DP 21242; Lot 1 DP 397057; Lot 1 DP 781718, No. 38-42 Pearl Street, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA07/0547 Pt1

SUMMARY OF REPORT:

In March 2006 Council approved DA05/0736 which sought approval for the erection of a three storey mixed-use commercial/residential development on the prominent corner of Turnock Street and Pearl Street, Kingscliff.

The applicant has decided to no longer proceed with that determination and has subsequently submitted this Development Application which seeks approval for a very similar building and design however this application contains no residential component.

Despite the subject applications similarity to that already approved by DA05/0736 this report details the assessment of this new application.

As detailed in the following report it is considered that the proposed development is suitable for the subject site and satisfies all of Council's aims and objectives in the respective LEP and DCP.

RECOMMENDATION:

That Development Application DA07/0547 for a three (3) storey commercial building including café at Lot 11 DP 21242; Lot 1 DP 397057; Lot 1 DP 781718, No. 38 – 42 Pearl Street, Kingscliff be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and**
 - Job Number 1133 Drawing No 99 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,**
 - Job Number 1133 Drawing No 100 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,**
 - Job Number 1133 Drawing No 101 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,**
 - Job Number 1133 Drawing No 102 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,**



- Job Number 1133 Drawing No 103 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,
- Job Number 1133 Drawing No 104 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,
- Job Number 1133 Drawing No 130 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,
- Job Number 1133 Drawing No 140 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,
- Job Number 1133 Drawing No 141 prepared by John R Brogan & Associates and dated Nov 2004 Amendment 24/05/2007,

except where varied by the conditions of this consent.

[GEN0005]

2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).

[GEN0065]

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.

[GEN0075]

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

[GEN0115]

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. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. This consent grants consent for one cafe (in Tenancy No. 5) and 33 commercial tenancies. The fitout of Tenancy Number 5 (Cafe) is to apply for a Development Application seeking approval for the first use. The use of the remaining 33 commercial offices is approved as part of this application, however, any other defined use must submit further Development Application(s) for the first use such to be approved by Council prior to their use or occupation.

8. The applicant is responsible for ensuring a valid permit is obtained from the Department of Water & Energy to dewater the site.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. Pursuant to Section 80A(1)(B) of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 development consent No. DA05/0736 dated 16 March 2006 shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate.

[PCC0005]

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, be accompanied by the required attachments and prescribed fee.

Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

11. **Section 94 Contributions**

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

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

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

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

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

- (a) Tweed Road Contribution Plan: \$221,107

 S94 Plan No. 4 (Version 4.0)

 Sector6_4

- (b) West Kingscliff - Drainage:

 0.0743 ha @ \$32708 \$2,430.20

 DCP No. 9 S94 Plan No. 7



**(c) Extensions to Council Administration Offices
& Technical Support Facilities \$8,787.72
S94 Plan No. 18**

[PCC0215/PSC0175]

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

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

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

Water DSP5:	17.5115 ET @ \$9997	\$175,062
Sewer Kingscliff:	27.1727 ET @ \$4804	\$130,538

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]

13. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

14. 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]



15. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for all retaining walls/footings/structures etc taking into consideration the zone of influence on the sewer main or other underground infrastructure and include a certificate of sufficiency of design prior to the determination of a construction certificate.

[PCC0935]

16. Council will not permit ground anchors (to retain sacrificial sheet piling for basement excavations) within Council or private property, without prior consent from the property owner being obtained. If the land owner is Council, approval is required from the General Manager or his delegate, and the anchors are required to be removed upon completion of the works, unless a compensation amount is negotiated with Council.

[PCC0955]

17. 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, maximizing 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) All basement and driveway runoff shall be treated to remove oil and sediment pollutants prior to discharge to the On-site Stormwater Detention (OSD) system. Permanent treatment devices shall be sized in accordance with *Development Design Specification D7 – Stormwater Quality*, with full engineering details, including maintenance schedules, to be submitted with a s.68 Stormwater Application for Council approval.
 - (ii) Roof water does not require treatment prior to discharge to OSD

[PCC1105]

18. 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

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.

Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the cc application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

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

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

[PCC1155]

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

All stormwater must initially be directed to the DCP. Details are to be submitted with the construction certificate application.

[PCC1165]

21. 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]

22. 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 the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

23. The Water Management Plan prepared by Border-Tech Geotechnical Engineering Services dated May 2005 shall be reviewed, to the satisfaction of the General Manager or his delegate, and address the following parameters:

- i) The need and viability of the dewater treatment before release to the environment (aeration, chemical flocculation, filtration, odour control, pH adjustment or settling of solids) including site assessment for placement of dewatering equipment. Equipment requirements will need to consider the retention periods required for the adequate treat of groundwaters prior to discharge.
- ii) Water quality parameters for discharged groundwaters are to be stated, have consideration for receiving waters quality, the ecology, and shall include pH, SS, DO, Al, Fe, Oil & Grease, Total Acidity, Total Alkalinity, Conductivity, SO_4^{2-} , Cl^- , NH_4^+ , As, Mn, in addition, at a minimum, daily field measurements are to include pH, water conductivity, dissolved oxygen, total acidity, ammoniacal nitrogen and water clarity (secchi disc at the point of discharge into a water body/drain and a fixed location upstream. Retention periods for adequate groundwater treatment are to be stated.
- iii) Nuisance to the local community.
- iv) Ascertain the presence, if any, of groundwater contaminants.
- v) Nomination of point of off-site discharge of groundwaters or appropriate trade waste arrangements.
- vi) Nominate person responsible for monitoring of the quality of discharged waters

[PCCNS01]

24. In reference to Condition 23 v), written approval shall be required from the General Manager, or his delegate, as to the nominated point of discharge into Council's stormwater collection system.
25. Detailed drawings, showing equipment, shop fittings, the mechanical ventilation system and internal shop finishes are to be submitted for approval by the Environmental Health Officer.

[PCCNS02]

26. The basement driveway shall be adequately graded to prevent inflows from the Pearl Street kerb and gutter in storm events of intensity up to the ARI 100 year storm.



27. The ground floor plan is to be amended to provide a “sight triangle” on the northern side of the access driveway to Pearl Street in accordance with AS2890.1 Figure 3.3.
28. A detailed design plan is to be submitted to Council for the relocated roundabout at the corner of Pearl & Turnock Streets, clearly showing all dimensions to property boundaries, drainage infrastructure and existing and proposed services, to the satisfaction of the Director Engineering and Operations. The design plans are to clearly show all awnings overhanging the footpath area to be a minimum of 1m from the kerb line.
29. The installation of an above ground water meter at ground level will be necessary, requiring an area of approximately 2m x 3m. Twenty four hour public access to the meter is required. Details are to be shown on the Construction Certificate.
30. The s68 stormwater application shall be accompanied by a Traffic Management Plan for the construction of a stormwater manhole within the Turnock Street carriageway, and the connection of the private drainage system to this manhole. Closure of Turnock Street during works is not permitted. The Traffic Management Plan shall include details of traffic control measures to maintain adequate traffic flow during construction works, and measures to accommodate traffic during out-of-construction hours. Measures for the protection of pedestrians shall also be considered.

Payment of a \$5000 bond for restoration works within the road reserve shall be lodged prior to the issue of a s68 stormwater approval. The balance of the bond shall be fully refundable six (6) months after the issue of an occupation certificate for the development.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

31. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

32. 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]

33. 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]
34. 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]
35. 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]
36. 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]

37. 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 or the excavation could potentially impact on the integrity of the adjoining property, 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]

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

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

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

[PCW0775]

39. 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.

This sign is to remain in position for the duration of the project.

[PCW0985]

40. 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 the General Manager or his delegate 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]

41. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges a section 138 Application together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon removal of the ground anchors. If the ground anchors are not removed the bond shall be forfeited to Council.

[PCWNS01]

42. Notification shall be provided to Council's Environmental Health Unit forty eight (48) hours prior to commencement of dewatering operations where arrangements are to be made to conduct an on-site audit of proposed operations in compliance with the approved Water Management Plan.

[PCWNS02]

DURING CONSTRUCTION

43. The proposed development generates the need for 103 onsite spaces. However, as the approved plans demonstrate 134 on site car parking spaces the development should be constructed accordingly (including parking for the disabled where applicable). The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]



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. **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]

46. **All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.**

[DUR0225]

47. **All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Council's General Manager or his delegate prior to installation and shall include a water sampling outlet.**

[DUR0235]

48. **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]

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

[DUR0255]

50. 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]
51. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
[DUR0385]
52. 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]
53. 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]
54. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
[DUR0415]
55. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
 - (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
[DUR0425]
56. 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]

57. 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]

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

[DUR0815]

59. 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]

60. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or 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]

61. 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]

62. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

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

[DUR1495]

64. 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]

65. Windows and doors opening into food handling, preparation and storage areas shall be pest proofed in accordance with the provisions of Food Safety Standard 3.2.3.

[DUR1515]

66. 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]

67. 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]

68. 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]

69. 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]

70. 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]



71. 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]
72. A full width reinforced concrete footpath is to be constructed along the entire road frontage of the development from the property line to the back of the existing kerb in accordance with Councils adopted Development Design and Construction Specification.
- [DUR1755]
73. 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 (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]
74. 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]
75. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
- [DUR1905]
76. During construction, a “satisfactory inspection report” is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
77. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
- [DUR1945]
78. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.
- [DUR1965]



79. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

80. 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]

81. Appropriate measures are to be put in place during the construction and/or demolition 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]

82. 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]

83. 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]

84. 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]

85. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]



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

[DUR2515]

87. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

88. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

89. 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]

90. 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]

91. 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]

92. 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]

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

[DUR2645]



94. All works shall comply with the Acid Sulfate Soils and Dewatering Assessment prepared by Border-Tech Geotechnical Engineering Services dated May 2005 except where varied by the conditions of this consent.
95. All works shall comply with the Construction Noise Management Plan prepared by Jay Carter Acoustics dated 7 August 2005.

[DURNS01]

96. The driveway is to be constructed 6 metres wide at the property boundary and 9 metres wide at the kerb, with a uniform taper

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

97. 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]

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. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]

100. 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]

101. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

102. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

103. 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]



104. 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]

105. 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]

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

[POC1055]

107. A splay corner shall be dedicated as public road, to facilitate construction of a roundabout, prior to occupation of the development. It is recommended that this splay be dedicated at the same time as consolidation of the site occurs.

108. All regulatory and directional signage on both street frontages of the property are to be preserved in their current locations, unless relocation is specifically approved separately in writing by Council.

[POCNS01]

USE

109. 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, odours or the like.

[USE0125]

110. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.

[USE0155]

111. 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 or intrusive noise.

[USE0175]

112. Hours of operation of the café are to be determined within the first use application for the café.

Hours of operation of the commercial offices are restricted to the following hours: -

- * 7am to 7pm - Monday to Fridays
- * 7am to 12pm - Saturdays
- * No operations are to be carried out on Sundays or Public Holidays
- * All deliveries and pickups relating to the business are to occur within the approved hours
- * Variation may be permitted with the written approval of the General Manager or his delegate or approved by separate development consent.

[USE0185]

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

[USE0225]

114. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act 2003* and Food Safety Standards.

[USE0835]

115. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

116. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.

[USE0875]

117. Footpath dining activities shall not be conducted at the premises unless otherwise approved by Council.

[USENS01]

RURAL FIRE SERVICE REQUIREMENTS

1. A 1.8 metre high radiant heat shield made of non-combustible materials shall be constructed along the full length of the south-western boundary adjacent to the hazard. A pedestrian access gate is to be provided along this boundary. Where steel cladding material is used; all posts and rails will be constructed from steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.
2. Water, electricity and gas are to comply with section 4.1.3 of Planning for Bush Fire Protection 2006.
3. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.
4. Landscaping to the site is to comply with the principles of appendix 5 of Planning for Bush Fire Protection 2006.
5. Arrangements for emergency and evacuation are to comply with section 4.2.7 of Planning for Bush Fire Protection 2006.



6. **Construction on the western elevation (facing the bushfire hazard) is to comply with requirements of "non combustible materials" as per Australian Standard 3959.**
7. **This assessment is based on Planning for Bushfire Protection 2006 requirements for class's 5-8 and 10 of the BCA. If a residential component is proposed the application should be reassessed under 79BA of Planning for Bushfire Protection 2006.**

REPORT:

Applicant: G A Projects Pty Ltd
Owner: G A Projects Pty Ltd
Location: Lot 11 DP 21242; Lot 1 DP 397057; Lot 1 DP 781718, No. 38-42 Pearl Street, Kingscliff
Zoning: 3(b) General Business
Cost: \$4,000,000

BACKGROUND:

In March 2006 Council approved DA05/0736 which sought approval for the erection of a three storey mixed-use commercial/residential development on the prominent corner of Turncock Street and Pearl Street, Kingscliff.

The applicant has decided to no longer proceed with that determination and has subsequently submitted this Development Application which seeks approval for a very similar building and design however this application contains no residential component.

Despite the subject applications similarity to that already approved by DA05/0736 this report details the assessment of this new application.

The subject site is located within the Kingscliff Town Centre and is surrounded by a mix of development that includes commercial developments, unit developments and single storey houses.

The site comprises three existing land titles, which have a combined area of 2,428m². Previously, the sites have been used for dwelling and commercial purposes. All structures have since been removed in accordance with Development Approval No. DA05/0470.

The site is rectangular in shape and ranges from elevations of RL4.0m to RL5.0m. There is no significant vegetation on the site

The proposal consists of the following:

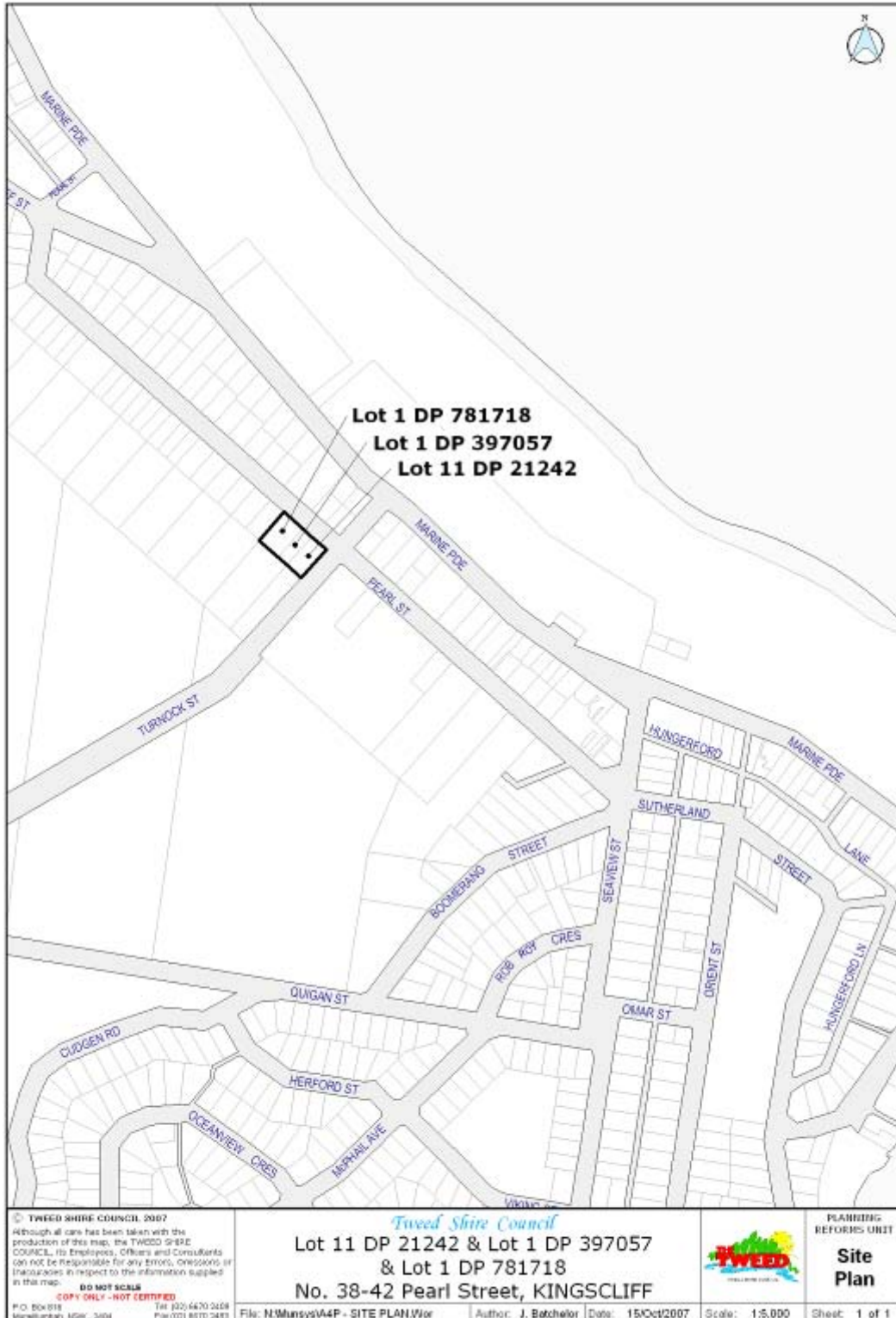
- Basement Level 2 - car park including a total of 68 spaces.
- Basement Level 1 – car park including a total of 66 spaces
- Ground Level – Ten (10) commercial tenancies and one café with access to Pearl and Turnock Street frontages. The ground floor will accommodate 1543m² of gross floor area (103 m² of this for the café) and landscaping and driveway ramp for access to the basement.
- The first floor consists of 12 commercial tenancies. The total gross floor area of the first floor commercial tenancies is 1820m².
- The second level consists of eleven commercial tenancies. The total gross floor area of the first floor commercial tenancies is 1420m²



The proposal was publicly notified and advertised in accordance with Council's Notification Policy. During this period three (3) submissions were received, the issues raised in these submissions have been considered further in this report.

The application is considered to warrant conditional consent on the basis of general compliance with Council's policies and the positive contribution to the streetscape that the proposed building would have.

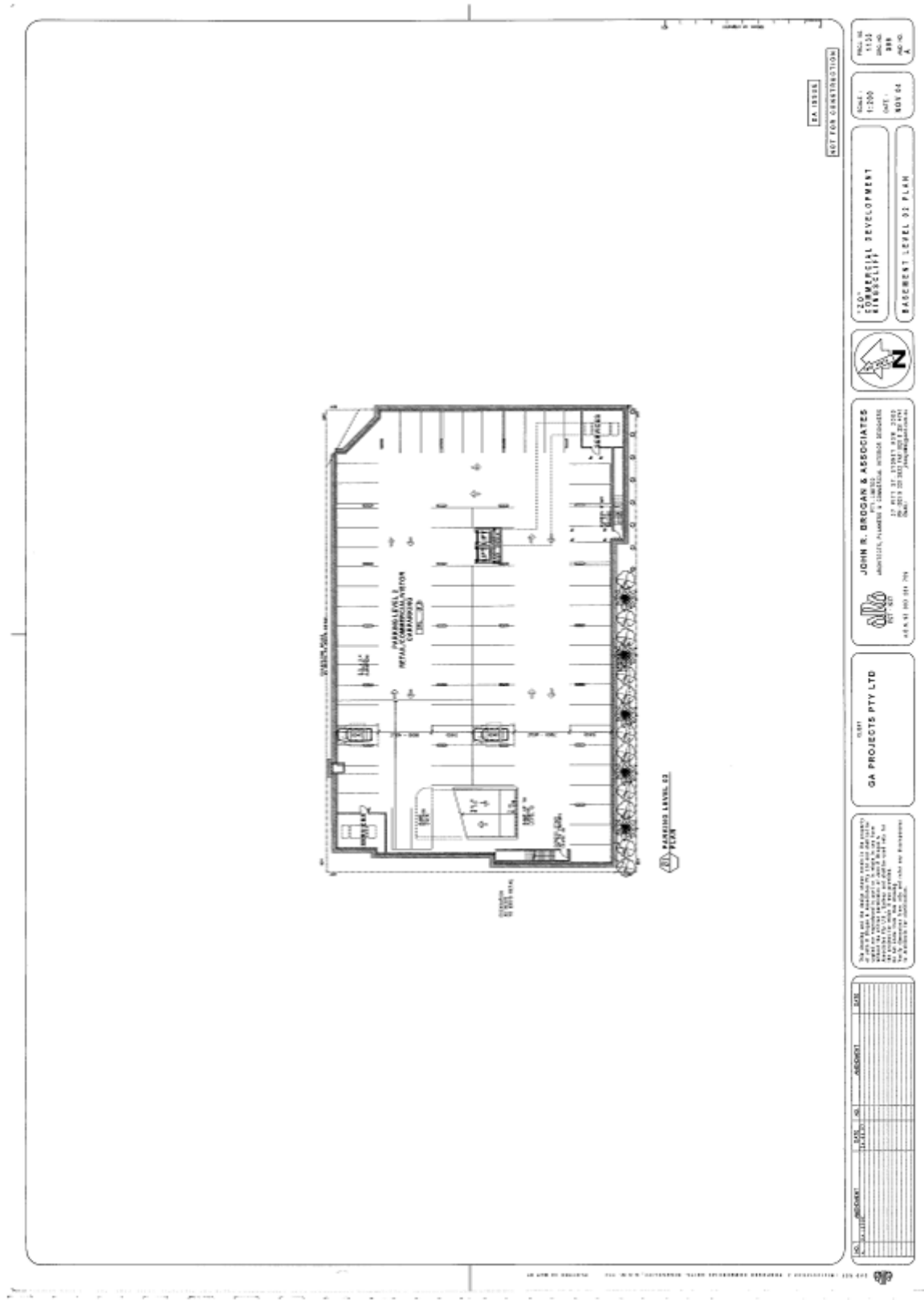
SITE DIAGRAM:



PHOTOMONTAGE:



DEVELOPMENT PLANS:



EA 10000
NOT FOR CONSTRUCTION

Scale: 1:200
DATE: NOV 04
PROJECT: 2.00 - SPECIAL DEVELOPMENT
BASINSETT LEVEL 03 PLAN

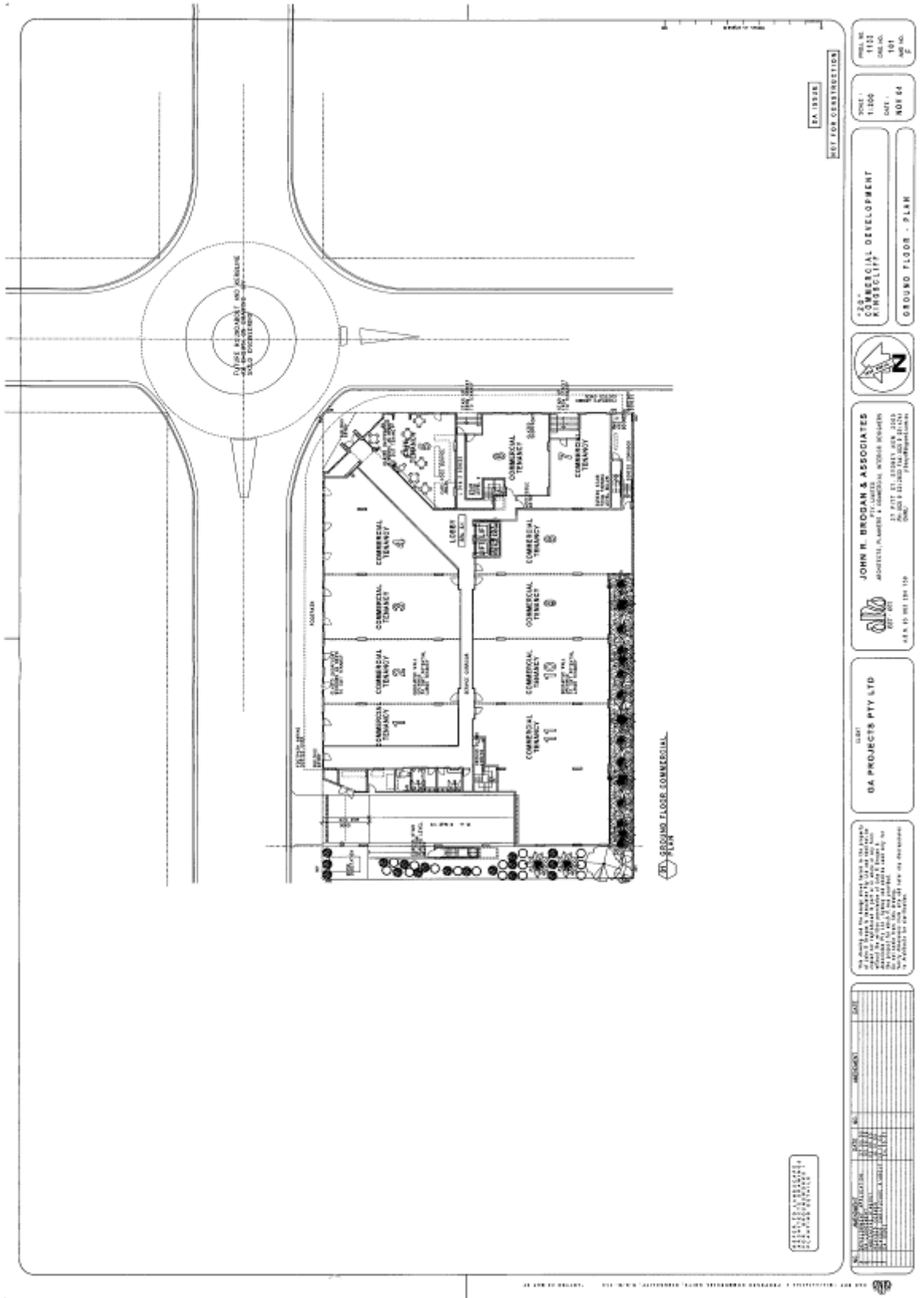


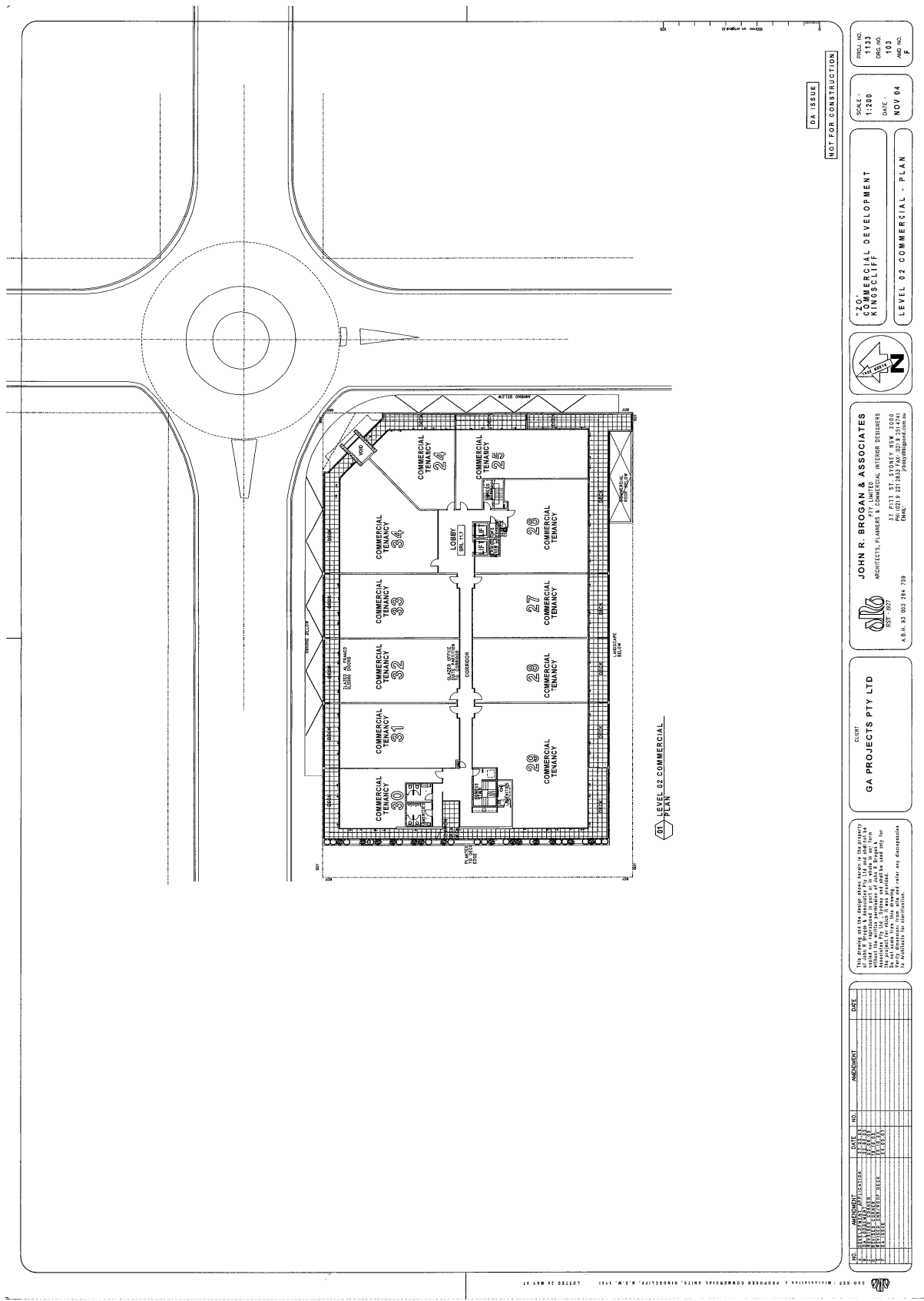
JOHN R. BROGAN & ASSOCIATES
ARCHITECTS, PLANNERS & INTERIORS DESIGNERS
177-181 BRUCE ROAD, BRUCE ROAD
DUNDEE, DUNDEE DD1 1YU, SCOTLAND
TEL: 01382 207100 FAX: 01382 207101
WWW.JRBROGAN.CO.UK

GA PROJECTS PTY LTD
15/17
15/17

THIS DRAWING IS THE PROPERTY OF GA PROJECTS PTY LTD AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF GA PROJECTS PTY LTD.

NO.	REVISION	DATE	BY





DA ISSUE
NOT FOR CONSTRUCTION

PROJECT NO.
100133
DPC NO.
103
AGE NO.
F

SCALE:
1:200
DATE:
NOV 04

"20" COMMERCIAL DEVELOPMENT
KINGSCLIFF
LEVEL 02 COMMERCIAL - PLAN

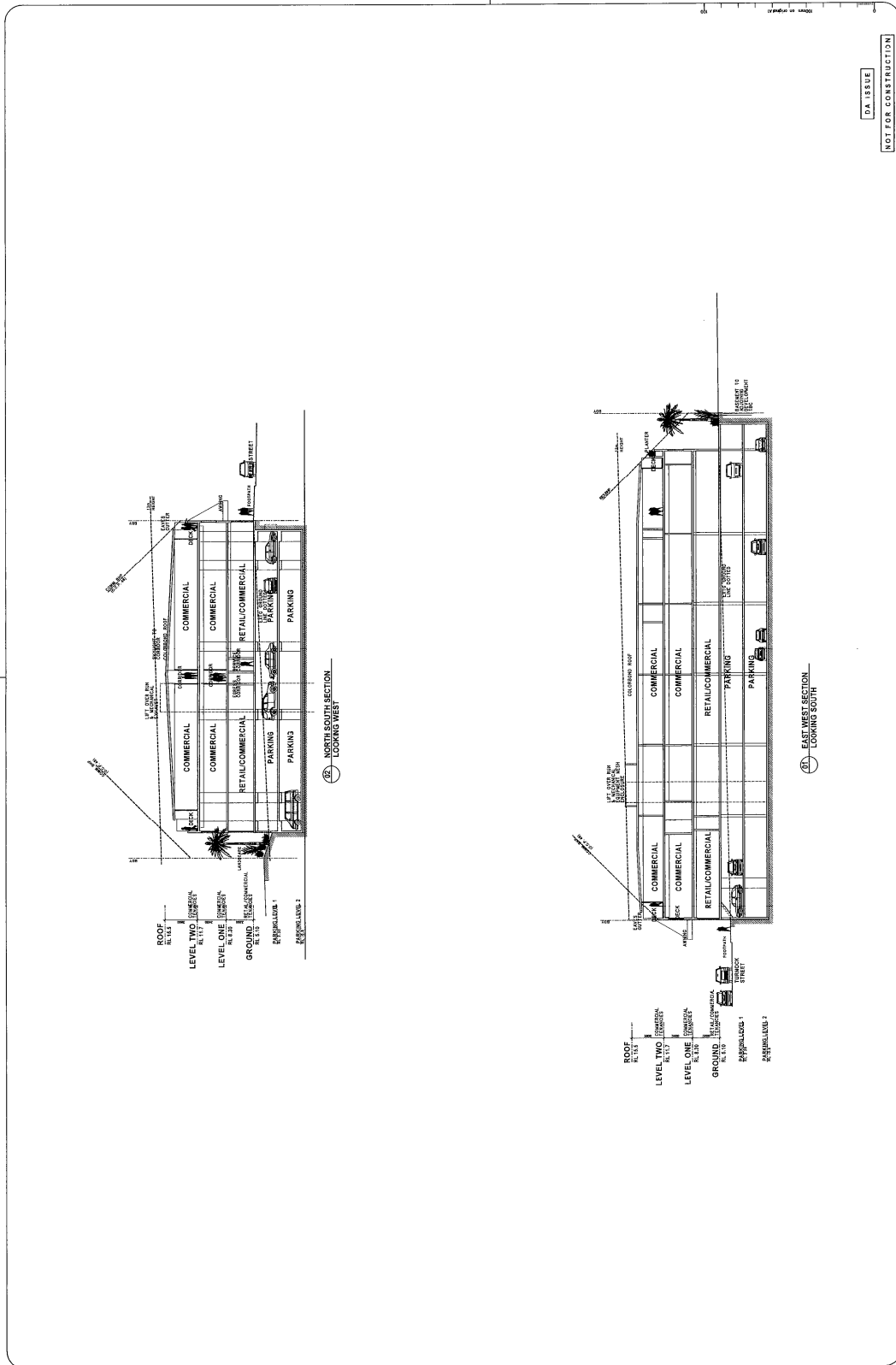


JOHN R. BROGAN & ASSOCIATES
ARCHITECTS, PLANNERS & COMMERCIAL INTERIOR DESIGNERS
37 Pitt St, SYDNEY NSW 2000
PH: (02) 9 231 8833 FAX: (02) 9 231 9141
www.jrbrogan.com.au

CLIENT
GA PROJECTS PTY LTD

THIS DOCUMENT IS THE PROPERTY OF JOHN R. BROGAN & ASSOCIATES. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, EITHER WHOLLY OR IN PART, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN PERMISSION OF JOHN R. BROGAN & ASSOCIATES. No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, without the prior written permission of John R. Brogan & Associates.

NO.	AMENDMENT	DATE	AMENDMENT	DATE
1	ISSUED FOR PERMIT	14/11/04		
2	ISSUED FOR PERMIT	14/11/04		
3	ISSUED FOR PERMIT	14/11/04		
4	ISSUED FOR PERMIT	14/11/04		
5	ISSUED FOR PERMIT	14/11/04		
6	ISSUED FOR PERMIT	14/11/04		
7	ISSUED FOR PERMIT	14/11/04		
8	ISSUED FOR PERMIT	14/11/04		
9	ISSUED FOR PERMIT	14/11/04		
10	ISSUED FOR PERMIT	14/11/04		



DA ISSUE
NOT FOR CONSTRUCTION

PROJ. NO. 1133
DATE: 03/11/07
APP. NO. C

SCALE: 1:100
DATE: NOV 04

2.0m
KIMBULL DEVELOPMENT
KIMBULL
SECTIONS



JOHN R. BROGAN & ASSOCIATES
ARCHITECTS, PLANNERS & COMMERCIAL INTERIOR DESIGNERS
EST. 1971
A.S.N. 23 363 348 758
EMAIL: john@brogan.com.au

GA PROJECTS PTY LTD
CLIENT

This drawing and the design herein is the property of the architect and shall not be used for any other purpose without the written consent of the architect. It is to be used only for the project and site specified herein and only for the purposes stated. It is not to be used for any other purpose without the written consent of the architect.

NO.	DATE	AMOUNT	DATE
1	11/04/07		
2	11/04/07		
3	11/04/07		
4	11/04/07		
5	11/04/07		
6	11/04/07		
7	11/04/07		
8	11/04/07		
9	11/04/07		
10	11/04/07		
11	11/04/07		
12	11/04/07		
13	11/04/07		
14	11/04/07		
15	11/04/07		
16	11/04/07		
17	11/04/07		
18	11/04/07		
19	11/04/07		
20	11/04/07		
21	11/04/07		
22	11/04/07		
23	11/04/07		
24	11/04/07		
25	11/04/07		
26	11/04/07		
27	11/04/07		
28	11/04/07		
29	11/04/07		
30	11/04/07		
31	11/04/07		
32	11/04/07		
33	11/04/07		
34	11/04/07		
35	11/04/07		
36	11/04/07		
37	11/04/07		
38	11/04/07		
39	11/04/07		
40	11/04/07		
41	11/04/07		
42	11/04/07		
43	11/04/07		
44	11/04/07		
45	11/04/07		
46	11/04/07		
47	11/04/07		
48	11/04/07		
49	11/04/07		
50	11/04/07		



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 3 (b) General Business under the provisions of the Tweed Local Environmental Plan 2000. The intent of the zone is to provide business centres in which the community's shopping, business, welfare and social needs can be met. The proposed development is permissible with consent in the zone and satisfies the zone objectives.

The proposed development is considered to have been designed in accordance with best practice urban design principles. There are no specific floor space ratio controls for commercial development, however an assessment of the buildings scale and overall appearance concludes that the proposed density of the development is an appropriate response to the site characteristics and its local context. The proposal is generally consistent with the relevant provisions of the TLEP including the aims and objectives of the LEP and the consent considerations.

Clause 15 – Availability of Essential Services

The subject site can be adequately serviced by way of existing stormwater, electricity, sewer and water connections, which are available in the locality. The proposal is considered to be consistent with the relevant provisions of Clause 15 of the TLEP 2000.

Council's Infrastructure Engineer's have raised no objection to the proposal having regard to the applicants Stormwater Management Plan. This includes provision of onsite stormwater detention which will be connected to the existing stormwater infrastructure in Turnock St. A secondary relief-drainage system is also being provided. Appropriate conditions of consent have been recommended.

Clause 16 – Height of Buildings

The subject land is identified as having a three-storey height limitation. The basement car park does not exceed 1.5m above natural ground level and therefore does not constitute a storey. Subsequently the application proposes a complying three-storey building. The proposed development has a height of less than 12m which is of a scale consistent with the other recently approved developments within Kingscliff.

Clause 17 – Social Impact Assessment

The estimated cost of the development is \$4 million and it is expected that the construction of this building will generate up to 30 full-time equivalent employment positions for a period of approximately 12 months. An additional 34 equivalent full-time positions will be created in the commercial capacity of the building upon completion.

The proposed commercial floor space will provide a greatly needed increase in commercial floor space in Kingscliff. Currently there is a shortage of commercial offices and consulting rooms due to the changing nature and increasing demand for retail/commercial floor space along Marine Parade. The proposed development will not have negative social or economic impacts.

Clause 35 – Acid Sulfate Soils (ASS)

The subject land is identified as Class 3 ASS on Council's mapping system. The applicant provided an ASS Management plan that was forwarded to the Environment and Health Unit who provided the following assessment:

An Acid Sulfate Soils and Dewatering Assessment has been prepared by Border-Tech Geotechnical Engineering Services dated May 2005. The same assessment had been previously submitted as part of DA05/0736. The report was considered adequate and no issues were raised at that time except to request the capacity and holding tank location during dewatering operations.

It is submitted that dewatering operations will continue for approximately one month discharging approximately 27 000L per hour into a Pearl Street stormwater kerb pit. Discussions with Engineering and Operations Director and staff have concluded that the treated groundwater's will need to be discharged to an alternative pit located along Pearl St 340m to the southeast where the quantity can be better accommodated through a main drain.

It is considered that construction activities on site will constrain equipment placement for the treatment of groundwater's. Retention periods for treatment of groundwater's will need to be considered as part of the space required for equipment.

The submitted Water Management Plan will need to be reviewed and approved prior to release of the construction certificate. The Plan will need to review and address the following parameters.

- i) The need and viability of the dewater treatment before release to the environment (aeration, chemical flocculation, filtration, odour control, pH adjustment or settling of solids) including site assessment for placement of dewatering equipment. Equipment requirements will need to consider the retention periods required for the adequate treat of groundwater's prior to discharge.*



- ii) *Water quality parameters for discharged groundwater's are to be stated, have consideration for receiving waters quality, the ecology, and shall include pH, SS, DO, Al, Fe, Oil & Grease, Total Acidity, Total Alkalinity, Conductivity, SO₄²⁻, Cl, NH₄⁺, As, Mn, in addition, at a minimum, daily field measurements are to include pH, water conductivity, dissolved oxygen, total acidity, ammoniacal nitrogen and water clarity (secchi disc at the point of discharge into a water body/drain and a fixed location upstream. Retention periods for adequate groundwater treatment are to be stated.*
- iii) *Nuisance to the local community.*
- iv) *Ascertain the presence, if any, of groundwater contaminants.*
- v) *Nominate person responsible for monitoring of the quality of discharged waters.*

Based on this assessment appropriate conditions of consent are recommended.

Clause 39 – Remediation of Contaminated Land

Whilst two of the allotments were historically used for residential purposes, the remaining allotment had been used for a smash repair business, which is considered a potentially contaminating activity. The site was considered contaminated, and remediation and validation has already occurred at the site. Therefore the site is suitable for the proposed development.

Clause 39A - Bushfire Protection

The subject site is partially identified as a bushfire prone location and subsequently the application was referred to the local Rural Fire Service Branch for comment. Based on an assessment of the plans and documentation received for the proposal the RFS provides that the application should have conditions imposed as recommended.

North Coast Regional Environmental Plan 1988

Clause 32B(2) of the NCREP 1988 applies to land within the region to which the NSW Coastal Policy 1997 applies and requires Council to take into account the following documents when determining an application to carry out development:

- The NSW Coastal Policy 1997;
- The Coastline Management Manual; and
- The North Coast Design Guidelines.

The proposed development is consistent with the provisions of the policy documents referred to above.

In regards to Clause 47 of this instrument it is submitted that the proposed commercial development is situated on land zoned 3 (b) General Business and has direct links to the established commercial area of Kingscliff.

The development is located within a dominant area of Kingscliff with close proximity to existing local and regional road networks and adequate vehicular access is made available to the site.

The North Coast REP is considered to have been satisfactory addressed in the assessment of this application.

State Environmental Planning Policies

SEPP 11 – Traffic Generating Developments

The application required referral to the Local Traffic Committee as the development incorporated more than 50 on site car parking spaces.

The Local Traffic Committee provided the following comments:

Adequate sight distance be provided at the entrance/exit at the property boundary with regard to pedestrian visibility in accordance with AS 2890.

As a result of the referral to the Committee appropriate conditions of consent have been recommended.

SEPP 55 – Remediation of Land

The Contaminated Land Planning Guidelines (Department of Urban Affairs and Planning, Environment Protection Authority, 1998) provides information relating to preliminary contamination investigations. In addition, Council has adopted a Contaminated Land Policy, which contains details of the information required to be submitted with applications for development. Section 3.4.1 of the policy requires the applicant satisfy a required set of questions.

Initial review of the application by Council's Environment and Health Officer raised some concerns with reference to part of the site being contaminated due to the previous smash repair business. Therefore the applicant was required to submit a Remediation Action Plan. The additional information was required as part of the original DA (DA05/0736) and satisfied Council's requirements. The site has since been remediated and is now suitable for development.

SEPP 65 – Design Quality of Residential Flat Development

The proposed development no longer contains any residential component and is therefore no longer required to be assessed against this document.



SEPP 71 – Coastal Protection

The subject site is within the coastal zone and therefore the provisions of this policy apply.

Clause 8 specifically details 16 matters for consideration. Most matters relate to maintaining public access to and along the coastal foreshore, and ensuring the scenic qualities of the coast are protected. Therefore, they are not specifically applicable to this application. Clause 8 (d) is considered to be the most relevantly applicable provisions, which reads as follows:

- d) *the suitability of development given its type, location, and design and its relationship with the surrounding area.*

As mentioned above the amended application is considered consistent with recently approved development in the locality. It is a contemporary design, which presents well to both Turnock Street and Pearl Street. This development is attractive and will provide appropriate facilities for the location.

The application complies with Clause 8 of SEPP 71.

SEPP – State Significant Development (2005)

This SEPP nominates a range of developments as state significant development depending on the subject land, the type of development or the value of the development. The proposed development does not fall within the nominated criteria for State Significant Development and therefore Tweed Shire Council is the Consent Authority for this application.

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

There are no current Draft Environmental Planning Instruments that are considered applicable to the assessment of this application.

(a) (iii) **Development Control Plan (DCP)**

Tweed Consolidated DCP 2007

Section A2 – Car Parking Code

This application seeks approval for a commercial building. Therefore, the below table represents what the uses would currently generate having regard to Section A2. The car parking rates have been worked out by dividing each individual use contained within the building, and by further acknowledging that the café has only been calculated on the dining area not the total GFA.

Table 1 – Car Parking Rates in accordance with Section A2

<u>Use</u>	<u>GFA</u>	<u>DCP Section A2 Classification</u>	<u>Staff Requirement</u>	<u>Customer Requirement</u>
T1 T2 T3 T4 T6 T7 T8 T9 T10 T11 Commercial	1440m ²	Item G2 Commercial Office Group	1 spaces per 40m ² = 36	Included in staff
T5 Café	103m ² (70m ² of dining area)	Item D15 Dining	0.5 per staff = 2	1 spaces per 7m ² = 10
T12 T13 T14 T15 T16 T17 T18 T19 T20 T21 T22 T23 Commercial	1820m ²	Item G2 Commercial Office Group	1 spaces per 40m ² = 45.5	Included in staff
T24 T25 T26 T27 T28 T29 T30 T31 T32 T33 T34 Commercial	1420m ²	Item G2 Commercial Office Group	1 spaces per 40m ² = 35.5	Included in staff

Total Staff Spaces Required = 119

Total Customer Spaces Required = 10

Grand Total of On-Site Car Spaces Required = 129

Clause A2.4.1 of the DCP supports reduced car dependent principles by encouraging bicycle parking areas and access to public transport facilities, and therefore allows a reduction of the generation rate to 80%. This is a reduction of 25.8 spaces, taking the onsite parking requirement to 103.2 spaces.

80% Grand Total of On-Site Car Spaces Required = 103.2

The applicant has provided a total of 134 on site parking spaces. The application as submitted therefore exceeds the Council's requirements for onsite parking spaces.

Section B4 – West Kingscliff

This plan focuses on providing a strategic framework for development sites zoned for urban expansion purposes. The subject site is not zoned for urban expansion purposes. The proposed development satisfies the objectives for the commercial zoning and results in a development that has had consideration of possible future developments on the adjoining land which is zoned for urban expansion purposes. All applicable contributions have been calculated in accordance with the relevant S94 Plans.

Section 9 – Tweed Coast Strategy

This Section is a strategic planning document that focuses on the primary requirements for land release areas. The subject site is zoned for commercial use. The proposed development is considered consistent with the zone objectives and future character of the West Kingscliff area. This development will not contravene the objectives of the DCP.

Section B 16 – Kingscliff

The subject land falls within the town centre precinct. The objectives outlined in the DCP indicate that the area is to contain primarily residential development. Turnock and Pearl Streets are intended to accommodate commercial developments that improve the streetscape quality. The DCP contains a number of design guidelines to achieve this relating to building type, building heights and setback requirements. It is considered the proposal satisfies the relevant precinct objectives given:

- The development is for commercial development;
- Pedestrian access is available
- The proposal has been designed to improve the quality of the streetscape; and
- The development represents strong commercial character in the area.

Section B16.4.3. – Commercial Redevelopment

The main objective of this section is that an emphasis is to be placed on pedestrian circulation and the enhancement of the pedestrian environment. The plans illustrate adequate pedestrian access, good urban design and adequate car parking requirements.

Section B16.4.3– Turnock Street

The purpose of Turnock Street is primarily for commercial development. The subject site is situated on the corner of a major junction within the Kingscliff area. The proposed development is consistent with the intended 'gateway' function of the site, providing a design that addresses the corner and provides a continuous commercial frontage at ground level.

Section B16.4.3– Pearl Street

The proposed development is seen to be consistent with the scale and nature of development occurring along Pearl Street. Pearl Street mainly consists of medium density development, with commercial development being located towards the town centre. The proposed development is deemed to be compliant with the intent of this street.

The proposed development is therefore considered to be in accordance with this section of the DCP and satisfies the objectives of the DCP comfortably. The design and redevelopment of the site is in character with the nature of the Kingscliff area and provides good urban design.

Section 18 – Tweed Coast Building Heights

The Plan specifies that a three storey commercial development shall have a height of 11 metres, with a further 2 metres allowed for additional roof height.

The proposed development has a height of less than 12m and satisfies the provisions of this plan.

The development is considered to be consistent with surrounding development and reasonable given the design and location of the building.

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

The NSW Coastal Policy 1997 applies to the subject land. The proposed development is generally consistent with this policy.

There are no additional matters prescribed by the Regulations that are considered to apply.

(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

Design

The application has addressed the two main street frontages, as per Council's requirements for such a prominent site. Furthermore, the overall bulk and scale of the development is consistent with the changing character of the area.

Traffic/Access

The application proposes to service the development from a single entry/exit off Pearl Street. This design is supported, as it would be inappropriate to provide access from Turnock Street, which will be the busier road in the future.

Council's Development Engineer has provided that

"Both road frontages are fully constructed, with a proposed roundabout intended for construction at the intersection, which has already been designed by Council. This work would normally require some property acquisition – or at least a splay corner. For the prior approval (DA05/0736) Council accepted an easement proposal over the corner of the site as a late negotiated agreement, due to a prior breakdown of communication regarding the roundabout. The basement was still an encroachment.

This proposal however, has amended the basement layout to avoid the north-eastern corner altogether, removing the conflict, and thus allowing a splay corner to be dedicated. While this submission still nominates an easement (per p.12 of the S.E.E.), discussions with the applicant have resulted in his client's agreement of the splay dedication – as per verbal advice received 20.9.07. This will be conditioned on the consent."

Due to the close proximity of the work to the roundabout and the lack of sufficient detail addressing offsets and footpath widths etc, the applicant is still required to re-design the roundabout (to ensure compatibility), as per the previous consent. Council's Traffic Engineer has provided relevant comments as follows:

“The plans submitted with the application show a roundabout based on a plan by Skild Engineering. The plan provides a layout which relocates the roundabout to a differing alignment to the Council adopted roundabout design by Ray Sargeant and Associates (Council Plan No.A1-1029). I believe there was some liaison with Council officers for the development of these new plans however they have not developed sufficiently to show existing and proposed services and other proposed construction. The plan was only developed for traffic purposes. Design plans are required to be submitted to enable assessment of the roundabout layout with respect to existing and proposed services.”

Appropriate conditions will be imposed.

Furthermore, the proposal includes a proposal to incorporate a loading bay within the existing on-street parking area fronting the site. No objections were raised to this proposal, by Council’s Traffic Engineer. However, as per the prior consent, no existing signage is to be removed or relocated without prior SEPARATE written approval of Council.

Based on the above advice it is considered that the proposed development has been designed sufficiently to cater for traffic and access. There is sufficient onsite parking to cater for the proposed development, with Pearl St and Turnock St being able to absorb the traffic generated by the development.

Appropriate conditions will be imposed.

Flora & Fauna

The subject site is absent of any significant vegetation.

Social & Economic

A Socio-Economic Impact Assessment is not required, as it has been determined that the application will have limited impact. The previous buildings on the site were nearing their economic life and had little to no architectural merit. The proposed building will replace the old structures with a contemporary design. This type of development does not trigger the need for a social impact assessment to be prepared.

(c) Suitability of the site for the development

The subject site is located on a prominent commercial corner (off Turnock and Pearl streets). The development has addressed this corner and provided a design with high architectural merit.

The site has a commercial zoning where developments of this nature are encouraged in the zone. The proposal is seen to be consistent with the changing nature of the Kingscliff area and will have a similar size and scale to other developments in the area.



The design is therefore considered to be acceptable for the subject site.

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

The application was publicly notified. During this period three (3) submissions were received. The issues raised are summarised below:

ISSUE	COMMENT	ASSESSMENT
<u>Character</u>	All of Pearl Street is residential so the introduction of a commercial development with a café would be detrimental to the character	<p>The proposed commercial development is situated on a commercially zoned site with a three-storey height limit. The development complies with this height limit and subsequently recommended conditions of consent have been imposed to limit any impact on adjoining residential amenity. Whilst Pearl Street is predominantly residential this prominent corner is zoned for commercial operations.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
<u>Traffic</u>	This development would create an increase in traffic on already busy roads	<p>As detailed in the above report the existing road network is capable of absorbing the additional traffic. There are excess onsite parking spaces over and above Council's requirements and sufficient access arrangements to cater for the development.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
	This development will create additional congestion (chaos) and danger. 135 vehicles on Pearl Street is not acceptable	<p>Council's Local Traffic Committee and Council Traffic Engineer have provided that the proposed development can be absorbed by the local road network</p> <p>Suitable conditions of consent have been imposed to ensure safe vehicular entry and exit from the site.</p> <p>This objection does not warrant amendment or refusal of the application.</p>

ISSUE	COMMENT	ASSESSMENT
	There is no provision for parking during construction	Council's standards do not require onsite parking during construction. It is considered that the local road network (including the undeveloped Turnock Street) could cater for any construction vehicles temporarily during construction. This objection does not warrant amendment or refusal of the application.
<u>Loading Zone</u>	The proposed loading zone in Pearl Street will disturb pedestrian movement.	Pearl Street is the nominated road to service this development as in the future Turnock Street will function as a primary east west connection to Tweed Coast Road. The provision of a loading bay for commercial activities only in Pearl Street is considered appropriate as it is not envisaged to be required regularly. This objection does not warrant amendment or refusal of the application.
<u>Noise</u>	A café in this location could attract a noisy element in a residential environment	The café is located on the prominent corner of Pearl & Turnock Street, away from the predominantly residential areas of Pearl Street.. It is a small café with a dining area of 70m ² it is not envisaged to create any undesirable noise for neighbours but rather provide a facility for the commercial businesses contained within the building. Notwithstanding appropriate conditions of consent have been recommended to minimise any negative impact. This objection does not warrant amendment or refusal of the application.
<u>Setbacks</u>	The building rises from as close as possible to the boundaries of the block. Visually this is inconsistent with the "village concept".	The building has a zero lot line to Turnock Street and Pearl Street as preferred to address the street. To the north there is a minimum of 4m setback with a maximum of 11m. To the west there is a 3m setback. The proposed development is consistent with other commercial development in Kingscliff. This objection does not warrant amendment or refusal of the application.



ISSUE	COMMENT	ASSESSMENT
<u>Permissibility</u>	Whilst the commercial development lies within the "Village Centre precinct" it is outside the area designed for commercial development (see Map 2 in B16)	Tweed DCP Section B16 nominates the subject site as "Town Centre Precinct" not Village Centre. Map 2 shows the site <u>within</u> this "Town Centre Precinct" area as shown in yellow. Furthermore, the Tweed LEP 2000 nominates the subject site as a commercially zoned property. This objection does not warrant amendment or refusal of the application.
<u>Contamination</u>	We are surprised to find no contamination in the soil?	As detailed in the above report the applicant was required to submit a Remediation Action Plan. The additional information was required as part of the original DA (DA05/0736) and satisfied Council's requirements. The site has since been remediated and validated. The site is now suitable for the proposed development. This objection does not warrant amendment or refusal of the application.
<u>Streetscape</u>	The applicant states <i>that "the proposed building is built to the footpath to enhance pedestrian amenity"</i> How?	Urban design principals provide that buildings built to the street boundary enable an active street frontage with pedestrian awnings for weather protection. These types of principals are supported by Council. This objection does not warrant amendment or refusal of the application.
<u>Parking</u>	Why do we still allow 20% ESD? Why is there only one handicapped space? Are there enough bicycle spaces? Are there nooks in basement to allow for scooters?	The proposed development has been assessed against Tweed Consolidated DCP Section A2 and is deemed satisfactory. The 20% reduction is allowed by the DCP. Handicapped spaces are dictated by the Building Code of Australia. Compliance will need to be achieved within the Construction Certificate Plans. There are "nooks" in the basement to allow for additional motorbikes/scooters. However these will only be available for use by visitors/patrons/staff for the site. This objection does not warrant amendment or refusal of the application.

ISSUE	COMMENT	ASSESSMENT
<u>Energy Efficiency</u>	Is it possible to store stormwater onsite to water the gardens? Is solar power to be installed?	The proposed development does not incorporate these measures. Currently there is no Council provision requiring these facilities. This objection does not warrant amendment or refusal of the application.
<u>Use</u>	Can the open roof area be enclosed to provide another un-approved commercial space in the future e.g. for spa/sauna?	The roof has a 3 degree pitch and is not intended for utilisation. Development approval would be required for such conversion works. This objection does not warrant amendment or refusal of the application.

Having regard to the above comments the application is considered to warrant conditional approval.

(e) Public interest

The application is generally consistent with Council's Policies and is therefore not considered contrary to the public interest.

S94 & S64 Contributions

As the proposed development occurs over three allotments the subject site has credit for two dwellings and a commercial floor area of 812m².

Please further note that the applicant has already paid the Tweed Road Contribution Payment (TRCP) for the previously approved development thus giving the site credit for 203.6143 trips only with regard to TRCP.

Therefore based on these credits the applicable charges are as follows

Note: Format is commercial development generation + refreshment room generation – credit for previous development:

Water DSP 5 Area - (4680m² x 0.004 ET) + (103 m² x 0.008 ET) – credit 2.03246
ET
= 17.5115 ET
= \$175,062

Sewer Kingscliff - (4680m² x 0.006 ET) + (103 m² x 0.013 ET) – credit 2.2073
ET
= 27.1727 ET
= \$130,538



TRCP -	(4680m ² /100 x 16 trips x 0.6 employ discount) + (103/100 x 60 trips x 0.6 employ discount) – paid credit 203.6143 = 282.7457 trips = \$221,107
S94 Plan No. 7 -	proposed hardstand 2163m ² – previous hardstand area 1420m ² = 743m ² /10,000 x \$32,708 = \$2430.20
S94 Plan No. 18 –	(33 x 0.2 ET) + (1 x 0.2 ET) – credit 2.3991 = 4.4009 = \$8,787.72

OPTIONS:

1. Approve the application as recommended
2. Refuse the application

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with the determination of this application, they have the right to an appeal in the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil

CONCLUSION:

The application is generally consistent with Council's Policies and recently approved development in the area. The development addresses the street frontages to establish a more human scale, which is considered appropriate. Subject to conditions of consent the application adequately satisfies Council's Plans.

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 [PR-PC] Development Application DA07/0232 for Factory Units at Lot 666 DP 1094312, No. 57-61 Ourimbah Road, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA07/0232 Pt1

SUMMARY OF REPORT:

The subject site is occupied by existing industrial building consisting of six units, on-site car parking and landscaping.

The subject site is surrounded by industrial development.

The application currently before Council seeks consent to construct a factory unit development. The development consists of 20 units having a floor area of 3772.996m², 14 of which contain a mezzanine level, comprising of 669.451m², within a two storey configuration.

Fifty-two (52) car parking spaces are proposed on-site which are accessible from Ourimbah Road. Landscaped bays are proposed within the central car parking area.

RECOMMENDATION:

That Development Application DA07/0232 for factory units at Lot 666 DP 1094312, No. 57-61 Ourimbah Road, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
- 2. 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]
- 3. This development consent does not permit signage. A separate Development Application is required for signage where statutorily required.**
[GENNS01]
- 4. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos**



- **A.02.1 Rev A prepared by Central Property and dated 23/04/2007 (as amended in red),**
 - **A.02.2 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A.02.3 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A.03.1 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A.03.2 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A.03.3 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A.04.1 Rev A prepared by Central Property and dated 23/01/2007,**
 - **A1 Rev C prepared by Central Property and dated 20/07/2007,**
- except where varied by the conditions of this consent.**
- [GEN0005]
- 5. The applicant shall comply with the provisions of Council's 'Acid Sulfate Soils Management Plan for Minor Works' and complete and sign the Acid Sulfate Soil Management Statement.**
- [GENNS05]
- 6. Water, electricity and gas are to comply with section 4.1.3 of Planning for Bush Fire Protection 2006.**
- [GENNS05]
- 7. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.**
- [GENNS05]
- 8. Landscaping to the site is to comply with the principles of appendix 5 of Planning for Bush Fire Protection 2006.**
- [GENNS05]
- 9. Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.**
- [GENNS05]
- 10. New construction on the western elevation shall be non combustible as defined within Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas'.**
- [GENNS05]
- 11. Submission of a further Development Application(s) for the first use of the units such to be approved by Council prior to their use or occupation.**
- [GEN0055]
- 12. The use of crushing plant machinery, mechanical screening or mechanical blending of materials is subject to separate development application.**
- [GEN0045]
-



13. The stormwater installation associated with the re-development of the site at Lot 666 DP 1094312 is completed in accordance with the drawings supplied (No. SW.01.02).
[GENNS02]
14. Scour protection is to be provided at point of discharge into the road reserve.
[GENNS02]
15. The stormwater outlet should be installed such that no interference is caused to any maintenance activities within the road reserve.
[GENNS02]
16. Any disturbance to surface levels or vegetation caused during construction is to be reinstated.
[GENNS02]
17. No attachment is made to any drainage structure or use of structure service conduits without prior consent from the Roads and Traffic Authority (RTA).
[GENNS02]
18. Any relocation required in connection with future road works are to be at no cost to the RTA.
[GENNS03]
19. Any future maintenance to the stormwater pipe or outlet are to be at no cost to the RTA.
[GENNS03]
20. Any restoration required, as a result of any damage to the pipe are to be at no cost to the RTA.
[GENNS03]
21. Works undertaken within the road reserve will require a Traffic Control Plan (TCP). If all work is carried out further than 6 metres from the edge line only a vehicle management plan is required. The TCP must comply with RTA 'Traffic Control at Work Sites' manual and Aust. Standard 1742.3. The TCP's must be submitted to the RTA District Manager, at Ballina for approval. All site works must comply with this TCP.
[GENNS03]
22. If the TCP requires flagmen on the Pacific Highway then a Road Occupancy Licence is to be obtained from the Pacific Highway Development Office, Grafton (Ph 02 6640 1000) before commencement of work.
[GENNS04]
23. The RTA does not guarantee the location fo existing underground services, if any. You must satisfy yourself as to the existence and location of these services and indemnify the RTA from any claims due to damage arising from your activity.
[GENNS04]



24. Notice of commencement of work on the Pacific Highway is to be given seven (7) days prior to commencement to the RTA District Manager Ballina on telephone (02) 66861812 or fax (02) 66861899.

[GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

25. The developer shall provide 52 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

26. **Section 94 Contributions**

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

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

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

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

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

- | | |
|--|------------|
| (a) Tweed Road Contribution Plan: | \$174,568 |
| S94 Plan No. 4 (Version 4.0) | |
| Sector4_4 | |
| (b) Extensions to Council Administration Offices | |
| & Technical Support Facilities | \$2,015.17 |
| S94 Plan No. 18 | |

[PCC0215/PSC0175]

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



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

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

Water DSP4:	0.6824 ET @ \$9997	\$6,822
Sewer Tweed Heads:	0.6824 ET @ \$4804	\$3,278

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]

- 28. 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. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

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

[PCC0485]

- 29. Permanent stormwater quality treatment shall be provided in accordance with the following:
 - (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.



- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- [PCC1105]
30. 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]
31. 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
- 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.
- Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the cc application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.
- [PCC1145]
32. 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 that specified in Tweed Shire Council Development Control Plan, Part A3 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]
33. 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]
34. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.
- 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.
- [PCC1185]
35. 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]

PRIOR TO COMMENCEMENT OF WORK

36. 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]*
37. 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]*
38. 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]*
39. 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]

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

[PCW0665]

41. 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.

This sign is to remain in position for the duration of the project.

[PCW0985]

42. 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]

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 the General Manager or his delegate 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. It is the responsibility of the contractor to identify and locate all underground utility services prior to commencing works.

[PCW1165]

45. Prior to commencement of building works a stormwater drainage plan is to be submitted to and approved by the Principal Certifying Authority.

[PCW0955]



DURING CONSTRUCTION

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

[DUR0005]

- 47. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by the General Manager or his delegate: -**

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]

- 48. 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]

- 49. 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]

- 50. 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]

- 51. 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]

- 52. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.**

[DUR0415]

- 53. 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]

54. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or 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]

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. 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 or demolition.

[DUR2185]

57. 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]

58. 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]

59. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

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

[DUR2515]



61. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

62. 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]

63. 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]

64. 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]

65. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR2195]

66. 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]

67. 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]

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

[DURNS05]

69. 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]

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

Such to specifically include the following:

150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development.

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

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

[DURNS01]

71. The driveway is to be constructed 7 metres wide at the property boundary and 13 metres wide at the kerb line with a uniform taper.

[DURNS02]

72. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.

[DUR0985]

73. 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, whichever occurs first.

[DUR0995]

74. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.

[DURNS03]

75. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Ourimbah Road in accordance with Councils Development Design and Construction Specifications.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected.

[DUR1735]

76. 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]

77. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

78. 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]

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

[DURNS04]

80. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

81. 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 NSW, Occupational Health and Safety Regulation 2001.

[DUR0645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

82. 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]

83. 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]



84. 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]

85. 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]

86. Prior to the issue of the occupation certificate, all conditions of consent shall be satisfied/completed.

[POCNS01]

USE

87. 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, odours or the like.

[USE0125]

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

[USE0225]

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

[USE0525]



REPORT:

Applicant: Central Property Constructions Pty Ltd
Owner: C & P Syndicate Pty Ltd
Location: Lot 666 DP 1094312, No. 57-61 Ourimbah Road, Tweed Heads
Zoning: 4(a) Industrial
Cost: \$3,000,000

BACKGROUND:

The site contains an existing light industrial building consisting of six units, on-site car parking and landscaping. A number of subsequent development applications have been approved on the site including the use of the units and additions and alterations.

The subject site has frontage to and vehicular access from Ourimbah Road. The site is immediately adjacent to the Pacific Highway, is generally flat and is 7491m².

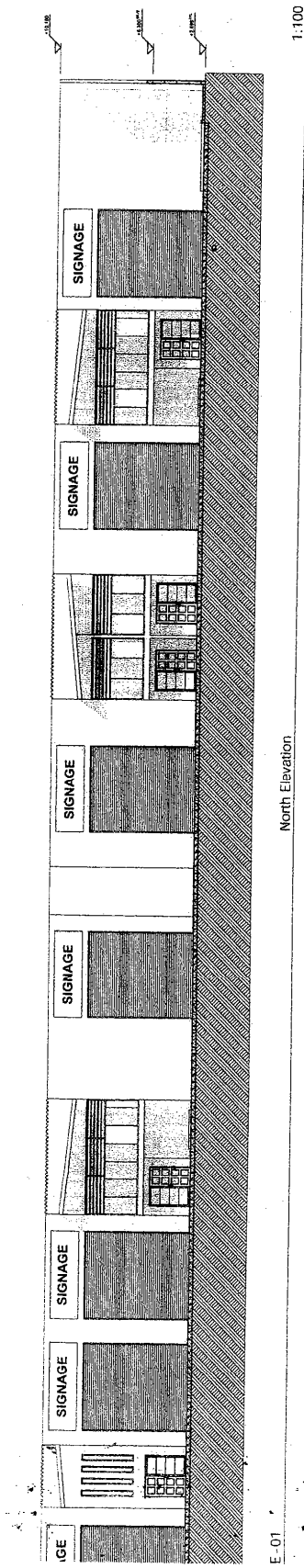
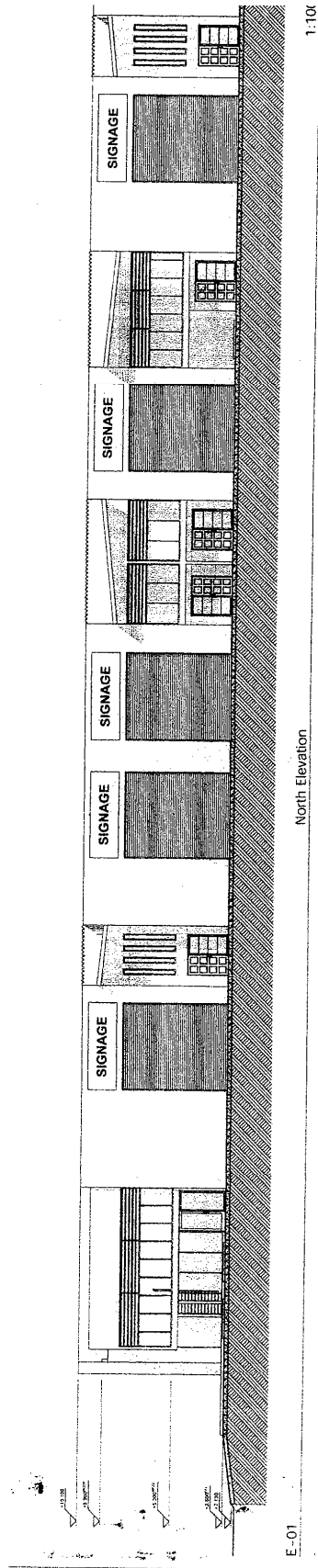
The current proposal seeks consent to construct a factory unit development. The development would consist of 20 units having a floor area of 3772.996m², 14 of which contain a mezzanine level, comprising of 669.451m², within a two storey configuration.

Fifty-two (52) car parking spaces are proposed on-site which are accessible from Ourimbah Road. Landscaped bays are proposed within the central car parking area.

Separate development consent has been issued previously for the demolition of the existing structures on-site (DA07/0340).

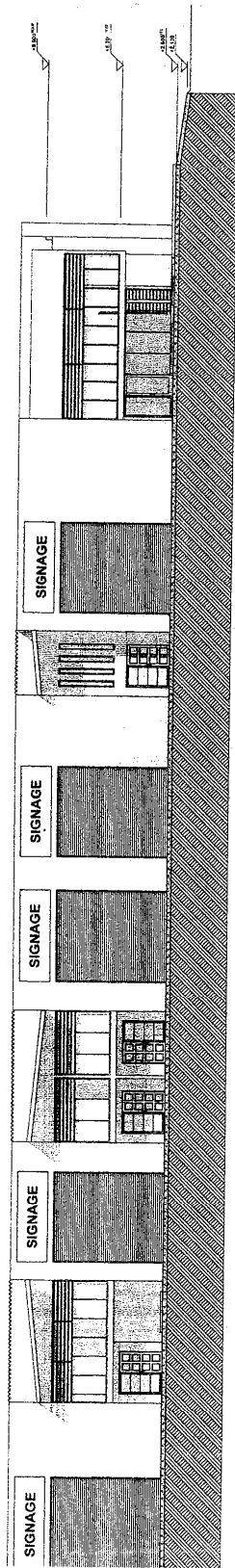
SITE DIAGRAM:



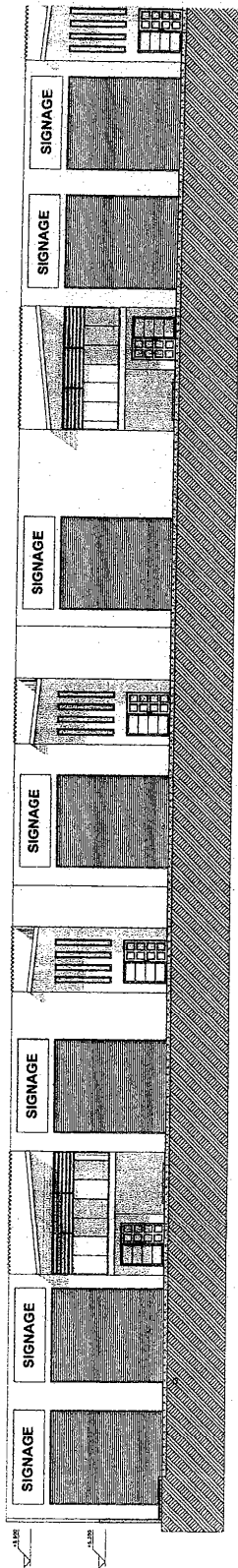


NOTICE: ALL DIMENSIONS, ALL
 DIMENSIONS AND LEVELS INDICATED ON THE
 DRAWINGS ARE TO BE VERIFIED ON SITE BY
 THE CONTRACTOR. THE CONTRACTOR SHALL
 BE RESPONSIBLE FOR THE ACCURACY OF
 ALL DIMENSIONS AND LEVELS. ANY
 DISCREPANCIES SHALL BE REPORTED
 IMMEDIATELY TO THE ARCHITECT.
 THE CONTRACTOR SHALL BE RESPONSIBLE
 FOR OBTAINING ALL NECESSARY
 PERMITS AND APPROVALS FROM THE
 RELEVANT AUTHORITIES.

		Date: 22/01/07 Drawn By: [Name] Checked By: [Name] Drawing Scale: 1:100 Drawing No: A 03.1 Revision: A Drawing Status: DA
Project Name: Lot 188 Courtham Rd DP169432		North Elevation CEP PROPERTIES PT Courtham Rd Trust
Company Name: Central Property 14/01/00/00/00		Project No: A 03.1



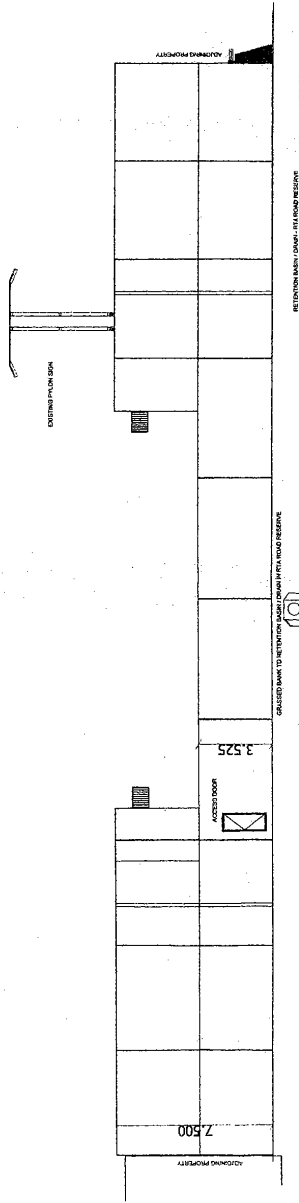
E-03 South Elevation 1:100



E-03 South Elevation 1:100

DO NOT SCALE THE DRAWINGS. ALL DIMENSIONS AND LEVELS INDICATED ON THE DRAWINGS SHALL BE TO FACE UNLESS OTHERWISE SPECIFIED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LEVELS ON SITE BEFORE COMMENCING WORK. THE BUILDER SHALL ENSURE ON ANY DISCREPANCIES BE FOUND BETWEEN THE DRAWINGS AND THE SITE CONDITIONS IMMEDIATELY IN WRITING TO THE BUILDER.

		Date: 23/01/07 Drawn By: [Name] Checked By: [Name] Project No: DP1098372 Drawing No: 1100 Scale: A Revision: A
Project Name: Lot 864 Churimish RD Project No: DP1098372 Site No: [Number] Drawing No: 1100 Drawing Title: South Elevation		Client: CSP PROPERTIES PTY LTD Drawing Date: 23/01/07 Drawing Scale: A Drawing Status: DA



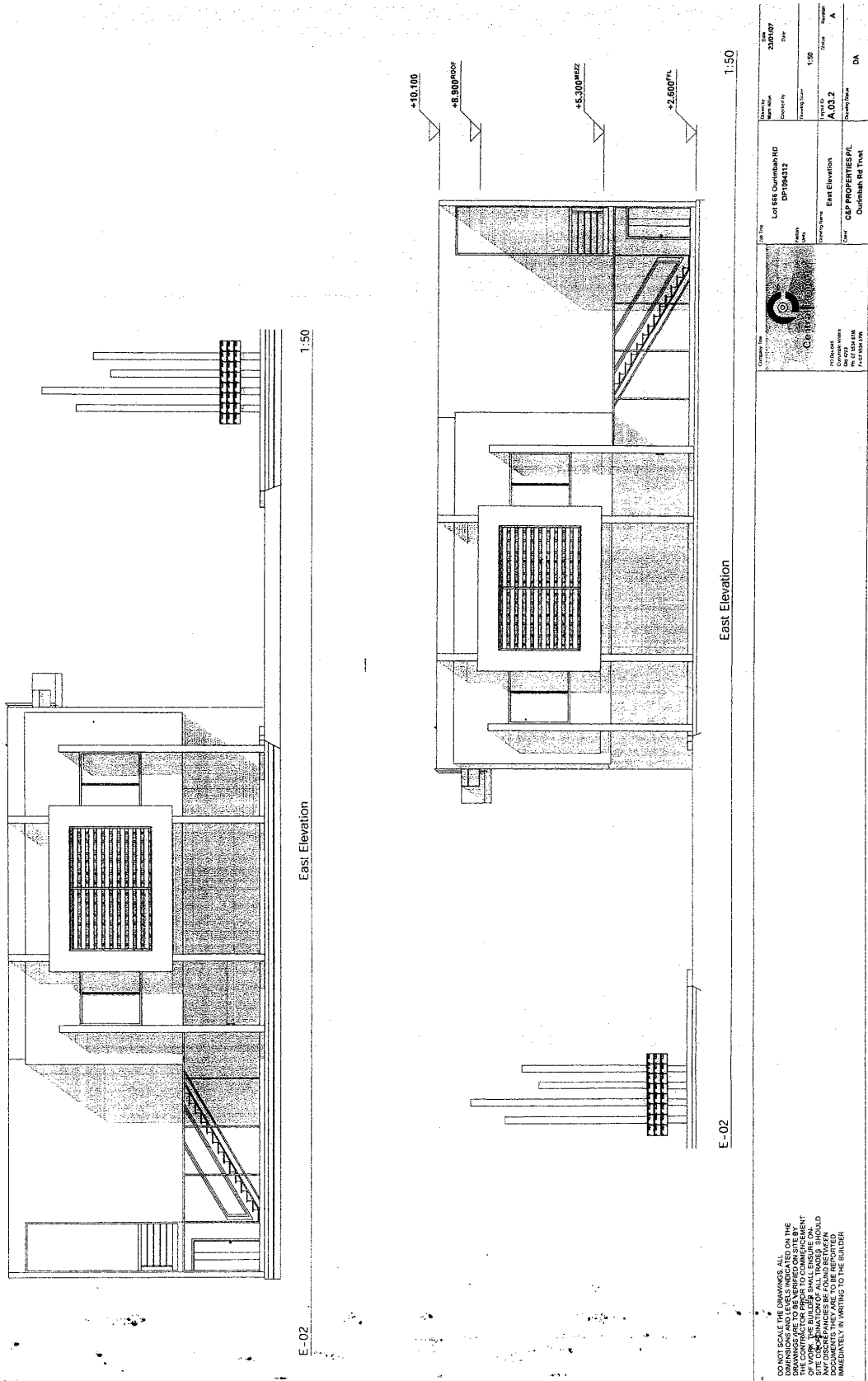
WESTERN ELEVATION

Date: 23/11/07
 City: Tweed
 Lot 888 Durrish Rd
 DP104312
 Project Name: WESTERN ELEVATION
 Project No: A.02.1
 Scale: 1:100
 Drawing No: DA
 Client: CAP PROPERTIES P/L
 Drawing Date: Durrish Rd Tract



Central Property
 ARCHITECTS
 10/11 Durrish Rd
 TWEED NSW 2473
 PH: 07 4272 1111
 FAX: 07 4272 1112
 WWW.CENTRALPROPERTY.COM.AU

DO NOT SCALE THE DRAWINGS ALL DIMENSIONS AND LEVELS INDICATED ON THE DRAWINGS ARE TO BE USED FOR THE CONTRACT PRIOR TO COMMENCEMENT OF WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LEVELS ON THE SITE PRIOR TO COMMENCEMENT OF WORK. SHOULD ANY DISCREPANCIES BE FOUND REPORTED IMMEDIATELY IN WRITING TO THE BUILDER.



		Client: Lot 888 Curimbah RD DP: DP1084312	Date: 23/01/07 Drawn by: [Name] Checked by: [Name]
Project Name: East Elevation Drawn by: [Name] Checked by: [Name]	Scale: 1:50 Title: A	Drawing No: A.03.2 Revision: A	Drawing Date: DA

ALL DIMENSIONS AND FINISHES ARE TO BE VERIFIED ON SITE BY THE BUILDER. THE BUILDER SHALL ENSURE THAT ALL DIMENSIONS AND FINISHES ARE TO BE REPORTED IMMEDIATELY IN WRITING TO THE ARCHITECT.

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**Considerations Under Section 79c Of The Environmental Planning And Assessment Act 1979****(a) (i) The provisions of any environmental planning instrument**Tweed Local Environmental Plan 2000

The subject site is located within 4(a) Industrial Zone. An industry development is permissible within the zone with consent.

Clause 8 requires the consent authority to be satisfied that the development is consistent with the primary objective of the applicable zone. The primary objectives of the 4(a) zone is to provide land primarily for industrial development and to facilitate economic activity and employment generation.

It is considered that the proposed industrial development is consistent with the primary objectives. It is anticipated that the use of each of the units will enable economic activity and employment generation.

Clause 15 of the TLEP requires that Council is satisfied that the subject land has the benefit of essential services prior to issuing consent. All essential services are available to be connected to the site.

Clause 16 requires that development be carried out in accordance with the affected height limit. The subject site is affected by a 3 storey limit. The proposed development is consistent with this restriction.

Clause 35 requires consideration of the disturbance of acid sulfate soils (ASS) and ground water to minimise adverse environmental impacts. The site is identified as being land class 3 ASS. Council's Environmental Health Officer has reviewed the proposal and advised the only excavation which will occur on-site will be for services. The officer raised no concern in relation to the potential impact on ASS or groundwater subject to conditions of consent.

Clause 34 relates to minimising the future potential flood damage through permitting compatible development on flood liable land. Council's Development Engineer has reviewed the proposed development with regards to flooding. The Engineer advised that the site has an adopted design flood level of 2.6 metres and flood free storage will be provided in all units above the flood level.

Clause 39A relates to the assessment of the threat from bushfire to built assets, people and ecological and environmental assets. The application was referred to the NSW Rural Fire Service (RFS) for comment as the site is identified as being bush fire prone. The RFS raised no objection to the proposal subject to conditions of consent.

State Environmental Planning Policies

SEPP No. 11

In accordance with clause 7 of the SEPP the application was referred to the local traffic committee for comment as its gross floor area is greater than 4000m² and the development will have ancillary accommodation for 50 or more motor vehicles.

The traffic committee advised:

1. *Given the lack of on site loading and unloading facilities the internal aisles need to be made one-way.*
2. *The assessing planner needs to ensure that loading and unloading can be undertaken on site in a safe and efficient manner without obstructing traffic flow.*
3. *The assessing planner needs to ensure that car spaces 3, 4, 5, 52, 51 and 50 comply with Council's DCP 2 in regards to their width and accessibility.*
4. *The assessing planner ensures that safe pedestrian movement through the site is demonstrated in regards to unloading of heavy vehicles.*
5. *The service vehicles to enter and leave the site in a forward direction and the turning circle at the western end of the development needs to accommodate the swept path of the largest vehicles likely at this site.*

In response to the abovementioned matters, the applicant provided additional information in relation to car parking and manoeuvring within the site. Council's Development Engineer advised this information demonstrates that the proposal complies with the necessary specifications and standards.

SEPP No. 55

Clause 7 of the SEPP requires that the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and that the land will be remediated before the land is used for that purpose.

Council's Environmental Health Officer reviewed the proposal in relation to the requirements of the SEPP and advised that the general site contamination is not considered to be an issue with respect to the proposal.

SEPP No. 71 – Coastal Protection

The subject site is not situated within a sensitive coastal location. The application was assessed in accordance with Part 2 Clause 8 Matters for consideration was necessary. Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The site is surrounded by industrial development. The proposed development is consistent with the character of the area.

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

There are a number of draft LEPs which are shire wide plans. It should be noted that whilst they apply to the shire, they do not specifically apply to the subject site.

(a) (iii) Development Control Plan (DCP)

Section A2 – Site Access and Parking Code

The applicant has indicated the tenancies may be used as factories or light manufacturing however this will be confirmed on separate application for each first use. The required on-site car parking is as follows:

Factories and industries is 1 space per 100m² = 4,442.447m² x 1/100 x 0.80 ESD = 36 spaces

The applicant has provided 52 on-site car spaces.

As discussed previously Council's Development Engineer advised the proposal complies with the necessary specifications and standards with relation to on-site car parking and manoeuvrability. The development is consistent with this Section of the DCP.

Section A3 – Development of Flood Liable Land

The site is identified as being flood prone land. As stated previously Council's Development Engineer has reviewed the proposed development and advised that the site has an adopted design flood level of 2.6 metres and flood free storage will be provided in all units above the flood level. The development is consistent with this Section of the DCP.

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

There are no clauses of the Regulations which are applicable to this development application.

(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

Stormwater Drainage

Council's Engineer has reviewed the proposed stormwater management plan and advised the proposal is consistent with Council's specification in relation to D7. The Engineer advised that the redevelopment will result in a minor increase in the impervious area of the site and as such a minor increase in runoff volume should occur.

The Engineer further stated the stormwater management plan assumes a lawful discharge point for the majority of the site's stormwater to the adjacent motorway drain to the site's west. Minor catchments will be directed to the Ourimbah Road kerb and gutter. The Engineer stated consent from the Roads and Traffic Authority (RTA) was required for discharge onto the RTA land. This has been provided by way of written conditions from the RTA.

(c) Suitability of the site for the development

The suitability of the site for the proposed development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control Plan. Despite the limitations of the subject site such as the bushfire hazard the proposed development results in a development which is functional and consistent the surrounding developments.

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

The application did not require advertising or notification.

(e) Public interest

The proposed development is considered to be in the wider public's interests.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination they have the opportunity to appeal the decision in the Land and Environment Court.

POLICY IMPLICATIONS:

Nil



CONCLUSION:

It is recommended that the proposed industrial development be approved subject to the attached conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.



THIS
PAGE
THIS
PAGE
IS
IS
BLANK
BLANK