



AGENDA

PLANNING COMMITTEE MEETING

Tuesday 21 August 2007

Chairman: Mr Max Boyd AM

**Administrators: Mr Max Boyd AM
Mr Garry Payne AM**



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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

P1 [PR-PC] Draft Tweed Local Environmental Plan 2000, Amendment No 76 - Heritage Items

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2000/76

SUMMARY OF REPORT:

Draft Tweed Local Environmental Plan, Amendment No 76 – Heritage Items was publicly exhibited from 31 January 2007 to 14 March 2007.

The purpose of the Plan is to update the list of items significant to the physical and cultural heritage of the Tweed Shire.

Preparation of the Heritage Study was undertaken in isolation to Council's planning system, which has resulted in the identification of a number of issues with regard to the adoption of the draft Plan following its exhibition.

Consequently the list of nominated items has been reviewed to ensure that the best outcome for the protection of the Tweed's history is achieved without unnecessarily limiting options for the Tweed's future.

The draft Plan has been amended to respond to the identified issues.

Before the draft Plan can be adopted it is necessary to re-exhibit the Plan in accordance with the provisions of the Environmental Planning and Assessment Act 1979.



RECOMMENDATION:

That Council:

- 1. Amends draft Tweed Local Environmental Plan 2000, Amendment No 76 – Heritage Items.**
- 2. In accordance with the provisions of the Environmental Planning and Assessment Act 1979 re-exhibits draft Tweed Local Environmental Plan 2000, Amendment No 76 – Heritage Items.**

REPORT:

Introduction

Council, on 23 January 2007, resolved to exhibit draft Tweed Local Environmental Plan, Amendment No 76 – Heritage Items. The purpose of the Plan is to update the list of items significant to the physical and cultural heritage of the Tweed Shire.

Pursuant to Council's resolution the draft Plan was exhibited from 31 January 2007 to 14 March 2007.

The purpose of this report is to summarise the exhibition process and discuss any issues that were raised regarding the adoption of the draft Plan.

Background

Council on 19 June 2002 resolved to engage David Scobie Architects to prepare a Community Based Heritage Study for Tweed. With the assistance of a number of dedicated local volunteers the Heritage Study was completed in October 2004.

A total of 405 individual items were considered for listing during the preparation of the Study. The final recommendations by David Scobie Architects were as follows:

- 259 items be included in the Shire's Heritage List.
- 48 items be deferred for further consideration at a later stage.
- 23 items be included as a record only.
- 78 items be removed from further consideration

To be included in the Shire's Heritage List each of the nominated items had to meet one or more criteria identified by the NSW Heritage Office. To establish if an item satisfied one or more of the criteria an assessment was undertaken to determine whether:

- (a) An item is important in the course of the region's cultural or natural history.
- (b) An item has a strong or special association with the life or works of a person, or group of persons, of importance in the region's cultural history.
- (c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the region.
- (d) An item has strong or special association with a particular community or cultural group in the region for social, cultural or spiritual reasons.
- (e) An item has potential to yield information that will contribute to an understanding of the region's cultural or natural history.
- (f) An item possesses uncommon, rare or endangered aspects of the region's cultural or natural history.
- (g) An item is important in demonstrating the principal characteristics of a class of the region's cultural or natural places/environments.



Further to the criteria identified by the NSW Heritage Office the nominated items were selected to reflect a number of key themes including the sugar industry, banana growing, kanaka labour, local tourism and leisure, forestry, transport, and the development of townships.

Public Exhibition

The draft Plan and accompanying Heritage Study was publicly displayed from 31 January 2007 to 14 March 2007 at the following locations:

- Murwillumbah Civic Centre
- Tweed Heads Civic Centre
- Kingscliff Library
- Uki Community Technology Centre

The draft Plan was also displayed on Council's website (www.tweed.nsw.gov.au).

An advertisement was placed in the Tweed Link on two (2) separate occasions (Tweed Link Issue 499 – 30 January 2007) (Tweed Link Issue 503 – 27 February 2007) to advise the general public that the draft Plan and Heritage Study were on exhibition and that comments were being received on the proposed listings.

In view of the potential for conflict with regard to the listing of personal property as a heritage item correspondence was also sent to the owners of the nominated items advising them of the draft Plan and Heritage Study. The correspondence also extended an invitation to the owners to attend a meeting with the consultants responsible for preparing the draft list during the exhibition period.

Public Submissions

Fifty-five (55) submissions were received from the general public and Five (5) from State Government Departments and/or Agencies regarding the list of nominated items as a result of the public exhibition process.

The majority of the submissions received related to the validity of the information contained in the heritage study and/or Council's justification for nominating particular items as examples of the region's heritage. Nevertheless, some of the submissions received did support the heritage listing of certain items particularly the Regent Cinema Building in Brisbane Street, Murwillumbah and a stand of Norfolk Pines on Terranora ridgeline within the Azure Estate.

Planning Considerations

Preparation of the Heritage Study was undertaken in isolation to Council's planning system. As a result of this a number of issues have been identified with regard to the adoption of the draft Plan.

Consequently the list of nominated items has been reviewed to determine the most appropriate method for protecting the Tweed's history whilst ensuring that a level of flexibility is maintained to allow for the region's built areas to evolve as the need dictates.

The adoption of the draft Plan as exhibited is considered to be too restrictive particularly in areas like Main Street, Murwillumbah where a large percentage of the buildings located within the area have been individually identified/listed.

Whilst it is necessary to list some items that are reflective of the region's history, there are also instances where the use of alternative planning controls would better protect the character of an area as well as those items considered to be the most important; and still provide adequate flexibility for future development.

The planning provisions currently adopted in Tweed LEP 2000 with regard for the protection of the historic character of Uki and Tumbulgum are considered to best achieve this outcome as they protect those items considered to be the most important whilst allowing others of a lesser importance and/or no importance to be re-developed and/or adapted for other uses.

It may be contended that the provisions identified in the LEP do not go far enough to ensure that the significance of heritage items is recognised by newer development. However, the adoption of additional provisions that Council is in the process of preparing as part of its overall review of the LEP (Locality Plans and/or a Development Control Plan relating to heritage items) will overcome this issue.

It is recommended that Council amend the draft Plan to more appropriately address the protection of heritage items and allow for flexibility in the assessment of future development proposals.

Should Council resolve to amend the draft Plan it will be necessary to re-exhibit the Plan and accompanying Heritage Study.

Conclusion

It is recommended that Council amend draft Tweed Local Environmental Plan 2000, Amendment No 76 – Heritage Items and re-exhibit the Plan in accordance with the Environmental Planning and Assessment Act 1979.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.



PLANNING COMMITTEE MEETING DATE: TUESDAY 21 AUGUST 2007

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] Draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan)

ORIGIN:

Planning Reforms

FILE NO: GT1/DCP/6; GT1/DCP/A1

SUMMARY OF REPORT:

This report has been prepared to advise Council that the draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan) has been reviewed and amendments made in light of the submissions received during its 3 month public exhibition earlier in the year, and it will be ready for re-exhibition in early September.

Final review amendments are scheduled to be completed on 15 August (written component) and 30 August (images / montages / illustrations).

The extensive amendments to the plan and the limited public response during the first exhibition period warrant a further period of 60 days.

A resolution to re-exhibit the draft Plan forms part of this report.

RECOMMENDATION:

That:

- 1. Council resolves to publicly exhibit the draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan) for a period of 60 days.**
- 2. Where a public submission received raises an issue that would result in a major change in the draft Plan that a public workshop be convened to address the issue prior to the reporting of the Plan to Council.**
- 3. Council engages Ruker & Associates Urban Design to assess the height and density provisions in the current Local Environmental Plan for Hastings Point to provide a report to inform the consultants GHD who are undertaking the overall review of the urban land release strategy for the new Tweed Local Environmental Plan.**



4. **Council defers the assessment and determination of development applications for Hastings Point which have already been submitted but not determined or are submitted for determination after this date until the report from Ruker & Associates Urban Design is finalised for Council's consideration.**

REPORT:***Reason for Report***

The draft DCP has been reviewed and extensive amendments made in light of the submissions received during its 3 month public exhibition from 13 December to 13 March 2007. These submissions stem largely from a local industry group who were consulted in a workshop during the exhibition process. General public submissions were confined to three.

Final review amendments are scheduled to be completed on 15 August (written component) and 30 August (images / montages / illustrations). The amendments, among others, include a review of:

- lot dimensions and controls for dual occupancy,
- appropriateness of setback and FSR controls for dwellings,
- adequacy of deep soil zone provisions for various site and land constraints and dimensions,
- the appropriateness of habitable attic space controls,
- the documentation implications and requirements for development applications of different building types,
- whether the setback and basement car parking controls for the medium density building types are appropriate,
- the general layout and format of the DCP, in particular testing the ideas of subsections based on building type and the combining of building types.

The draft DCP has been prepared in accordance with S74C of the *Environmental Planning and Assessment Act 1979* and the draft Plan is required to be publicly exhibited for at least 28 days under S18 *Environmental Planning and Assessment Regulation 2000*.

The DCP has already been exhibited in accordance with the statutory requirements. It is recommended, however, that in view of the extensive amendments to the original draft the DCP be exhibited for a further period of 60 days to allow the community sufficient time to consider the Plan and to make a submission where appropriate.

The draft Residential and Tourist Code will be identified as Section A1 of the Tweed Development Control Plan.

The next step

It is intended to commence the exhibition in early September for a period of 60 days.

Depending on the level of feedback, a further public consultation session may be required in order to workshop any fundamental matters arising about the plan. Subject to this, it is anticipated that adoption of the Plan, comprising the final step in the process, will be sought at the Council meeting of 26 November 2007.



Feedback from the community, interest and industry groups is essential to the preparation of a DCP to ensure that it is legible, robust and of value to the development expectations and aspirations of landowners, developers and residents alike. The Planning Reforms Unit is grateful for the input and assistance provided by the local industry practitioners group that was formed and took the time and interest to make a contribution to the DCP.

The Planning Reform Unit looks forward to continuing the positive working relationship with both the industry practitioners group and the wider community in finalising the DCP.

The consultant Ruker & Associates Urban Design who has drafted the new urban design guidelines in conjunction with Council's planning staff has had extensive experience in planning controls for coastal development. The consultant helped draft the current NSW Urban Design Manual for the NSW Coastline. There has been a lot of community concern about the height controls for Hastings Point and there would appear to be conflict between the property owners in Hastings Point and the residents of that locality about the current 3 storey height limit. The future character of Hastings Point will be determined by the height and density of any redevelopment as well as the urban design guidelines, the subject of this report. It is considered appropriate for Ruker & Associates Urban Design to undertake an assessment of the existing height and density controls in conjunction with the new urban design guidelines for the Hastings Point locality to determine whether the conflicts between the property owner and the residents of that community and the conflict between the objectives of urban consolidation and maintaining village character in the Far North Coast Strategy can be resolved by specific amendments to the planning controls and new urban design guidelines for the Hastings point area.

This report would provide the detail to inform the current Local Environmental Plan consultancy review of height and density for the entire Tweed coastline.

This review of the height and density controls in conjunction with the new urban design guidelines could have an impact on applications which have already been lodged with Council for determination. Whilst it would not be possible to amend the height or density controls until the LEP there may be some changes to the existing development controls on setbacks, bulk and scale, for example, which would help to retain village character. It is therefore considered appropriate to defer the determination of applications for the Hastings Point area until such time as this report has been completed. It is anticipated that such a report could be available in 2-3 months time and it should not be seen as unreasonable to defer Council's determination of these applications until this report is available.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.



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P3 [PR-PC] Murwillumbah Locality and Master Planning Projects

ORIGIN: Planning Reforms Unit

FILE NO: GT1/DCP/56

SUMMARY OF REPORT:

This report has been prepared to advise Council that the draft Murwillumbah Locality/DCP, Scoping Study and Knox Park Masterplan projects have been finalised and are ready for public exhibition.

A resolution to exhibit the draft Plans forms part of this report.

RECOMMENDATION:

That:

- 1. Council publicly exhibits the draft Murwillumbah Locality/DCP Plan (Section B22 of the Tweed Development Control Plan), Murwillumbah Scoping Study and Knox Park Masterplan for a period of 60 days.**
- 2. Where a public submission received raises a fundamental issue with the draft plan that a public workshop be convened to address the issue prior to the reporting of the plan for Council's consideration for adoption.**



REPORT:

Reason for Report

The draft Murwillumbah Locality/DCP, Scoping Study and Knox Park Masterplan projects have been finalised and require public exhibition, prior to their adoption.

The draft DCP has been prepared in accordance with S74C of the *Environmental Planning and Assessment Act 1979* and the draft Plan is required to be publicly exhibited for at least 28 days under S18 *Environmental Planning and Assessment Regulation 2000*.

It is recommended, however, that all three plans be concurrently exhibited for a period of 60 days, to allow the community sufficient time to consider each of the plans and to make submissions where appropriate.

The draft Murwillumbah Town Centre DCP will be identified as Section B22 of the Tweed Development Control Plan.

Project Synopsis

Council resolved on 17 October 2006 to engage Architectus™ to undertake the locality and master planning work as tendered in Consultant Brief DQ2005-192. This included three projects being:-

- A Locality Plan/DCP for Murwillumbah Town Centre;
- A Masterplan for Knox Park, and
- A Scoping Study (confined to within a 5Klm radius of the town centre).

The projects were managed collaboratively between the Planning Reforms Unit, Recreational Services and the project Consultant. In addition, there was an internal reference group comprising:

- Manager Recreation Services
- Manager Environment and Health Services
- Manager Community & Cultural Services
- TEDC
- Traffic & Transport Engineer
- Landscape Architect – Recreation Services
- Senior Planner – Planning Reform Unit

The initial project inception meeting was held on 5 November 2006 and was followed with Stage I of the public consultation on 13 & 14 February. This was conducted in two ways comprising a general public workshop and several key user focus group workshops, including:-

- Key users of Knox Park, e.g. netball, croquet clubs
- Red Cross
- Chamber of Commerce
- Key land-owners / business owners / developers
- Tweed tourism (formerly TACTIC)
- NSW TAFE & Centrelink
- Murwillumbah Residents and Ratepayers Association
- Local industry group comprising; engineering, survey and planning consultants
- Sunnyside Mall centre management
- Cane Growers Association / sugar mill
- NSW Department of State and Regional Development

Stage I consultation was conducted with a 'clean slate', no plans, concepts or preconceived ideas were tabled, instead, it was aimed at providing an opportunity for attendees to provide their views and ideas on how they see the future growth and development of the Town.

The feedback from the consultation sessions was extremely valuable and provided the basis for the preliminary concept plans that were tabled at the stage II consultation phase held on 4 & 5 April, which comprised the same format and session groups as the stage I consultation.

The feedback from the session groups on the concept designs was very encouraging and enabled those concepts to be further advanced and refined into final draft form. These documents were presented to Council on 10 July and remain substantially the same, with some exception to the matters raised in that meeting.

The next step

The penultimate stage of the project life is to formally exhibit the draft plans to the wider public. This is planned to commence at the beginning of September for a period of 60 days.

Depending on the level of response a further public consultation session may be required in order to workshop any fundamental matters arising about the plans. Subject to this, it is anticipated that adoption of the plans, will be sought at the Council meeting of 13 November 2007. Thereafter, necessary changes to the Tweed LEP will be commenced to facilitate the growth and development pattern identified in the adopted plans.

The feedback from the local community, community groups and interest groups was an essential ingredient in the preparation of the plans. Every attendee provided valuable input to the process, maintained an excellent level of receptiveness and openness to others' ideas and views and generally attended with a positive frame of mind. The Planning Reforms Unit is very grateful to everyone who took the time and interest to participate in and improve the process and outcomes.



PLANNING COMMITTEE MEETING DATE: TUESDAY 21 AUGUST 2007

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

P4 [PR-PC] Development Application DA06/0477 for a Six (6) Storey Apartment Building Comprising 38 Units at Lot 24, 25, 26 Section 5 DP 4043, No. 36-40 Enid Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA06/0477 Pt1

SUMMARY OF REPORT:

Council is in receipt of a Development Application seeking approval for 38 residential units in a six storey apartment building.

The application was lodged in May 2006 however the application required amendment to relocate a sewer main. This information was only forthcoming from the applicant on 13 April 2007 hence the delay in reporting this matter to Council.

The application requires a decision on suitability of the proposed parking as the development complies with old DCP No. 2 but not with the revised Tweed Consolidated DCP Section A2 adopted 12 April 2007.

Given the initial lodgement date of May 2006 the proposed parking is considered suitable based on a merit assessment. In all other regards the proposed development is considered suitable and subsequently the application is recommended for approval with appropriate conditions.

RECOMMENDATION:

That: -

- 1. Council utilises its assumed concurrence in relation to the North Coast Regional Environmental Plan Clause 51 - Tall Buildings.**
- 2. Development Application DA06/0477 for a six (6) storey apartment building comprising 38 units at Lot 24, 25, 26 Section 5 DP 4043, No. 36-40 Enid Street, Tweed Heads be approved subject to the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans as follows;**
 - Job Number 1054 - Nos DA0.02 prepared by Lightwave and undated,**



- Job Number 1054 - Nos DA0.03 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA0.04 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.01 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.02 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.03 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.04 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.05 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.06 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA1.07 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA2.01 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA2.02 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA2.03 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA2.04 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA3.01 prepared by Lightwave and undated,
- Job Number 1054 - Nos DA3.02 prepared by Lightwave and undated,
- Landscaping Plan - SL1_05_Ver.A Sheets 4 and 6 prepared by Planit Consulting dated 1 November 2005.
- Cardno Plan B3001/01 Sketches 1 & 2 (sewer details); and
- Stormwater Management Plan – revision A by Cardno dated 13/02/2007

except where varied by the conditions of this consent.

[GEN0005]

2. The proposed future demolition of the existing structures must be the subject of a separate development consent.

[GEN0035]



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

[GEN0115]

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

[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. The developer shall provide 57 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]

6. 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]

7. **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:	\$76,705
S94 Plan No. 4 (Version 4.0)	
Sector1_4	
(b) Open Space (Structured):	\$17,039
S94 Plan No. 5	
(c) Open Space (Casual):	\$3,641
S94 Plan No. 5	
(d) Shirewide Library Facilities:	\$15,037
S94 Plan No. 11	
(e) Bus Shelters:	\$530
S94 Plan No. 12	
(f) Eviron Cemetery/Crematorium Facilities:	\$3,027
S94 Plan No. 13	
(g) Emergency Facilities (Surf Lifesaving)	\$4,378
S94 Plan No. 16	
(h) Extensions to Council Administration Offices & Technical Support Facilities	\$43,618.90
S94 Plan No. 18	
(i) Cycleways	\$7,684
S94 Plan No. 22	
(j) Regional Open Space (Structured)	\$50,814
S94 Plan No. 26	
(k) Regional Open Space (Casual)	\$18,677
S94 Plan No. 26	
(l) Tweed Heads Master Plan:	\$39,786.00
S94 Plan No. 27	

[PCC0215/PSC0175]

8. 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:	15.49 ET @ \$9997	\$154,854
Sewer Banora:	24.75 ET @ \$4804	\$118,899

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]

9. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, Tweed Shire Council Development Control Plan Part A14 - Cut and Fill on Residential Land and Councils Development Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

Please note timber retaining walls are not permitted.

[PCC0475]

10. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

11. 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]



12. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, 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) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

13. 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]

14. 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]

15. The developer shall extend Council's piped stormwater drainage system to the development site's Enid Street frontage. Internal site drainage shall be piped to a new kerb inlet pit in the extended public system. Design and construction of this system shall be in accordance with Council's Development Design Specifications and Standard Drawings. Detailed design of the stormwater extension shall be provided with a Sec.68 Stormwater Application for approval prior to the issue of a Construction Certificate.

[PCCNS01]

16. Modifications are required to the existing Council sewer mains traversing the site. The existing mains are to be removed and new mains laid – including maintaining and reconnecting the existing house connections to adjoining Lots 7, 8 & 9 – generally in accordance with Cardno plans B3001/01 Sketches 1 & 2, but with the following amendments:

- the new sewer manhole in the basement is to be benched
- ALL sewer main connections through the basement wall must provide a flexible joint 600mm (max.) from the wall, and a second flexible joint as soon as possible thereafter.

Details are to be submitted with a Sec.68 Sewer Application for approval prior to the issue of a Construction Certificate.

[PCCNS01]

17. Prior to the issue of any Construction Certificate or Sec.68 approval for sewer infrastructure works, adjoining owner's consent(s) for the relaying of sewer lines (where work extends into adjoining properties) must be obtained and documentary evidence submitted to Council.

[PCCNS01]

18. The refuse collection area is to be marginally shifted and the landscaping features appropriately designed, to ensure the driveway attains the required sight triangles.

[PCCNS01]

19. Prior to issue of the construction certificate the applicant is to submit details to Council for approval for refuse collection that does not necessitate service vehicles reversing from the premises.



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

[PCC0945]

21. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCC1115]

22. 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]

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

[PCC1235]

PRIOR TO COMMENCEMENT OF WORK

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

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

[PCW0080]

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

[PCW0965]



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

[PCW0835]

27. 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]

28. 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]

29. 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]

- 30. 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]

- 31. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

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

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

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

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

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

[PCW0235]

- 32. 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]

- 33. 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]

- 34. 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]

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

[PCW0955]



36. 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]

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

[PCW1065]

38. Prior to the commencement of any works on the site all required plumbing and drainage inspection fees are to be submitted to Council.

[PCW1095]

DURING CONSTRUCTION

39. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0655]

40. 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]

41. 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]



42. 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]

43. 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]

44. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils adopted Design and Construction Specification.

[DUR2355]

45. 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]

46. 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]

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

[DUR0005]



48. **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]

49. **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]

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

[DUR0235]

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

[DUR0255]

52. **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]

53. 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]
54. 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]
55. 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]
56. 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]
57. 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]
58. 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]

59. 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]

60. 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]

61. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

62. Provision to be made for the designation of one dedicated durable and pervious car wash-down area/s. Parking bays 56 and 57 are to have dual usage as car wash bays/visitor spaces - unless satisfactory alternative arrangements are made with Council. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

63. 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]

64. The spa filter and any pumps or aerators are to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

[DUR2135]



65. 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]
66. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]
67. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
[DUR2205]
68. Appropriate measures are to be put in place during the construction 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]
69. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.
[DUR2435]
70. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
[DUR2525]
71. All works shall comply with the Amended preliminary Acid Sulfate Soil Assessment & Management Plan and Dewatering Management Plan for 36-40 Enid Street, Tweed Heads, prepared by HMC Environmental Consulting dated May 2006 (report No. 2005.154A)
[DURNS01]
72. All soil material should be neutralised prior to removal of the site.
[DURNS01]
73. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.
[DUR1015]



PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

74. 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]

75. 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]

76. Work as executed plans are to be provided to Council in accordance with Councils Development Design Specification, D13 and a CCTV inspection of the stormwater pipes and sewerage system to be dedicated to Council as public infrastructure including joints and junctions demonstrate that the standard of the system is acceptable to Council.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POC0765]

77. 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]

78. 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]

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

[POC1055]

80. An Easement to Drain Sewerage (in accordance with Council’s standards: minimum of 3m wide) is to be created over the relocated Council sewer mains within the site. Furthermore, the owner shall indemnify Council for any and all future damage to the development that may occur, as a result of Council needing to access the sewer main at any time in the future. Documentary evidence of easement creation is to be submitted to Council prior to the issue of an Occupation Certificate. It is recommended that the easements be created in conjunction with consolidation of the site into a single allotment.

[POCNS01]

81. **Twenty four (24) hour access to the basement for Council maintenance crews (to access the sewer mains) must be made available**

[POCNS01]

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

[POC0235]

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

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

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

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



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

[POC0265]

86. 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]

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 air conditioning units, swimming pool pumps, water tank pumps and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of offensive, or intrusive noise to any occupant of neighbouring or adjacent premises.

[USE0235]

89. **Swimming Pools (Building)**

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

[USE1295]

90. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE1305]

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

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.

- **An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.**
- **When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.**

- **All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.**
- **All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.**
- **The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.**
- **All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.**
- **The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.**
- **A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.**
- **If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.**
- **All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.**
- **Works for construction of bores must be completed within such period as specified by the Department.**
- **Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.**
- **Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.**

- **Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.**



- **The use of water shall be conditional on no tailwater drainage being discharged into or onto -**
 - any adjoining public or crown road**
 - any crown land**
 - any river, creek or watercourse**
 - any groundwater aquifer**
 - any area of native vegetation**
 - any wetlands**
- **The work shall be managed in accordance with the constraints set out in the “Amended Preliminary Acid Sulfate Soil Assessment & Management Plan, and Dewatering Management Plan” produced by HMC Environmental Consulting dated May 2006 as presented as Appendix D in the Statement of Environmental Effects for the proposed development.**
- **The volume of groundwater extracted as authorised must not exceed 5 megalitres.**
- **The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.**
- **The licence shall lapse within six (6) months of the date of issue of the licence.**

REPORT:

Applicant: The Enid Street Experience Pty Ltd
Owner: The Enid Street Experience Pty Ltd
Location: Lot 24, 25, 26 Section 5 DP 4043, No. 36-40 Enid Street Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$5,200,000

BACKGROUND:

The subject site is currently occupied by three existing dwellings known as 36, 38, and 40 Enid Street. Lot 36 and 38 consist of two 2-storey weatherboard dwellings while lot 40 consists of a single storey dwelling.

The land has a total area of approximately 1810m² with a road frontage of 45.7m to Enid Street and an average depth of 40.4m. Vegetation on the site includes a few small trees, however, none of this vegetation is of ecological significance or provides habitat for rare or threatened species.

The application currently before council seeks consent for the erection of a residential flat development housing 38 residential units within the 6-storey building. The units are configured as follows:

- 9 x 1 bedroom units;
- 1 x 1 + 1 (study) bedroom units;
- 22 x 2 bedroom units;
- 4 x 2 + 1 (study) bedroom units; and
- 2 x 3 bedroom units.

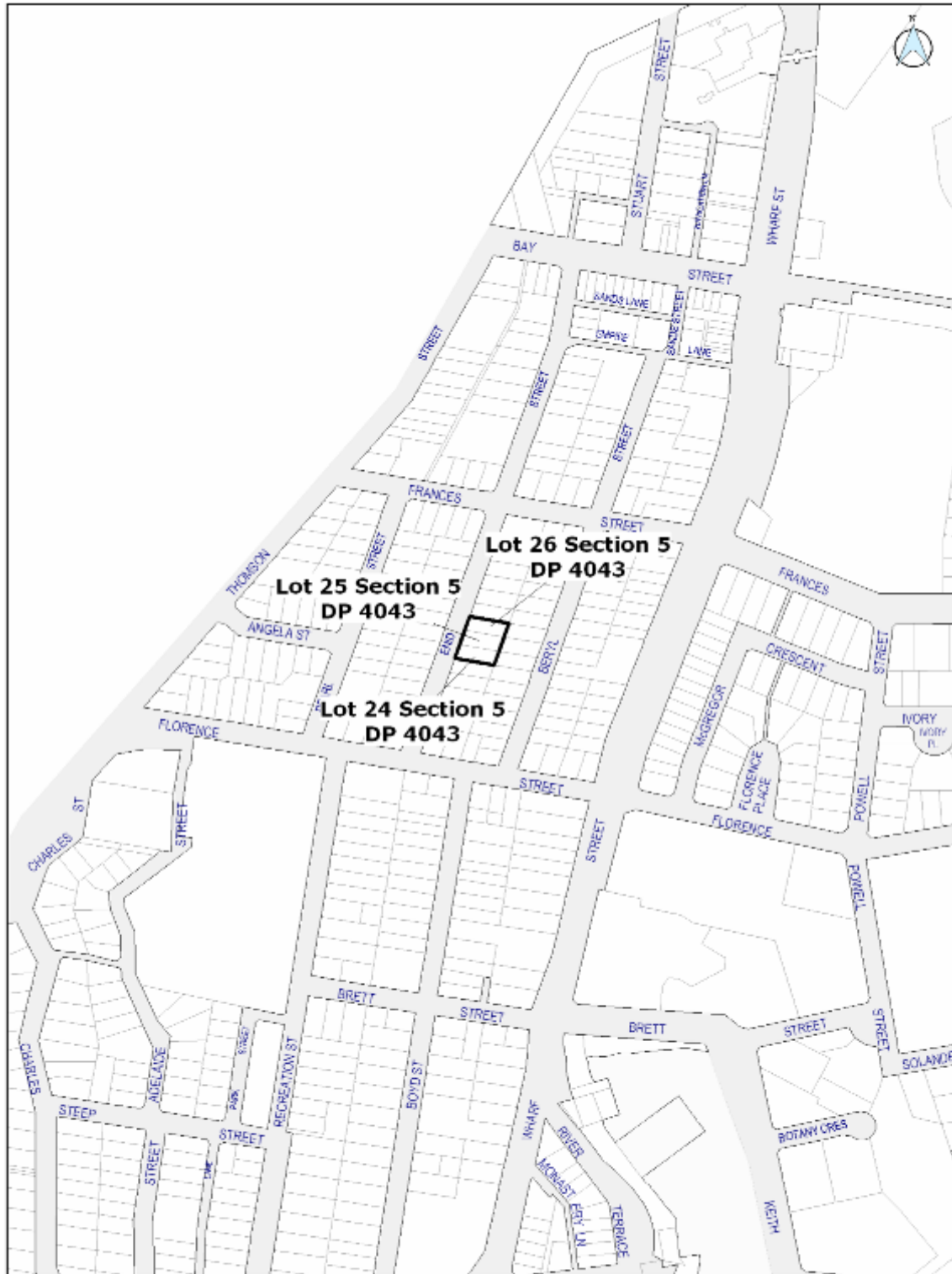
Vehicular access to the site is achieved via a driveway off Enid Street. The driveway leads to a basement car park, which accommodates 55 car parking spaces with two spaces plus a car wash bay positioned at the ground floor level.

The proposed development incorporates private terraced areas within each unit and includes a common open terraced area at roof level with a communal BBQ.

The proposed residential flat building is a contemporary design, which incorporates various setbacks within the building design together with private terrace areas. The design utilises a number of colours, which includes white, red, and blue. The building seeks a variation in regards to two small encroachments to the building height plane at both the northeast and southeast aspects of the building at levels six.

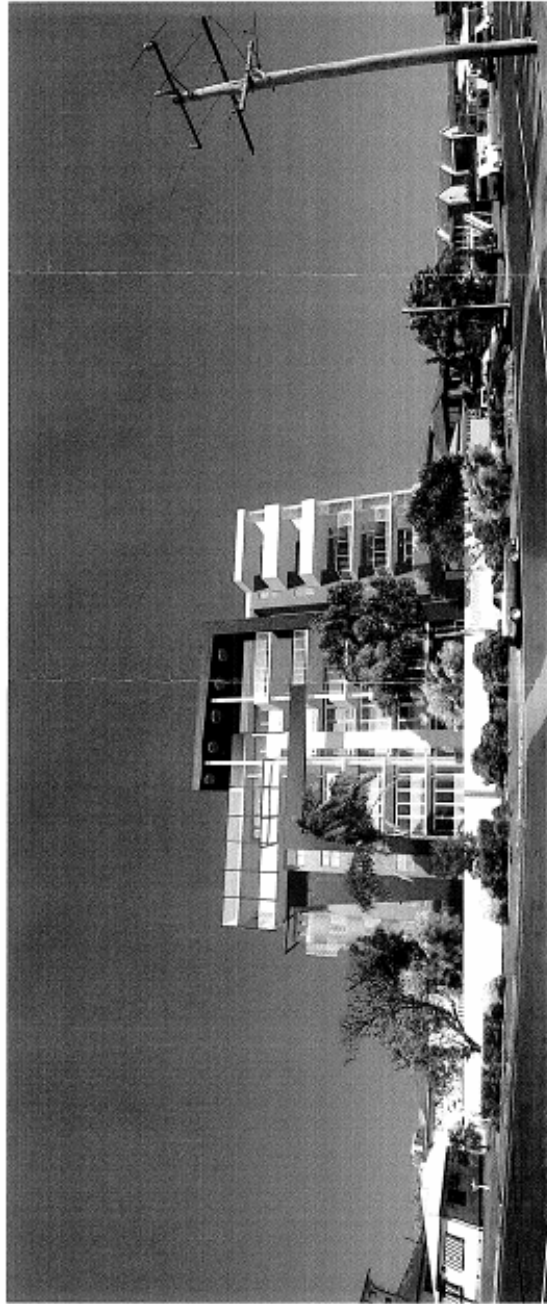
This is the second Development Application recently lodged over the site. DA05/1423 sought approval for an eleven storey apartment building, however since the lodgement of that application Draft LEP 64 was placed on exhibition which proposed that the subject site be changed from a 12 storey height limited area down to a six storey height limited area. As a result of this the applicant withdrew this application and re-designed the development and lodged the current six storey application.

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 in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED T: (07) 4271 5400 F: (07) 4271 5433</p>	<p><i>Tweed Shire Council</i> Lot 24, 25, 26 Section 5 DP 4043 No. 36-40 Enid Street, Tweed Heads</p>		<p>PLANNING REFORMS UNIT Site Plan</p>
<p>File: N:\Munsy\A4P - SITE PLAN\Wor</p>	<p>Author: B. Ingram</p>	<p>Date: 8/August/2007 Scale: 1:5,000</p>	<p>Sheet: 1 of 1</p>

DEVELOPMENT PLANS:

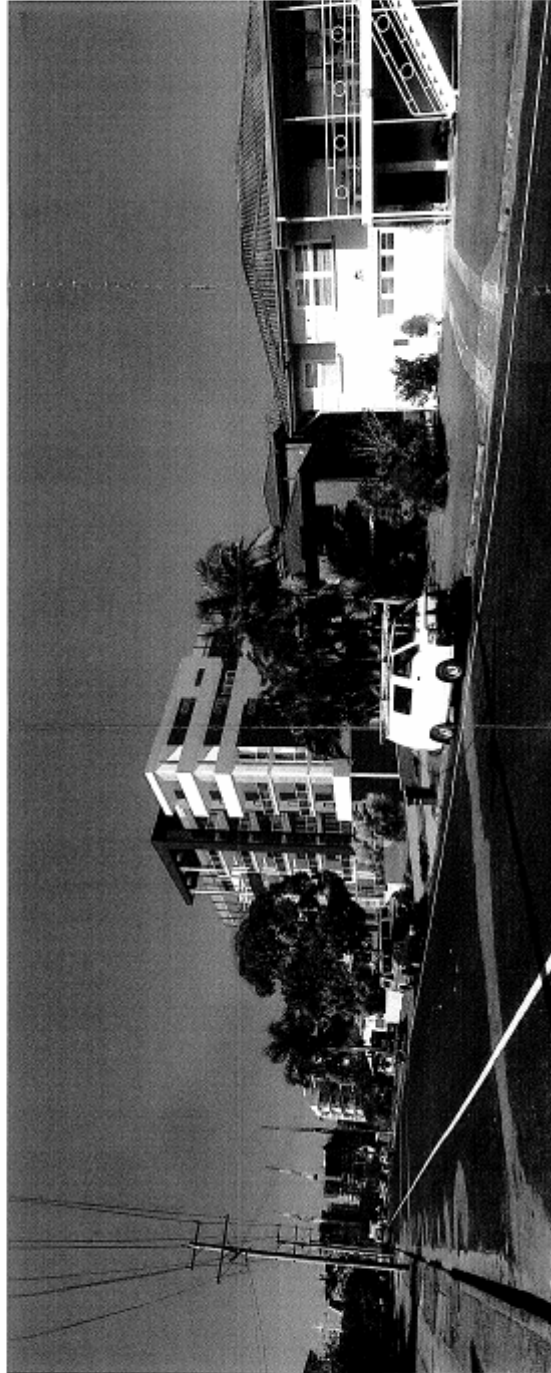


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The Enid Experience

West Perspective





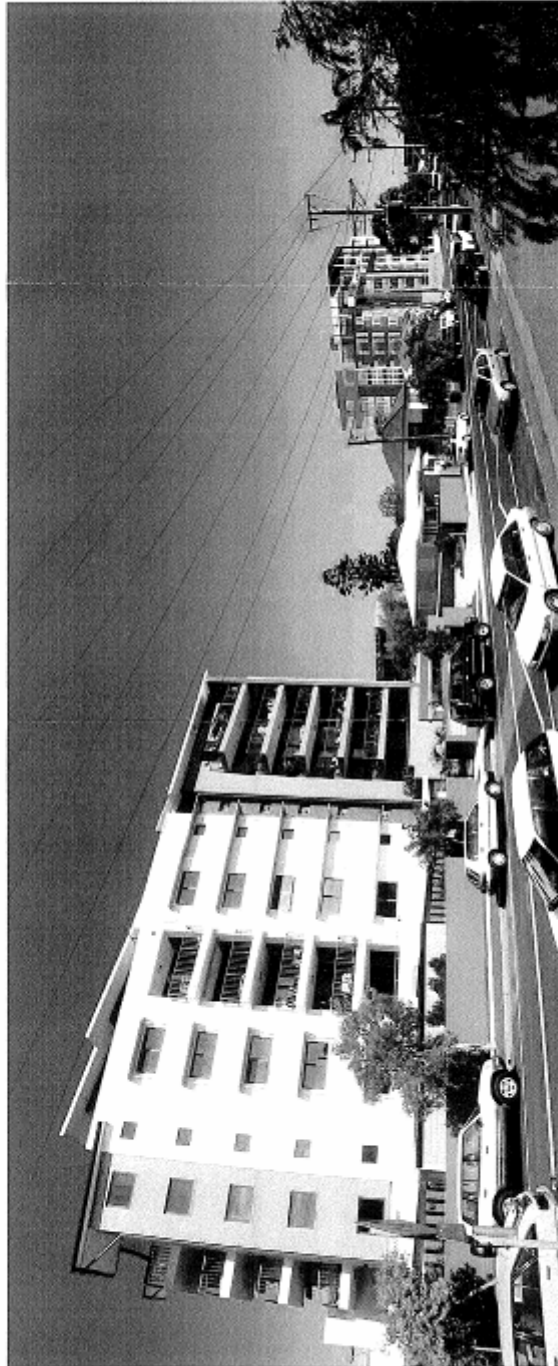
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The Enid Experience

South-West Perspective



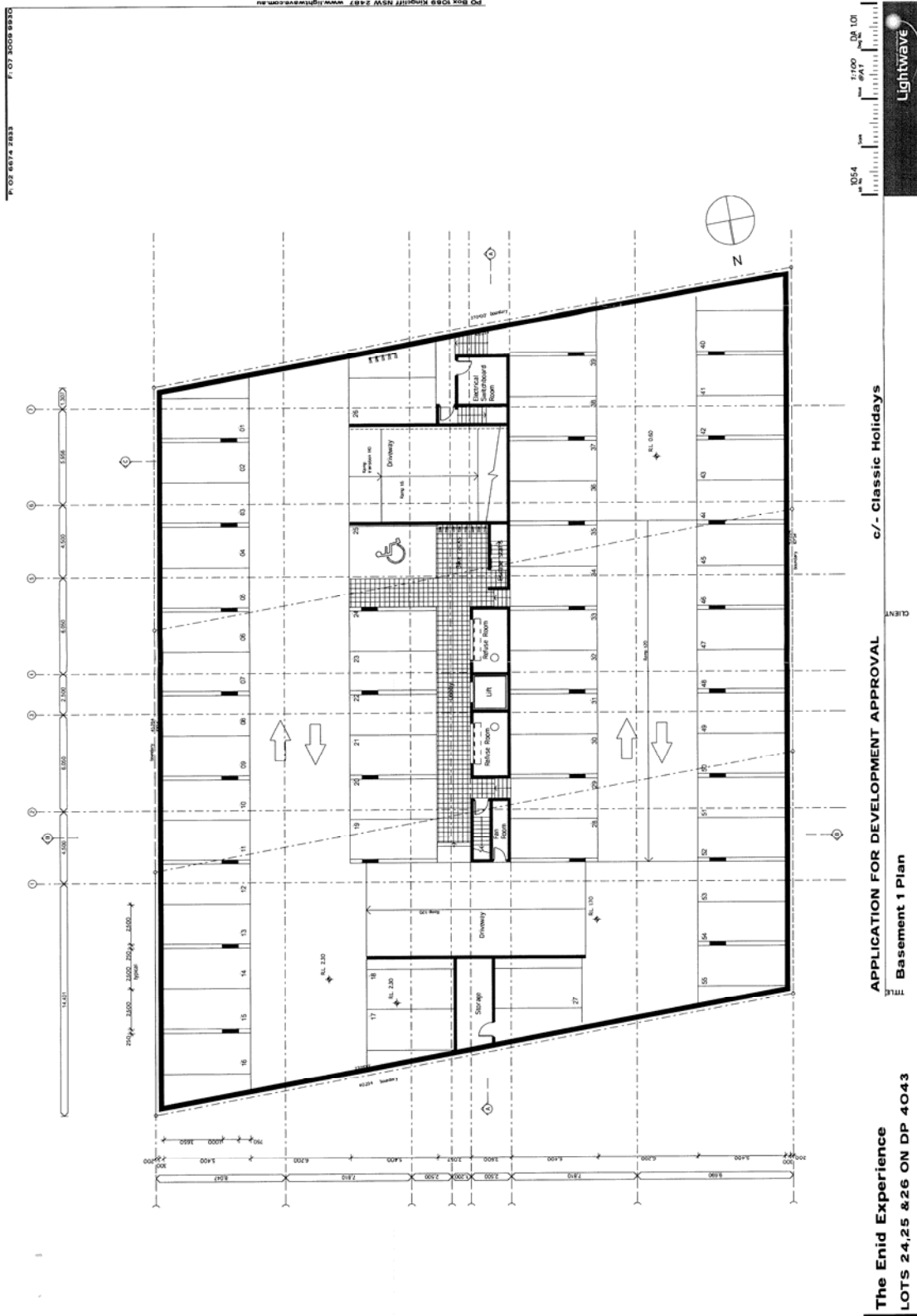
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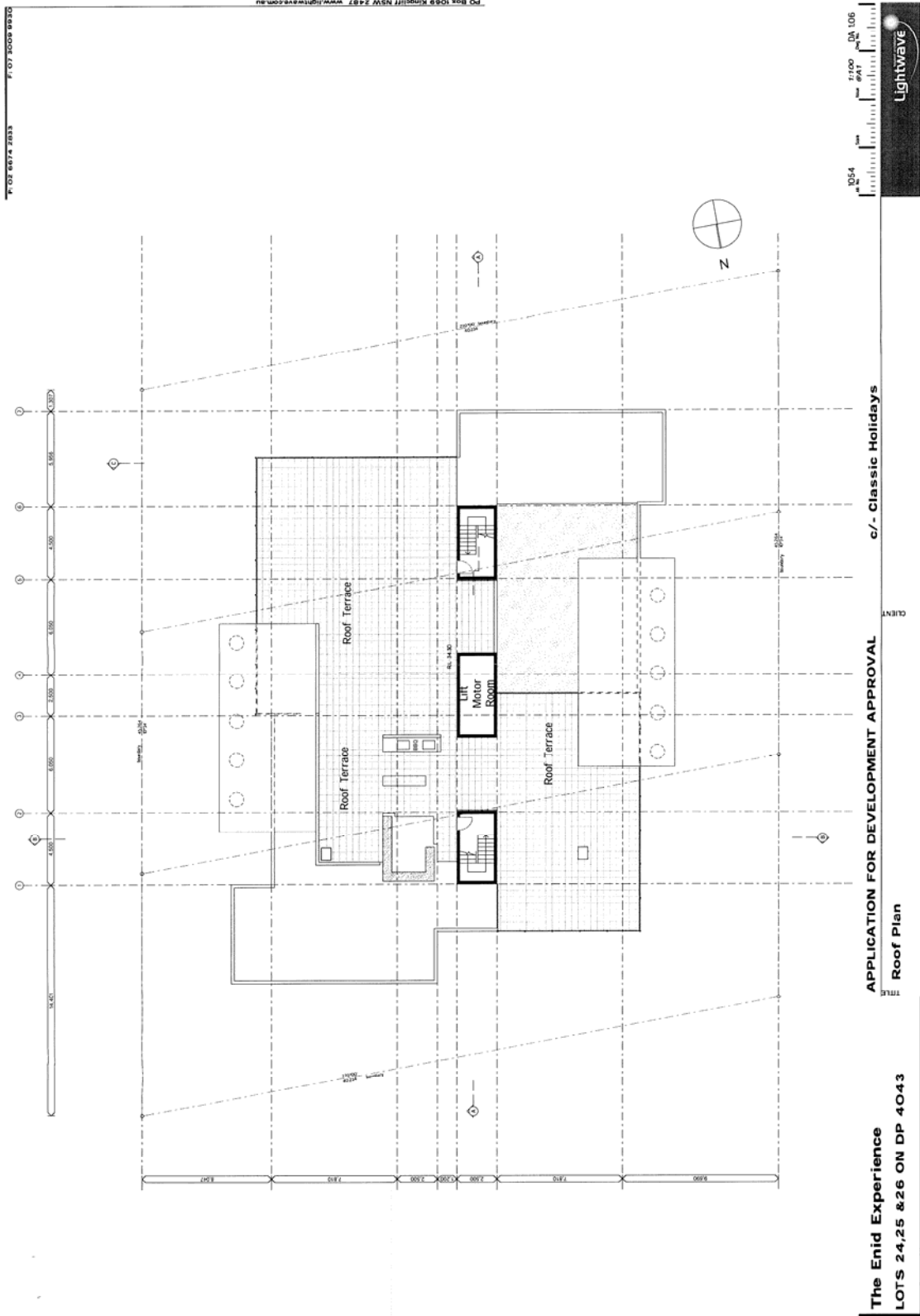
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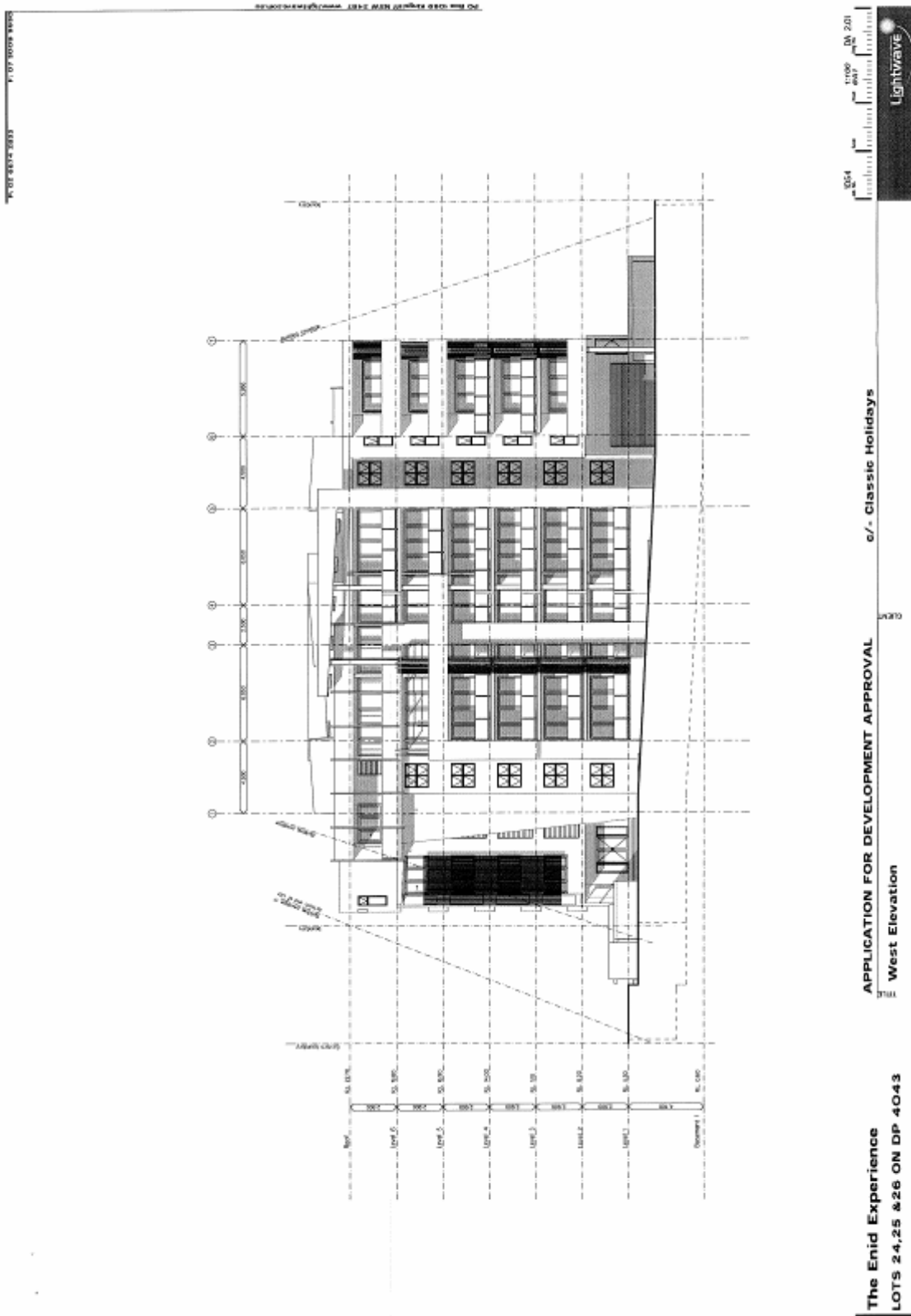
The Enid Experience

North Perspective









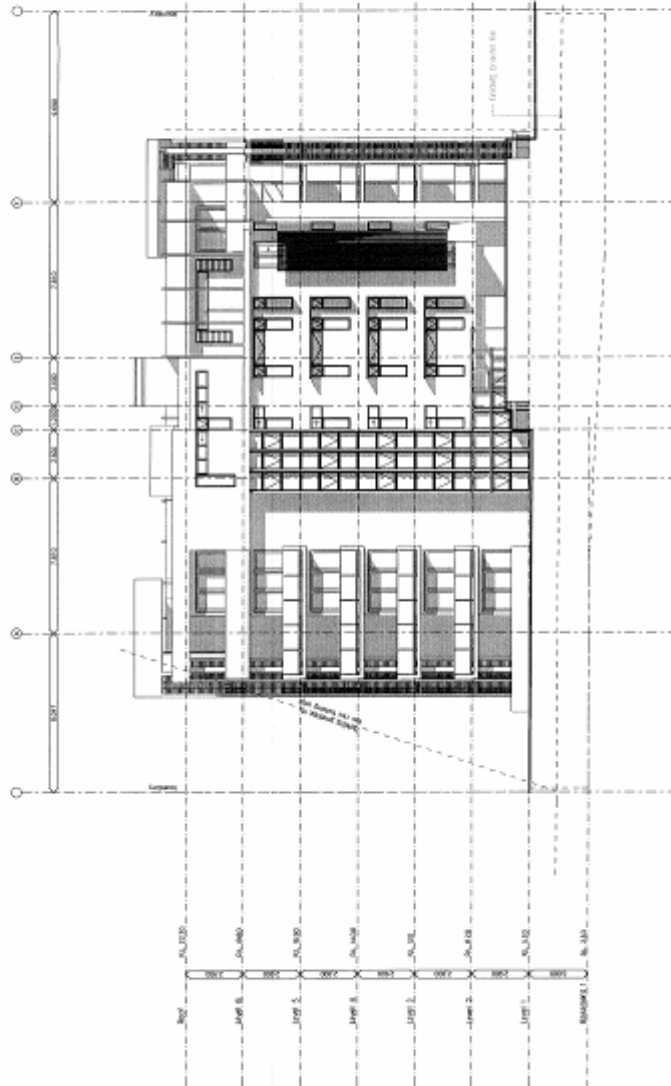
The Enid Experience
 LOTS 24,25 &26 ON DP 4043

APPLICATION FOR DEVELOPMENT APPROVAL
 West Elevation

c/- Classic Holidays

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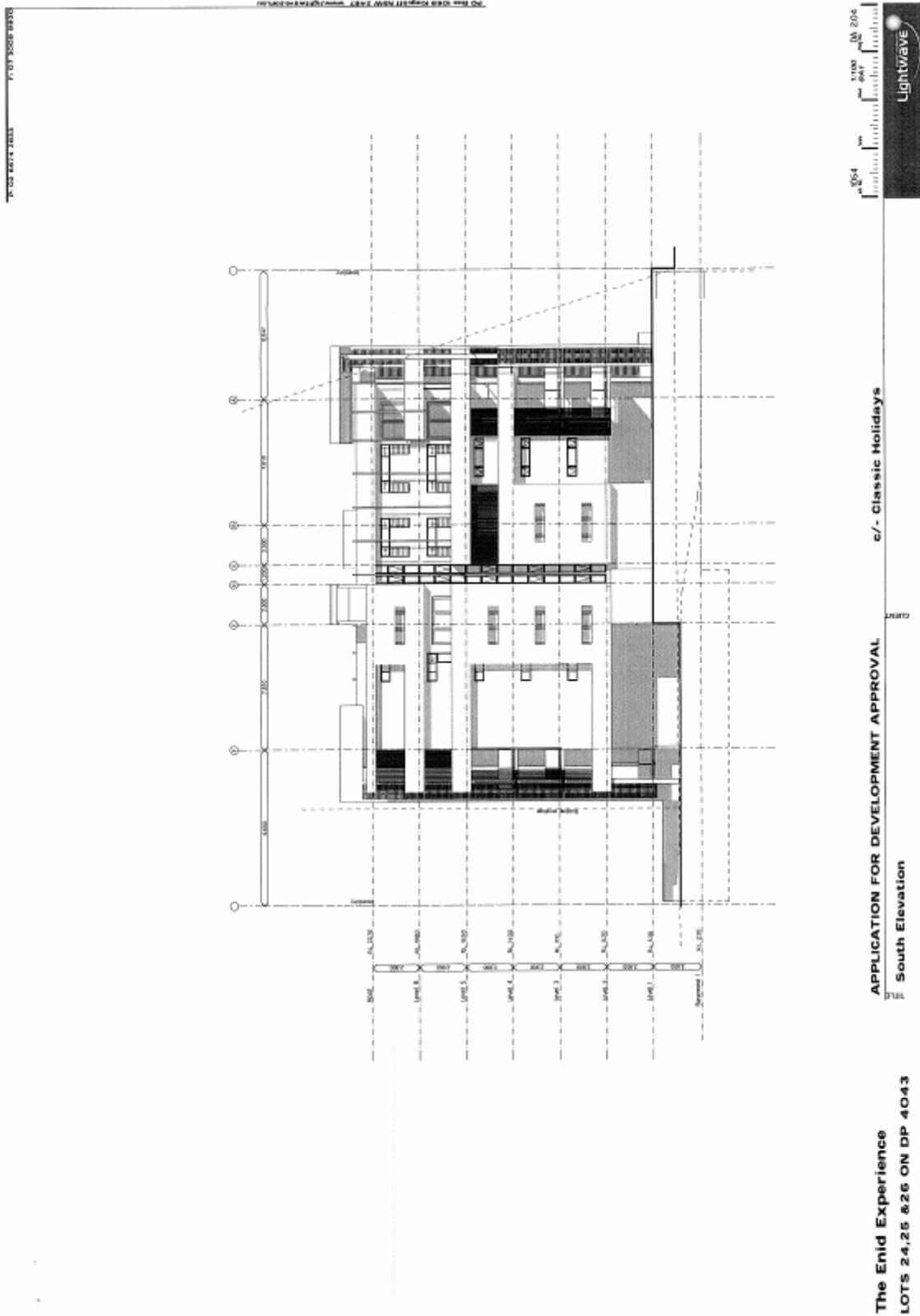


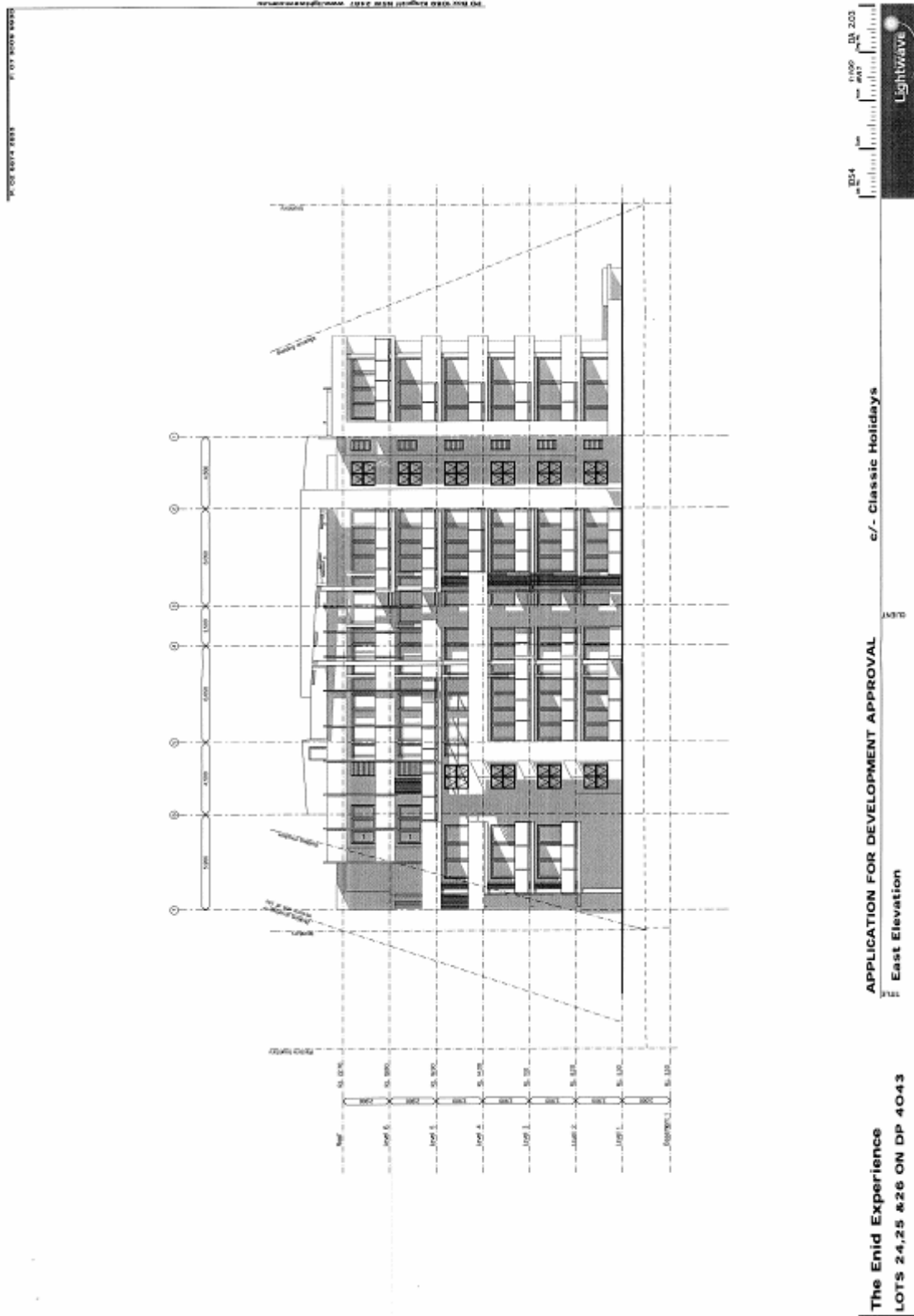
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APPLICATION FOR DEVELOPMENT APPROVAL
 c/- Classic Holidays

31E North Elevation

The Enid Experience
 LOTS 24,25 & 26 ON DP 4043





The Enid Experience
 LOTS 2-4, 25-426 ON DP 4043

APPLICATION FOR DEVELOPMENT APPROVAL
 East Elevation

c/- Classic Holidays





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 the 2(b) Medium Density Residential Zone pursuant to the provisions of the Tweed Local Environment Plan 2000.

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

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

One of the secondary objectives of the zone is, “to discourage the under-utilization of land for residential purposes, particularly close to the Tweed Heads sub-regional centre”. The proposal to construct a 6 storey, 38-unit residential flat building on a site area of 1810m² is considered to be medium density development as permitted by the zone.

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

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development. Appropriate conditions of consent are recommended for treatment of stormwater prior to disposal to Councils stormwater network.

Clause 16 requires development to be carried out in accordance with the height limitation plan. The subject land has been identified as having a 12-storey limitation with an objective to ensure that the height and scale of the development is appropriate to its location, surrounding development and the environmental characteristics of the land.

It is considered that the proposed building complies with the 12-storey height limitation by providing a building that contains 6 storeys. The building is also compatible with surrounding land uses as it is evident the locality is strongly emerging as a mixed use area with the positioning of a 6 storey residential flat building on the corner of Enid and Beryl Streets.

Clause 17 of the TLEP requires a Social Impact Assessment to be submitted for residential development comprising 50 units or more. As the development is for 38 residential units it is considered that the proposal in terms of these guidelines will not have a significant social or economic impact upon the area, thus a Social Impact Assessment is not required.

Clause 33 of the TLEP requires Council to consider any current obstacle limitation surface plan or procedures for aircraft navigation services. Mr Ian Rigby who acts for the Gold Coast Airport Limited (GCAL) contacted Tweed Shire Council and advised that the previous application in 2005 was for a building to a height of 36.4 metres AHD, which did not trigger any referral requirement. The proposed application seeks approval for a building with a maximum height of 25.1 metres AHD, and therefore no referral is required.

Clause 34 of the TLEP requires consideration of development on flood prone land. The subject site is identified as a flood-affected area, however, all habitable areas will be above the design flood level and the basement will be flood proofed. Furthermore, the development would have access to emergency services in the event of a flood.

Clause 35 of the TLEP requires an acid sulphate soils management plan be assessed where the proposed development is likely to interfere with acid sulphate soils. The subject site is identified as possessing class 2 Acid Sulphate Soil levels. Council's Environmental and Health Services Unit have advised that the amended Preliminary Acid Sulphate Soil Assessment & Management Plan was prepared in accordance with the ASSMAC guidelines with standard conditions recommended.

North Coast Regional Environmental Plan 1988

In accordance to clause 32B of the NCREP the proposal is considered to be consistent with the relevant provisions of the NSW Government Coastal Policy 1997 and the Coastline Management Manual. The proposed development is setback from the coastal reserve area and will not restrict access to the coastal foreshore area or overshadow the coastal reserve area.

Clause 43 of the NCREP 1988 provides guidelines for Council when considering residential development. These controls discuss density, road use characteristics, and environmental constraints of the land. The proposed density is considered to be a desired response to the areas desired outcome as a medium - high-density residential precinct.

Clause 51 of the NCREP relates to buildings greater than 14m in height and requires such buildings to obtain concurrence from the Director General of the Department of Infrastructure Planning and Natural Resources. However Council has been given authority to assume the Directors Concurrence.

Clause 51 states that in deciding whether to grant concurrence to an application the Director (or Council due to our assumed concurrence) shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect, which it will or is likely to have on the amenity of the area.



It is considered the proposal will not have an adverse social, economic or visual impact regionally or locally. The issues considered to conclude this involve overshadowing, privacy, loss of view, traffic impacts, bulk and scale and the objectives for the area. Each of these issues are assessed in detail later in this report.

The proposal is considered to be consistent with the provisions of the North Coast Regional Environmental Plan 1988.

State Environmental Planning Policies

State Environmental Planning Policy No. 11 – Traffic Generating Developments

Referral to the Local Traffic Committee was required in accordance with the provisions of Schedule 2 (q) which reads:-

"areas used exclusively for parking or any other development, in each case having ancillary accommodation for 50 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 50 or more motor vehicles".

Local Traffic Committee comments were requested on:

1. Capacity for the adjoining road network to cater for this development;
and
2. Adequacy of the proposed basement and access to the site.

The Committee viewed the plans of the development and requested that clarification be sought on how refuse is going to be collected from the site and demonstrate how this can be done without the need for a truck to reverse out of the driveway.

A condition of consent has been included requiring refuse detail to be signed off by Council prior to issue of a Construction Certificate.

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

The applicant has submitted a statement addressing the 10 design principals under SEPP No.65. The following comments are provided on these design principals.

Context, Scale and Built Form

The development is considered to be consistent with the desired future character of the area as stated under Tweed Consolidated DCP Section B2, Tweed Strategy 2000+, and the Draft Tweed Heads Town Centre Master Plan. The area is characterised by numerous residential flat buildings, with remaining undeveloped parcels or older buildings being pressured by market forces to be re-developed. The proposal is contemporary in design and does not detract from the built environment.

Density

The proposed building having regard to the size of the land and the 12 storey height limit is suitable in terms of bulk and scale. Various elements in the design of the proposal and general compliance with the building height plane results in a design that is consistent with the high density planning controls applicable to the site and a building that is appropriate in terms of bulk, scale and character.

Resource, Energy, and Water Efficiency

The applicant has submitted a BASIX certificate demonstrating that all water, thermal comfort, and energy targets have been met.

Landscape

The landscaping plan indicates the provision of landscaping on all boundaries of the development site. The provision of local plant species help soften the buildings appearance and correspond to the provisions of Tweed Consolidated DCP Section B2. The development also incorporates a pool at the eastern boundary, a BBQ area with pergola at the front of the site, and private open space areas for residents. The site currently contains no distinctive vegetation features that warrant any form of conservation upon construction.

Amenity

Visual privacy for residents on the western boundary should be maintained by the provision of a 6m driveway together with landscaping. The addition of large trees will also assist in achieving acoustic privacy for residents. Privacy for residents to the adjacent rear of the development site should be maintained due to the setback from the proposed site.

Residents of the proposed building also have access to a roof terrace with BBQ. This will be an open area with access through a central lift and 2 stairways located at the north and south aspects of the building.

Each unit is provided with private terraces, which generally permit access from the main living areas or from the bedrooms. The development comprises eight (8) unit type plans. The entry points into most units are through a combined dining, living, and kitchen area. Access to the upper floors is achieved by a central lift together with 2 stairways located at both the north and south aspects of the building. Access to the building from the external area is through the northern side of the building via the reception area or entry from the basement car park.

Adjacent landowners on both the east and west perimeters of the proposed site will be exposed to substantial light. Residential units within the proposed building will have adequate access to sunlight through the living areas and bedrooms. Residents will also have access to sunlight through the provision of private terraces, which generally have access from the main living areas and bedrooms.

In determining whether the subject application unreasonably impacts upon the amenity of the adjoining properties Council must consider the intended character of the area. Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of the area, nor restrict the ability of adjoining parcels to be developed for similar purposes.

The proposed development is considered acceptable to satisfy the amenity objectives of SEPP 65.

Safety and Security

The applicant has submitted the following measures for safety and security:

- Facilitates passive overlooking of all areas due to the orientation of each residential building;
- Removal of crime hot spots, such as narrow alleys, hiding nooks and predator havens;
- All street frontages are active and have been designed such that they are not merely afterthoughts, but a genuine extension of the commercial and residential facilities;
- Ensure unhindered and easy access is available for able bodied and disabled persons respectively;
- Provide secure parking and lock up storage facilities within the basement area and the provision of appropriate lighting facilities relative to same;
- Provide after hours lighting to public spaces and accessibility to management.

The development site is located on a 50km/h speed zone, which may enhance safety to and from the site.

Social Dimensions

The development responds to the desired social outcomes of the high-density precinct by encouraging and increasing residential population to the sub-regional centre of Tweed Heads as well as encouraging the efficient use of residential land. The site is located close to Boyd Street medical facilities and a large public reserve adjacent to Florence Street.

Aesthetics

The overall aesthetics of the building provide for a modern and contemporary development, which conforms to the areas emergence as a mixed-use precinct. This is already strongly evident within the immediate locality with the provision of the six (6) storey residential flat building to the northeast of the proposed site. The prominence of the building may be softened by existing vegetation characterising the surrounding streetscapes together with additional vegetation as proposed within the landscaping plans.

State Environmental Planning Policy No.71 – Coastal Protection

Clause 8 of the policy outlines sixteen matters for consideration for land within the coastal zone. The applicant has submitted that under the 16 considerations of clause 8 that no impediments to these conditions will occur. The subject site is not located in the immediate locality of the coastal reserve area and will not restrict access to the foreshore or have any impacts of the coastal reserve area.

Tweed Heads Town Centre Master Plan

The master plan has created a vision for the subject area that encourages a diverse, high-density residential precinct that responds to the surrounding topography, demographics, and architecture. The subject site is located within the plans Ridgeline High-Density Residential Precinct and prescribes a maximum height density of 6 storeys. The plan also nominates both Enid and Florence Streets as locations that provide a definitive streetscape hierarchy with building frontages and public domain areas. The proposal is considered to conform to the desired height density of the plan as well as providing a definitive streetscape.

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

Draft Tweed Local Environmental Plan No. 64 was exhibited between 21 December 2005 and 10 February 2006 and detailed an amendment to the height of buildings as a result of the Tweed Heads Master Plan.

The development seeks approval for a six storey building and subsequently complies with the Draft Height Limit.

It is envisaged that Draft LEP 64 will be incorporated into the new LEP 2007 currently under construction.



Having reviewed the Draft amendment it is considered that the proposed development is consistent with the amendment.

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

Tweed Consolidated DCP

Section A2 – Access and Car Parking

The DCP specifies that there should be;

- 1 space for every 1 bedroom unit,
- 1.5 spaces for a two bedroom unit;
- 2 spaces for three or more bedrooms; and
- 1 space for every 4 units for visitors.

Based on these requirements the development would require

- | | |
|--|------------------|
| • 9 x 1 bedroom units | = 9 car spaces |
| • 1 x 1 + 1 (study) bedroom units | = 1.5 car spaces |
| • 22 x 2 bedroom units | = 33 car spaces |
| • 4 x 2 + 1 (study) bedroom units; and | = 8 car spaces |
| • 2 x 3 bedroom units | = 4 car spaces |
| • Visitors 38 units @ 1space/per 4 units | = 9.5 car spaces |

TOTAL CAR SPACES REQUIRED = 65 car spaces

The proposed development does not satisfy the above parking requirements. The proposal demonstrates 55 parking spaces at the basement level, 2 parking spaces at ground floor level, and one car wash bay as ground level. Of the 57 parking spaces none have been marked for visitor use.

The applicant has provided the following comments to justify the shortfall of onsite parking:

“The plans for the proposed development were prepared during March 2006 in accordance with the parking provisions of DCP No. 2. the development has been designed with a compliant total of 57 parking spaces based on a rate of 1.5 spaces per residential unit.

Council adopted DCP 2007 on the 12 April 2007 combining the various DCP's into one document. As part of this process changes were also introduced to the car parking rates and in particular the rates as they apply to multi-dwelling housing.

The development as such is now short by a total of 8 car parking spaces if assessed under DCP 2007.

As discussed above the plans were prepared in March of 2006 and the development has been designed to comply with the car parking rates under DCP 2 Site Access & Parking Code. The plans were prepared in response to Council's concerns in relation to an 11 storey development scheme for the site and submitted to Council during 2005 (see DA05/1423). This application was withdrawn by our client in good faith following concerns raised by Council that the development failed to comply with the Tweed Heads Master Plan and Draft LEP No. 64 each of which have failed to progress further than at that point, highlighting our clients concern.

The current application was submitted to Council in May 2006 for determination. Two further information requests were sent by Council on the 25 August 2006 and 30th January 2007. A number of responses have been prepared...

We note that the last information related to sewerage infrastructure and was submitted prior to the adoption of the new DCP.

Issues raised by the Council resolved predominantly around the need to relocate the sewer main and the provision of a Stormwater management plan. It was always envisaged that the application would be determined prior to the introduction of the new car parking controls. It is also noted that a number of medium density forms have been recently approved by Council since the adoption of DCP 2007 but numerically only satisfied DCP 2. This includes DA06/0800 mixed use development – Tweed Coast Road Bogangar and DA06/1215 multi dwelling housing at Recreation Street, Tweed Heads. Accordingly we are respectfully seeking similar dispensation.

As evidenced the proposal will not create an undesirable precedent, whilst the site itself is situated within the heart of Tweed Heads and is close walking distance to all manner of retail, commercial, recreational, and health services. The need for vehicle parking as such is greatly reduced, whilst a number of public bus routes terminate or travel through Tweed Heads providing suitable opportunity for residents to utilise public transport.

Having regard to the delays associated with this application and the fact that the development concept was substantially amended to comply with Council's requests in terms of height limits adopted under the Tweed Heads Master Plan and Draft Tweed LEP 2000 No. 64, we request Council consider the development under DCP 2 – Site Access and Parking Code”



Having regard to the arguments presented above the following comments are made;

- Council can not legally consider the proposal under DCP No. 2. However, Council can determine that the parking as proposed is acceptable on merit notwithstanding that the application represents a shortfall of 8 on site parking spaces with Tweed DCP Section A2.
- DA06/0800 - sought approval for a mixed commercial and tourist orientated development. The proposal represented a complying application having regard to Tweed DCP Section A2.
- DA06/1215 – was granted a 5 car space variation to Tweed DCP Section A2.

Having regard to the applicant's merit submissions (i.e. close walking distance to all manner of retail, commercial, recreational, and health services, and the available opportunities for residents to utilise public transport) the proposed development as submitted is considered acceptable.

Section A14 – Cut & Fill

The plan limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties while achieving the objectives of the plan.

The proposed development involves excavation for the basement and will clearly extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with an erosion and sediment control plan, and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan.

Section B2 – Tweed Heads

The land is identified under the DCP as a high-density residential precinct.

Part B2. 9 – Building Height Plane

Part B2.9.3 requires the development to be setback 1 metre from the property boundary with every 3 metres of height. The proposal seeks a variation to this building height plane in respect to an encroachment at level 6 on the south-eastern corner of the building and an encroachment at level 6 on the eastern corner. On the provided drawings these variations to the building height plane occur on both level 6 of the north-eastern boundary and level 6 of the south-eastern boundary. The following encroachments exist:

- Level 6 incorporates 7.2m² of encroachment to the north-eastern elevation, which accommodates the living/dining area and terrace.
- Level 6 incorporates 7.4m² of encroachment to the south-eastern elevation, which accommodates a bedroom with adjacent living area and terrace.

The applicant has submitted that the encroachments are minor and that some setbacks have been extended in order to reduce identified impacts.

This variation is considered minor and acceptable from a bulk and scale perspective.

Part B2.11 - Residential Design

The following matters apply to residential buildings comprising 4 storeys or more.

Building Mass - The proposal utilises various building elements, which help reduce the buildings bulk and mass. The incorporation of terraces on each unit together with various setbacks within the building design gives the building a visual variation. These two features of the proposed building design help reduce the buildings bulk appearance.

Energy Efficiency - The applicant has submitted a BASIX certificate demonstrating that all water, thermal comfort, and energy targets have been met.

Wind Mitigation and Overshadowing - The inclusion of a podium level together will mitigate the impacts of any downdraft effects caused by the development. The applicant has acknowledged that the provision of deep balconies and landscaped ground level podiums may help in the avoidance of downdraft effects. The proposed development does not unreasonably overshadow any adjoining property. As the sun moves throughout the day the shadow cast will be shared between adjoining properties. The orientation of the proposed building negates unreasonable impact to adjacent properties.

Roof Lines - The development provides for an open roof design, which incorporates a setback terraced area for residents of the building. The roof design correlates with the visual interest incorporated into the walls of the building.

Privacy - The units on each level have been orientated in a way that permits views from the main living areas to the east and west aspects of the building. This maintains a strong degree of privacy due to the large western roadside frontage of the building together with the rear eastern aspect of the building also having a large setback from existing dwellings adjacent to Beryl Street. The applicant has acknowledged that only minimal privacy concerns are afforded to properties to the rear eastern aspect of the building due to the commercial zoning and functional nature of the area. The property boundary on the eastern aspect of the building is the division between the Western and Southern Precincts as outlined in Tweed DCP Section B2. 4 which provides that the Southern Precincts objectives are for mixed-use commercial and residential development. The document also provides that a number of existing dwellings on Beryl Street have been transformed into professional offices.

Privacy for residents adjacent to the southern boundary of the building should be maintained as this aspect of the proposed building contains primarily the bedrooms with smaller terraces. Access to these terraces is not directly available through the main living areas and it could be expected that these terraces will be frequented far less than those from the main living areas. To maintain privacy the applicant has provided landscaping to assist in achieving some visual privacy.

Security - The requirements of this policy include the encouragement of casual surveillance to the street area, lively public and semi-public areas, public and semi-public areas are well lit at night, minimize crime opportunities, and clearly define threshold areas between public and private realms to promote residents sense of security by demarcating their private spaces.

The development offers good surveillance opportunities to the adjacent Enid Street with most units on the western aspect of the building overlooking the street from their main living areas and terraces. Pedestrian access to the building is achieved through entrance from the basement as well as front entry from Enid Street.

Materials and Colours - Part B2.11 of Tweed DCP provides that the predominate colour of a building should be white, cream, or light sandstone. Colour requirements of this policy advise against the inclusion of any shades of grey due to their lack of visual appeal in overcast weather conditions. The policy also encourages a mix of colour to add to the visual appeal of the surrounding streetscape.

The predominate colour of the proposed building is white and satisfies the requirements of Tweed DCP Section B2. The proposal seeks some variation to the provisions of this policy in respect to the large additions of grey areas to the building. The building also includes one shade of blue and one shade of red.

The applicant has submitted that the building will be constructed of concrete and will include external finishes of rendered masonry, glass, and aluminium louvers, together with elevated landscaping. This is considered acceptable.

Access - This policy encourages the provision of parking via lanes and secondary streets and discourages the implementation of wide and dominating access points on the streetscape.

Access to the building is achieved by a 6 metre wide driveway, and measures 22.7 metres from the entry point on Enid Street to the ramp upon entry to the basement area. This satisfies the provision of the policy as parking will not be visible to the public domain or will not create dominating access points to the streetscape.

Parking - Car parking requirements of this policy include the provision of 1 car wash bay per every 10 dwelling units. Under this policy the applicant would have to provide for at least 3 car wash bays. The attached drawings currently propose the provision of 1 car wash bay at ground floor level. Storm water and water provision requirements of this policy include the provision of an adequate water supply to the car wash bay together with appropriate plans to demonstrate that no surface runoff will enter storm water drains.

The applicant has submitted a Stormwater Management Plan, which identifies measures to address Stormwater discharges from the parking and access areas. The proposed measures to mitigate runoff and contaminant effects include the provision of an oil and grit separator to mitigate runoff from part of the driveway area, basement entry ramp and basement car park. The proposal also includes the provision of a bio retention trench/swale to mitigate runoff effects from part of the driveway area, car park and wash bay. The one car wash bay is considered acceptable in this instance.

Open Space and Balconies - This policy provides the following open space provisions per unit floor area:

Dwellings under 85m² in floor area – 20m² per dwelling

Dwellings over 85m² in floor area – 25m² per dwelling

The application details private open space varying from 59m² – 117m² therefore satisfying the open space provisions in the form of private terraces and ground floor open space as per this policy.

Section A9 – Energy Efficient Housing

The applicant has submitted a BASIX certificate demonstrating that all water, thermal comfort, and energy targets have been met.



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

NSW Coastal Policy 1997 - The subject land is identified as coastal lands and applies to the NSW Coastal Policy 1997. The development site however is situated significantly landward from the coastal erosion and access zones and is unlikely to be affected by coastal processes, overshadowing, or public access to the coast.

Demolition - The development will necessitate the demolition of three existing dwellings. A condition of consent is included requiring the lodgement of a separate Development Application for the demolition.

(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

It is considered that the proposed development will not have an adverse impact upon the natural environment as the site is currently developed for residential purposes. In terms of the built environment the proposed residential flat building will replace three existing detached dwellings, and as such the development will have an impact on the built environment. The following matters are relevant:

Character of the Area

The area is made up of a mix of medium density development and is identified as a mixed-use area. The location is characterised by a range of single dwelling, multi-dwelling, and residential flat buildings. The area is currently going through a transitional phase where new pressures have been presented in the form of residential flat style buildings. This replacing some of the localities older style single dwelling houses. The location is also characterised by older heritage style dwelling houses, which are strongly abundant along Frances Street. The area also adjoins the Southern Precinct which has been designated for mixed-use commercial and residential development with a number of dwellings along Beryl Street being transformed into professional offices.

Views

Section B2 of the DCP acknowledges that views provide a sense of place and identity, and that view corridors should be retained. The proposed development is on the lower flat sections of the area and any views currently enjoyed can not reasonably be expected to be maintained.

(c) Suitability of the site for the development

The subject site is located within close proximity to the commercial business districts of Tweed Heads and Coolangatta. The area is also serviced by medical facilities including the Tweed Heads hospital and various professional consulting rooms in Boyd Street.

The subject site has been nominated as a high-density residential area to utilise the areas facilities as detailed above. Additionally the site has the benefit of a 12-storey height limitation, which further encourages high-density development for the area. The proposed six storey development is considered suitable for the site.

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

The proposal was advertised from 7 June 2006 to 10 July 2006 with no submissions received from that period.

(e) Public interest

The proposal is 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 in accordance with the recommended conditions.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with the determination of this application the applicant will have a right of appeal to the NSW Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development has provided medium - high density residential development in an area nominated for such a use given its close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of dining, shopping, and recreational opportunities.

The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip. Furthermore, the local road network surrounding the site is suitable for such a development together with the addition of the basement car park.



PLANNING COMMITTEE MEETING DATE: TUESDAY 21 AUGUST 2007

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P5 [PR-PC] Development Application DA06/1334 for Refurbishment of the Riverview Hotel at Lot 1, 2, 3 DP 240942; Lot 1 DP 779847, No. 267 Tweed Valley Way, South Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA06/1334 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application to undertake refurbishment works to the Riverview Hotel aimed at:-

- ensuring compliance with liquor licensing legislation;
- ensuring compliance with Tweed Shire Council requirements with respect to the existing kitchen;
- improving amenity for patrons; and
- generally make the building more functional and aesthetically appealing.

The proposed refurbishment works will result in additional floor area and consequently, an increased car parking demand. The applicant is unable to meet the necessary car parking requirements and a shortfall of three (3) spaces is proposed.

Further discussion on this issue is provided in the report.

RECOMMENDATION:

That Development Application DA06/1334 for a refurbishment of the Riverview Hotel at Lot 1, 2, 3 DP 240942; Lot 1 DP 779847, No. 267 Tweed Valley Way South Murwillumbah 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 1-3 of Dwg No.1532 (amendment A) prepared by Ian Webb Building Design and dated 17/01/07, 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. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

5. 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 and evidence provided to Council, within twelve (12) months of the date of this development consent.

[GENNS01]

6. Council advises that the land is subject to flooding with a Design Flood Level of 6.2m AHD. As such, the development is subject to the provisions of Council's 'Development Control Plan Section A3 - Development of Flood Liable Land' and the 'Tweed Valley Floodplain Risk Management Study Part II - Planning Controls for High Flow Areas.'

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Any car parking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate.

[PCC0055]

8. The developer shall provide twenty-seven (27) off street car parking spaces and three (3) queued spaces along the driveway of the drive through bottle shop, 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 Council's General Manager or his delegate prior to the issue of a construction certificate.

[PCC0065]



9. 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:	\$21,624
S94 Plan No. 4 (Version 4.0)	
Sector9_4	

(b) Extensions to Council Administration Offices	
& Technical Support Facilities	\$399.36
S94 Plan No. 18	

[PCC0215]

10. 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:

Sewer Murwillumbah:	0.0969 ET @ \$4804	\$466
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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]

11. 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]

12. Prior to the issue of a construction certificate, documentary evidence shall be submitted to Tweed Shire Council demonstrating that a Part 3A Permit has been obtained for works within 40m of a natural water course or that intersect the ground water table.

[PCC0575]

13. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:

- (a) The habitable accommodation area of the building is to be a minimum of 500mm above the Design Flood Level of RL 6.2m AHD as specified in Tweed Shire Council Development Control Plan, Part A3.
- (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 and provide appropriate earth leakage devices.
- (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

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. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) The existing access to the property must be upgraded to comply with Council's "Vehicular Access to Property Construction Specification" pamphlet and Standard Drawing SD.011 for commercial development.
- (b) 1.2m footpath along the frontage of the site to Tweed Valley Way.

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

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

- (a) Stormwater runoff from the car park and all other hardstand areas (excluding roof areas) shall be treated to remove oil and grit in accordance with Council's Development Design Specification D7 - Stormwater Quality.
- (b) 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*.
- (c) 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.
- (d) 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]



17. 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]
18. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works) prior to the issue of a construction certificate.
- [PCC1195]
19. Where a private certifier is appointed, prior to release of the construction certificate, documentation shall be provided to the satisfaction of Council's Environment and Health Services Unit detailing the construction of the food premises.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

20. 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]*
21. 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]*
22. 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]*
23. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.
- [PCW1065]*
24. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0655]



DURING CONSTRUCTION

25. The provision of twenty-seven (27) off street car parking spaces and three (3) queued spaces along the driveway of the drive through bottle shop, 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.

The car park shall be sealed and line marked in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

[DUR0085]

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]
31. 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]
32. 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]
33. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.
- [DUR1075]
34. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and are to be installed. Mounting heights shall be in accordance with AS2293.1.
- [DUR1295]
35. Emergency lighting to comply with Part E4.2 of the Building Code of Australia shall be provided. Details of the system to be used and a certificate from the electrical engineer to certify that the system will comply with all relevant requirements of Part E4.4 of the Building Code of Australia and AS 2293.1 are to be submitted to the PCA prior to installation.
- [DUR1305]
36. Doors forming exits, paths of travel to exits and parts of exits shall comply with the relevant provisions of D2.19 and D2.20 & NSW D2.21 of the Building Code of Australia.
- [DUR1315]
37. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.
- [DUR1415]
38. 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]

39. 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]

40. 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]

41. 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]

42. 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 Tweed Valley Way 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]

43. 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 Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

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

[DUR1885]

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

[DUR2195]

46. 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]

47. 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]

48. 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]

49. 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]

50. 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]

51. 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]

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

[DUR2625]



53. The existing "Residential" sprinkler system is to be adjusted, under hydraulic engineers design , to cover the whole of the building in accordance with AS 2118.4, unless the whole of the ground floor ceiling is protected with a fire rated ceiling in accordance with the relevant provisions of the Building Code of Australia. Plans by the hydraulic engineer showing the necessary adjustments to the sprinkler system are to be submitted to the Principal Certifying Authority for approval.

[DURNS01]

54. An automatic smoke detection and alarm system complying with AS1670 is to be installed throughout the building. Plans by an electrical engineer showing adjustments to the existing system are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

[DURNS02]

55. Any premises used for the storage, preparation or sale of food is to comply with the relevant provisions of the Food Act 2003 and Australian Standard *AS4674 Design, Construction and Fitout of Food Premises*.

[DURNS03]

56. Adequate and effective sediment and erosion control measures shall be installed prior to commencement or works and maintained throughout the construction period and re-establishment and the landscape.

[DURNS04]

57. A physical barrier system consisting of street bollards or equivalent shall be provided at 1.5m intervals between the public footpath and the internal car park area to prevent vehicles from parking on the footpath area.

Street bollards or equivalent shall also be provided at 1.5m intervals, along a portion of the property boundary between existing Lot 1 DP779847 and neighbouring Lot 1 DP 779841, to prevent vehicular access between the 2 neighbouring car parks.

[DURNS05]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

58. 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]

59. 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]

60. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing.

[POC0255]



61. 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]

62. 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]

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

[POC1055]

64. An updated Place of Public Entertainment approval shall be acquired.

[POCNS01]

USE

65. 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]

66. Prior to commencement of operations of FINAL health inspection shall be undertaken, and use approved, by Council's Environment and Health Officer.

[USENS01]

67. The operation of the premises shall comply with the Food Act 2003.

[USENS02]



GENERAL TERMS OF APPROVAL

PERMIT UNDER PART 3A OF THE RIVERS AND FORESHORES IMPROVEMENT ACT 1948

- 1. Erosion and sediment control measures are required to be implemented prior to any works commencing and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the Tweed River.**
- 2. Excavated material may contain potential acid sulfate soils accordingly appropriate management measures shall be employed to control any acid sulfate soil impacts in accordance with the Acid Sulfate Soils Management Plan for Minor Works.**
- 3. Excavation operations and construction activities shall be conducted with minimal impact on riparian vegetation.**

REPORT:

Applicant: Accountime Pty Ltd
Owner: Mr G Bortoli and Ms L Wiseman
Location: Lot 1, 2, 3 DP 240942, Lot 1 DP 779847 No. 267 Tweed Valley Way, South Murwillumbah
Zoning: 3(c) Commerce and Trade
Cost: \$1,000,000

BACKGROUND:

Council is in receipt of a development application to undertake refurbishment works relating to the Riverview Hotel in Murwillumbah. The proposed refurbishment involves alterations and additions to the ground floor bar areas and first floor accommodation units with the result being the orientation of the public areas to the Tweed River to take advantage of the river views. Below is a summary of the proposed works:-

Ground Floor

- Renovate the games room, TAB, bar area (including small addition to bar area) , office and existing deck;
- Relocate the plant room, amenities (including provision of new disabled toilet) and office;
- Remove internal stairway to first floor and renovate the bottle shop. Provide new stairway to first floor from the eastern side of the building;
- Renovate the kitchen, provide dry storage area and cold room; and
- Extend covered patio and provide new deck (note: this is in a location where an outdoor beer garden was approved under Development Consent DA95/63).

First Floor

- Provide new external stairway and roof cover;
- Renovate six (6) existing guest rooms to provide manager's accommodation and storage. Consequently, the number of guest rooms will reduce from the approved 14 to 8 plus the manager's accommodation (i.e. 9 units).

Overall, the additional bar floor area is approximately 16.4m², the additional patio area 44.5m² and the additional deck area 27m².

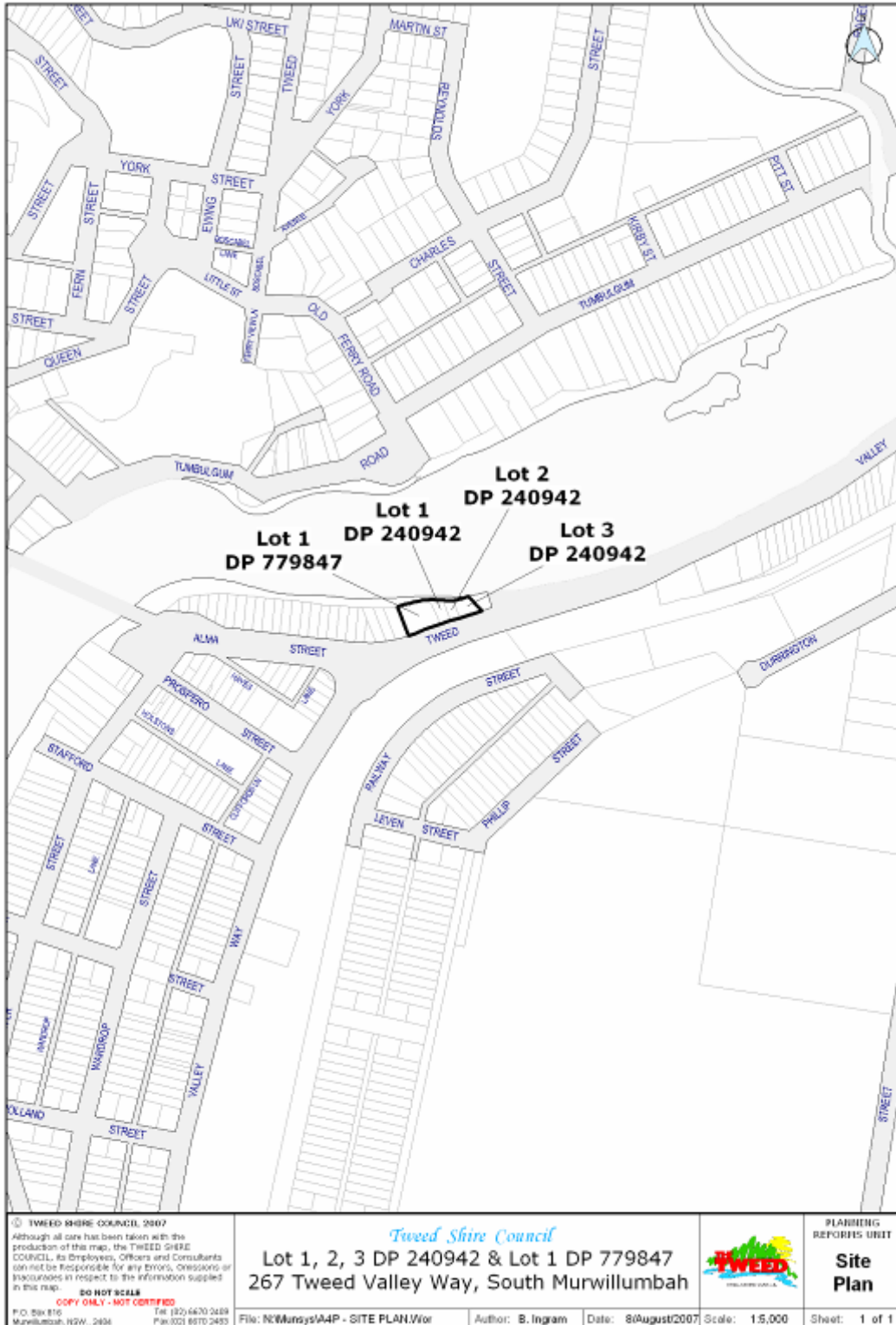
The site comprises four (4) parcels of land with a total area of approximately 1997m². The land has frontage of approximately 85 metres to Tweed Valley Way to the south and it also fronts to Tweed River to the north. To the west is the Tourist Information Centre and to the east is a public reserve with a grassed area and picnic table.



Improvements on the site include the two (2) storey hotel, drive through bottle shop and associated car parking. No significant vegetation exists.

The survey plan submitted with the application shows that part of the existing hotel encroaches into the boundary of the Tweed River. It appears as though there has been changes to the location of the mean high water mark over time which defines the northern boundary. Consequently, the applicant is pursuing the consolidation of all four (4) lots which would involve an application to redefine the northern boundary to rectify the encroachment. It is noted that the encroachment is an existing situation and that the application does not propose any work which is outside the existing defined property boundaries.

SITE DIAGRAM:



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DO NOT SCALE
 P.O. Box 816
 Murwillumbah, NSW, 2484 Tel: (02) 6670 2489
 Fax: (02) 6670 2493

Tweed Shire Council
Lot 1, 2, 3 DP 240942 & Lot 1 DP 779847
267 Tweed Valley Way, South Murwillumbah



PLANNING REPORTS UNIT
Site Plan
 File: NCMuraysA4P - SITE PLAN.Wor Author: B. Ingram Date: 20August2007 Scale: 1:5,000 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 3(c) Commerce and Trade. The proposed alterations and additions are permissible with consent within the 3(c) zone and are considered compatible with the relevant zone objectives.

Clause 15 – Availability of essential services

The subject site has an existing connection to all essential services. There is sufficient capacity to accommodate the proposed additions.

Clause 22 – Development near designated roads

Tweed Valley Way is identified as a designated road. The Clause provides that Council may grant development consent if it is satisfied of certain matters relating to traffic safety and efficiency, traffic noise and scenic quality.

Council's Traffic Engineer has raised no concerns in this regard. Consequently, the application is considered to comply with the requirements of the Clause.

Clause 31 – Development adjoining waterbodies

The site is adjacent to the Tweed River. This clause requires consideration of the impacts of development on adjoining waterbodies, with particular emphasis on scenic quality, water quality, aquatic ecosystems, flora/fauna and public accessibility. In this regard, there are no significant impacts on the envisaged as a result of the proposed refurbishment.

Clause 34 – Flooding

The subject land is identified as flood prone and requires Council to consider certain matters including; the extent of nature of flooding, whether the development would increase the risk or severity of flooding and whether this could be reasonably mitigated, impact on emergency services and the provisions of Section A3 – Development of Flood Liable Land of Council's Consolidated DCP.

In relation to these matters, the following considerations are relevant:-

- The additional enclosed area is very minor and would not measurably affect the risk or severity of flooding;
- The proposal would not impact on emergency services; and
- The proposal fully complies with the provisions of Section A3 – Development of Flood Liable Land.

Council's Infrastructure Engineer raised no issues in relation to flooding.

Clause 35 – Acid sulphate soils

The subject land is mapped as containing primarily Class 4 Acid Sulfate Soils, with a small area adjacent to the river identified as Class 1. Investigations for acid sulphate soils are required on Class 4 land if works are proposed beyond 2 metres below the natural ground level. However, investigations are a requirement and a management plan prepared for any works on Class 1 land. Excavation for footings is proposed for the new patio. The applicant has submitted an Acid Sulfate Soil Management Plan for Minor works to address this issue. Council's Environment and Health Officer have raised no objection subject to certain conditions of consent.

North Coast Regional Environmental Plan 1988

The proposed refurbishment works are not considered to compromise the objectives of the North Coast REP and are consistent with the relevant clauses pertaining to the impact of development on local waterways, scenic quality and public access to the foreshore.

State Environmental Planning Policies

There are no SEPP's relevant to the proposed development.

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

There are no draft EPI's applicable to the proposed development.

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

Section A2 – Site Access and Parking Code

The most recent development consent for the site (refer D95/63) requires the provision of 31 off street car parking spaces. The car parking layout was based on the following rate at the time:-

- 1 space per accommodation room;
- 1 space per 3.5m² of licensed floor area;
- 1 space per 10m² of bottle shop and reservoir space for 12 cars; and
- 1 space per 15m² for function room/recreation or auditorium (verandah and beer garden were included in this category).

The report on the development application acknowledged that there would be a shortfall of two (2) spaces and that the 12 space reservoir capacity for the drive through bottle shop could not be provided. In the circumstances, it was considered acceptable.

To assess the car parking requirements for the current proposal, calculations of the changes in floor area from DA95/63 to the current proposal are required. These are summarised in the table below:-

Use	Floor Area as per DA95/63 (m ²)	Floor Area Proposal (m ²)	Change in Floor Area
Games Room	N/A	51	51m ² additional
TAB	14.7	31	16.3 m ² additional
Bar/Bar Area	158	174	16 m ² additional
Dining	176	92	84m ² less
Verandah/Patio Area (north & west)	165.9	181.5	15.6 m ² additional
Verandah/Patio Area (east)	51.8	30	21.8m ² less
Bottle Shop	31.5	75	43.5 m ² additional
TOTAL	597.9m ²	634.5m ²	36.6m ²

Using the information above, the table below demonstrates how the proposed alterations affect car parking demand as per the generation rates under Section A2.

Use	Car Parking Requirement Under Section A2	Increase/Decrease in Floor Area	Parking Required (after applying 20% reduction)
Games Room	1 space/15m ²	51m ² increase	+ 2.7 spaces
TAB	1 space/15m ²	16.3m ² increase	+ 0.9 spaces
Bar/Bar Area	1 space/3.5m ²	11m ² increase	+ 2.5 spaces
Dining	1 space/15m ²	84m ² decrease	- 4.5 spaces
Verandah/Patio Area	1 space/15m ²	6.2m ² decrease	- 0.3 spaces
Bottle Shop	1 space/10m ²	43.5m ² increase	+ 3.5 spaces
Units	1 space per unit	6 less units	- 6 spaces
TOTAL			- 1.2

The proposal would not result in a change to staff numbers.

Therefore, under the provisions of Section A2, the proposed alterations and additions calculate as a surplus of 1.2 spaces. The proposed car parking layout is generally in accordance with the approved layout. The approved layout however, has some manoeuvring difficulties and therefore has been slightly modified to enable easier access to the spaces. This has resulted in a minor reduction in the number of spaces from 31 to 27.

The reduction in spaces is partially offset by the surplus in parking demonstrated above.

After factoring in the surplus, the overall car parking shortfall for the proposed refurbishment is therefore three (3) spaces.

The applicant has provided the following justification for the shortfall:-

- *The site is located within walking distance of the Murwillumbah CBD and patrons tend to walk, get a taxi or share car rides to hotels as a result of drink driving laws and random breath testing.*
- *If people cannot get a car park they will simply go elsewhere. Having said this, parking has never been a problem during the current operations of the hotel. If parking did become an issue, it would only occur after regular working hours and patrons would be likely to park in the adjacent car park on the tourist information site, which is not seen to be a problem as this parking area would be largely vacant at night.*
- *There is a public benefit in improving the design and appearance of the hotel as an important river front and highway site in Murwillumbah.*
- *The application presents a great opportunity for the revitalisation of a prominent gateway site on the edge of the Murwillumbah township. We submit that this is a good planning outcome which should be proactively encouraged and supported. It would indeed be a regressive step if it were to be lost because of the inability to negotiate a marginal car parking issue.*

It is noted that the original design plans would have generated a car parking shortfall of nine (9) spaces. At one stage, the possibility of entering into a formal lease agreement with Council was explored – with a view to providing for some of the required car parking on the Council car park on the adjoining land. However, this option was found to be unworkable by Council's Manager of Business Undertakings.

Subsequent discussions with Council's Traffic Engineer and the applicant led to the proposal being amended to further reduce the number of accommodation rooms and alter the drive through bottle shop arrangements to provide for three (3) spaces for queuing vehicles.

The deletion of six (6) accommodations rooms leaves a total of eight (8) rooms available for accommodation and when it is considered that the remaining rooms have historically traded with occupancy rates (below 50%), the car parking situation is considered satisfactory – despite the numerical three (3) space shortfall discussed above.

It is also considered that there is indeed some public benefit in the proposed refurbishment given the prominent location of the site.

Council's Development Engineer has recommended certain upgrade works of the existing car parking be undertaken as part of this application. The sealing, line marking and upgrading of access will formalise the car parking area and improve the overall appearance of the development.



Overall, the proposal is considered likely to result in an acceptable outcome with respect to car parking.

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

Satisfactory.

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

There are no detrimental impacts envisaged as a result of the proposed refurbishment.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed refurbishment. Whilst the site presents certain constraints with respect to providing a sufficient area for the required amount of car parking, overall the car parking availability is considered sufficient. Whilst the subject land is identified as flood liable, the commercial nature of the use ensures that any relevant issues (i.e. provision of flood free storage, location of electrical outlets etc) can be suitably dealt with by conditions of consent.

The site is a considerable distance from any residential development, ensuring that there will be minimal disturbance during the construction period.

The site is adjacent to the Tweed River and the Tweed Valley Way entrance to Murwillumbah. The proposed refurbishment would improve the amenity of the area and presentation to public areas.

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

The application was advertised for fourteen (14) days in accordance with Council's Notification Policy. During this period no submissions were received.

(e) Public interest

The proposed refurbishment is considered to be in accordance with the public interest.

OPTIONS:

1. Approve the application subject to conditions of consent as per the recommendation.
2. Refuse the application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right of appeal in the Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed refurbishment of the Riverview Hotel is considered to be generally positive in terms of planning outcomes. The hotel occupies a key site on the entry to Murwillumbah with any improvements to the appearance of the building considered worthwhile. The issue of car parking has been satisfactorily resolved with a reduction in the overall shortfall to three (3) spaces – considered acceptable in this instance given the justification put forward by the applicant and the overall planning merit of the application. Conditional approval is therefore recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.



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P6 [PR-PC] Development Application DA06/0832 for a boundary adjustment at Lot 1 DP 601049; Clothiers Creek Road & Lot 1 DP 1084992; No. 15 Tanglewood Drive Tanglewood

ORIGIN:

Development Assessment

FILE NO: DA06/0832 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application to undertake a boundary adjustment between two (2) allotments on the fringe of the existing Tanglewood subdivision.

The proposed boundary adjustment seeks to transfer approximately 4800m² of land in the following arrangement:-

<u>Existing</u>	<u>Proposed</u>
Lot 1 DP 1084992 – 11.2 ha	Lot A – 10.76 ha
Lot 1 DP 601049 – 45.45 ha	Lot B – 45.99 ha

The proposal has numerous implications beyond the boundary adjustment itself. A development application to undertake a nine (9) lot subdivision has been lodged over proposed Lot A with existing Lot 1 DP 601049 (proposed Lot B) already approved for a five (5) lot subdivision under Development Consent 1038/2000DA. The nine (9) lot subdivision is the subject of a separate report (DA06/0897).

The proposed boundary adjustment is generally compliant with all the relevant statutory requirements and planning controls. The applicant has suitably addressed concerns relating to contaminated lands and the bushfire prone nature of the land and conditions of consent proposed can be applied to ensure the suitability of access arrangements.

RECOMMENDATION:

That Development Application DA06/0832 for a boundary adjustment at Lot 1 DP 601049; Clothiers Creek Road & Lot 1 DP 1084992; No. 15 Tanglewood Drive, Tanglewood 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 37342-3 prepared by McLauchlan Surveying and dated 12/07/06, except where varied by the conditions of this consent.**

[GEN0005]



2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

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

[GEN0135]

4. Prior to commencement of work, a construction certificate shall be obtained for the works proposed by this consent.

[GEN0185]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. To resolve inconsistencies with Development Consent 1038/2000DA as a consequence of this approval, prior to the issue of a construction certificate the applicant must either;

- Submit an application to amend Development Consent 1038/2000DA so that it is compatible with the revised lot boundaries and construction requirements as approved by this consent.

Or

- 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. 1083/2000DA dated 16/1/2001 shall be surrendered by lodgement of the prescribed information suitably executed, PRIOR to the issue of a Construction Certificate/Subdivision Certificate.

[PCC0005]

6. 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]

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

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

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

[PCC0275]

8. 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]

9. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.

[PCC0455]



10. The proponent shall submit plans and specifications with an application for construction certificate for the following works and any associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.

RIGHT OF WAY

- (a) Construction of a 3.6m wide 150mm thick concrete driveway with F82 mesh, with passing bays, for the full extent of the right away.

[PCC0875]

11. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for any works within the road reserve.

[PCC0885]

12. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/access construction
- stormwater drainage
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

13. 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]
14. 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]
15. 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]
16. A section 68 approval shall be obtained prior to the placement or operation of any on site sewage management system.

[PCCNS01]



PRIOR TO COMMENCEMENT OF WORK

17. 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]

18. Prior to the commencement of works, the applicant shall ensure that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared and put in place in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCW0025]

19. Civil work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the civil work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
- (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:
 - B1: Accredited Certifier – Subdivision certificate
 - C3: Accredited Certifier – Stormwater Management and facilities design compliance
 - C4: Accredited Certifier – Stormwater management facilities construction compliance
 - C5: Subdivision works and building works (location of works as constructed) compliance
 - C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

(iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,

(iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

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

[PCW0835]

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

[PCW0985]

DURING CONSTRUCTION

22. Construction of the right of carriageway in accordance with the provisions of Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual and Councils Development Design and Construction Specification.

[DUR0055]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]



24. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Tweed Shire Council Development Control Plan, Part A9 - Energy Smart Housing Policy. In order to comply with the Policy consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.
- [DUR0915]
25. 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]
26. 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]
27. All work associated with this approval is to be carried out so as not to impact on the 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]
28. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
- [DUR1025]
29. 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]
30. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.
- [DUR2015]



31. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

32. 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]

33. 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]

34. The On-site Sewage Management System shall be installed in accordance with an Approval to Install an On-site Sewage Management System under Section 68 of the Local Government Act 1993.

[DUR2775]

35. A registered spotter/catcher is to be present during all civil works to ensure safe dispersal of fauna into adjacent habitats.

[DURNS01]

36. All cut and fill batters shall be contained wholly within the subject land.

[DURNS02]

USE

37. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]



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

[PSC0725]

40. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual and Councils adopted Design and Construction Specification.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[PSC0735]

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

[PSC0825]

42. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) Easements for sewer, water supply and drainage over ALL services on private property.
- (b) Creation of a Right of Carriageway with a minimum width of 10m, sufficient to contain the required access driveway, passing bays, ancillary drainage, batters and services where necessary.
- (c) The above mentioned Right of Carriageway shall also incorporate an Easement for Services.
- (d) A Restriction As To User shall be created over both lots such that;
 - Areas external to the nominated building site within each lot are to be retained in a natural state for conservation purposes.
 - Provision of fauna-friendly fencing for the boundaries and within the lots, to allow unhindered dispersal of fauna across the site.

- **Construction of a dog containment fence where future owners have dogs. The fence must be contained within the APZ area or a maximum of 3000 sqm, whichever is the larger. Such fencing to be designed to minimise predation on local fauna.**
 - **All future owners are to be provided with a copy of the Environmental Education Brochure generally as per the example @ Attachment 7 of the S.E.E - which is to be amended to change the reference to Gold Coast City Council on page 4, to Tweed Shire Council.**
- (e) A Restriction As To User shall be created over proposed Lot B as an advisory measure, to ensure prospective owners are aware that alternative arrangements will need to be made for an independent water supply and for suitable provisions regarding Rural Fire Service requirements in the event of bush fires.**

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

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

[PSC0835]

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

[PSC0845]

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

[PSC0865]

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

The following information must accompany an application:

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



- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

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

(a) Compliance Certificate - Roads/Access

(b) Compliance Certificate - Drainage

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Councils Design and Construction Specifications.

[PSC0915]

47. The lots are to be retitled with numbers instead of alphabetical representations.

[PSCNS01]

48. The nominated building envelopes are to be shown on the plan of subdivision.

[PSCNS02]

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

1. Access is to comply with section 4.3.2 Planning for Bushfire Protection 2001.
2. Any proposed Fire Trails shall comply with section 4.3.3 Planning for Bushfire Protection 2001.
3. Any future development of individual allotments identified as bushfire prone land within the new subdivisions may be subject to section 79BA of the EP&A Act 1997 and further assessment as outlined within Planning for Bushfire Protection, 2001.

REPORT:**Applicant:** Mr P Tagget**Owner:** Heavens Door Pty Ltd and Mr PF Tagget**Location:** Lot 1 DP 601049; Clothiers Creek Road & Lot 1 DP 1084492; No. 15 Tanglewood Drive Tanglewood**Zoning:** Part 1(c) Rural Living, Part 7(d) Environmental Protection (Scenic Escarpment) and Part 7(l) Environmental Protection (Habitat)**HISTORY:**

On 19 January 2001, Council issued Deferred Commencement Consent No.1038/2000DA for a five (5) lot subdivision over Lot 1 DP 601049. A copy of the approved subdivision plan is attached to this report.

The deferred commencement condition required the submission of documentary evidence to the satisfaction of the Director of Development Services demonstrating that the proposed right of carriageway 10m wide shown on DP 601049 or the amended right of way alignment shown on Appendix C of the development application had been created and registered with the Lands Titles Office.

The deferred commencement condition was imposed after it was revealed that although the deposited plan DP 601049 showed the location of the 'proposed' right of carriageway, the instrument was never formally created.

The new owner was unwilling to formally register the 'proposed' right of carriageway on the title and contested their obligation to do so. After extensive legal proceedings, the matter was resolved with the right of carriageway being formally registered.

To reflect this, Council issued a letter on 7 December 2006 advising that the deferred commencement condition had been satisfied and that the consent for the five (5) lot subdivision was active.

BACKGROUND/DEVELOPMENT CONTEXT:

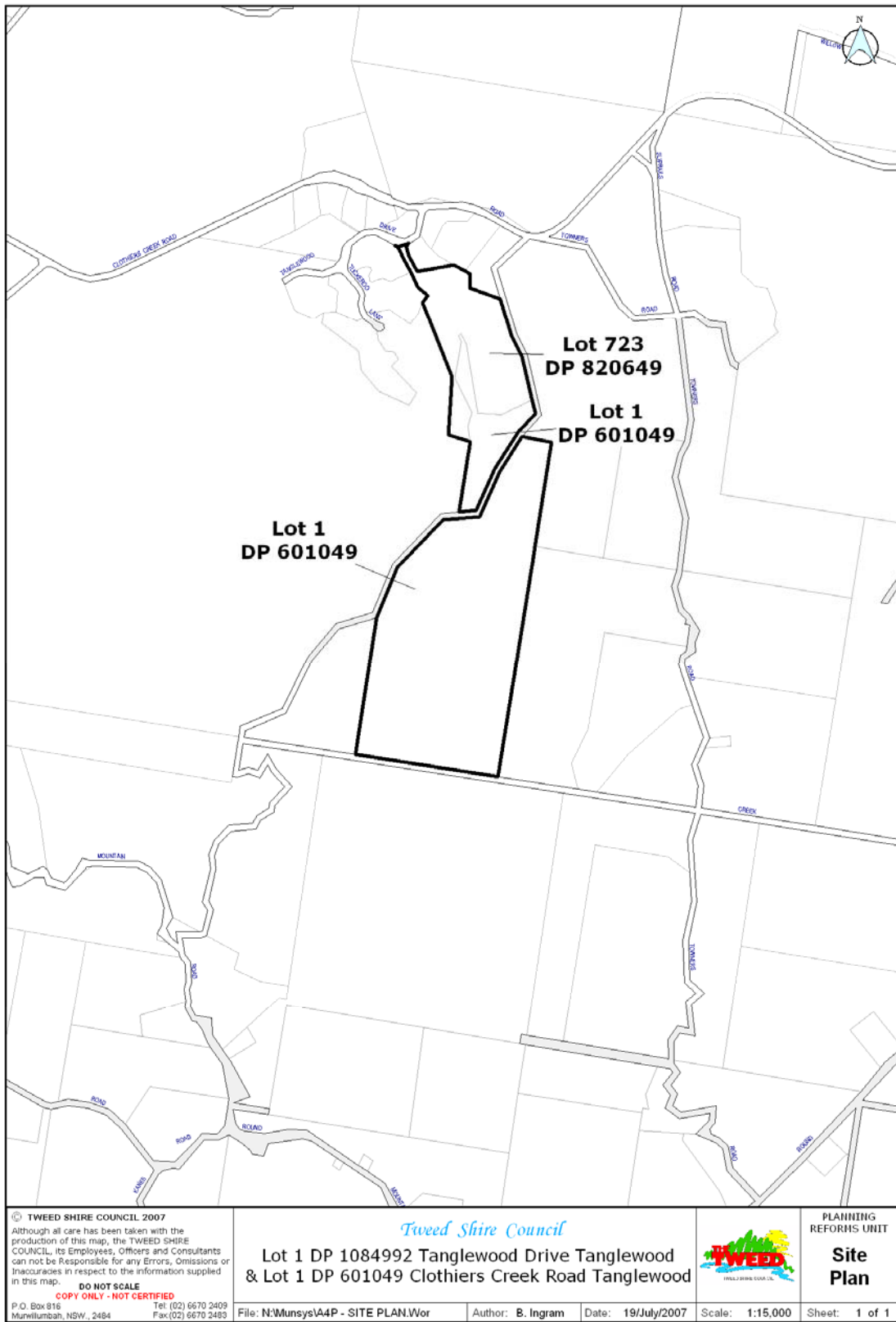
The proposed boundary adjustment is a pre-cursor to the nine (9) lot subdivision and is the result of protracted negotiations between the respective landowners of the two (2) adjoining properties. The transfer of land resulting from the proposed boundary adjustment will increase the development potential of proposed Lot A in exchange for the provision of formalised access to proposed Lot B – thereby facilitating the approved five (5) lot subdivision. The plan of the boundary adjustment and the nine (9) lot subdivision is attached to this report.

The ultimate intent of the two (2) applications currently before Council is to see the 1(c) Rural Living portion of land, across both parcels, redeveloped into rural residential allotments - minimum 1 hectare in size, in accordance with the relevant zone objectives.

A plan showing the zoning of the subject land is attached to this report.



SITE DIAGRAM:



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Tweed Shire Council
 Lot 1 DP 1084992 Tanglewood Drive Tanglewood & Lot 1 DP 601049 Clothiers Creek Road Tanglewood
 File: N:\Munsys\A4P - SITE PLAN.Wor Author: B. Ingram Date: 19/July/2007



PLANNING REFORMS UNIT
Site Plan
 Scale: 1:15,000 Sheet: 1 of 1

SITE DETAILS:

The two (2) allotments subject to the proposed boundary adjustment are located on the eastern fringe of the existing Tanglewood Village. The land is best described as steeply undulating and rises up from Clothiers Creek Road to a height of approximately 120 metres AHD near the southern boundary of proposed Lot A. Expansive views of the Pacific Ocean are available from the higher portions of the subject land. At present, the area incorporating the proposed rural allotments is generally cleared but contains clusters of mature vegetation in certain areas. It has been alleged that the current state of the site is the result of pre-emptive clearing aimed at removing any sensitive vegetation (in particular, koala habitat) that may have otherwise constrained the proposed boundary adjustment and subdivision. This issue has been the subject of a separate investigation by Council's Compliance Officer and is discussed in a further report on the proposed nine (9) lot subdivision.



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 part 1(c) Rural Living, part 6(b) Recreation, part 7(d) Environmental Protection (Scenic Escarpment) and part 7(l) Environmental Protection (Habitat). The proposed boundary adjustment affects land zoned 1(c) and 6(b). The proposed boundary adjustment is permissible with consent in both zones.

The proposed boundary adjustment is consistent with the relevant zone objectives as it will not adversely impact on the rural residential character or amenity of the area, nor does it affect the ability of the properties to be further developed if the land is ever rezoned for more intensive urban purposes. With regard to the 6(b) portion, the boundary adjustment will not adversely affect the ability of the land to be developed for recreational purposes.

Clause 21 – Subdivision in Zone 1(c)

The objectives and provisions of this Clause state:-

(1) Objective

- *to ensure that the semi-rural character and environmental values of the locality are protected.*
- (2) *Consent may be granted to the subdivision of land in Zone 1 (c) for residential purposes only if:*
- (a) *each allotment will be connected to a reticulated water supply system, or a tank water supply will be provided to the satisfaction of the consent authority, and*
 - (b) *the consent authority is satisfied that each allotment created is capable of accommodating adequate facilities for the treatment and disposal of sewage or will be connected to the Council's reticulated sewerage system, and*
 - (c) *in the case of land to be connected to the Council's reticulated sewerage system – the area of each lot created is not less than 0.4 hectare, and*
 - (d) *in the case of land not to be connected to the Council's reticulated sewerage system - the area of each lot created is not less than 1 hectare.*

The proposed boundary adjustment will result in two (2) parcels with an area in excess of the minimum 1 hectare. Both parcels are of a suitable size for the disposal of effluent on-site, whilst rain water will need to be collected and stored in tanks for domestic purposes following construction of any dwelling house on site. It is accepted that the proposed boundary adjustment will not impact upon the rural character or environmental values of the locality and is consistent with the provisions of this clause.

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

The subject land incorporates an area of land zoned 7(I) Environmental Protection (Habitat) and thus is affected by Clause 28. The objective of the clause is to protect wildlife habitat from the adverse impacts of development. In accordance with the provisions of the clause, the application was referred to both the Department of Primary Industries (Fisheries) and the Department of Environment and Conservation (DEC). There were no objections raised by either Department. It is considered that the proposed boundary adjustment (as distinct from the subdivision) will have no impact on any wildlife habitat.

Clause 29 – Development adjacent to Zone 8(a) National Parks and Nature Reserves

The subject land adjoins an area of the Cudgen Nature Reserve (to the east) that is identified as a National Park and is zoned accordingly. The objective of the clause is to ensure that development of land adjacent to Zone 8(a) does not have a significant impact on wildlife habitat. To address this issue the application was referred to the Department of Environment and Conservation who raised no objections. The boundary adjustment in itself does not require any works that will affect wildlife habitat.

Clause 39 – Remediation of Contaminated Lands

The issue of soil contamination has been investigated on both properties over the past five (5) years in relation to previous development applications. The applicant has re-submitted a detailed soil contamination report prepared in relation to a previous application with Council's Environmental Health Unit who raise no objection subject to certain conditions of consent.

North Coast Regional Environmental Plan 1988

The proposed boundary adjustment is consistent with the provisions of the North Coast REP as they relate to development on rural land. In this regard, the proposal will not result in the loss of prime crop or pasture land, nor impact on surrounding rural landholdings.

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

There are no draft EPI's relevant to the proposal.

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

Section A5 – Subdivision Manual

The proposed boundary adjustment has been designed in accordance with the provisions of Section A5 of Council's Consolidated DCP. The applicant has raised the following points in support of the application:-

- *Infrastructure such as power and telecommunications are readily available to the properties;*
- *Water would be provided to any new dwelling by way of collection of rain water into tanks for domestic purposes;*
- *Each lot can easily accommodate the minimum building envelope of 10 metres by 15 metres;*
- *Proposed Lot A has direct access to Tanglewood Drive, while proposed Lot B will have access provided via a Right of Carriageway over proposed Lot A. This is to be provided in accordance with the Conditions of Consent as listed under 1038/2000DA.*

It is considered the proposal is consistent with the requirements of Section A5 of Council's Consolidated DCP.

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

Satisfactory.

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

There are no detrimental impacts envisaged as a result of the boundary adjustment. No physical works are required as part of the application with the application considered generally neutral in terms of social and economic impacts.

The purpose of the boundary adjustment is to facilitate the nine (9) lot subdivision (DA06/1897). The potential impacts associated with the subdivision are addressed in the report on that application.

(c) Suitability of the site for the development

The subject land is considered suitable in accommodating the proposed boundary adjustment. There is adequate space available for on-site effluent disposal systems as required and no vegetation removal is required to provide for the nominated dwelling sites.

The application was referred to the Rural Fire Service due to the bushfire prone nature of the land with no objections raised subject to the imposition of General Terms of Approval.

The suitability of the site in accommodating the nine (9) lot subdivision over proposed Lot A is addressed in the report on that application (refer DA06/0897).

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

The application was notified for two (2) weeks in accordance with Council's Notification Policy. DA06/0897 for the nine (9) lot subdivision was advertised for the same period.

During this period a total of twenty-three (23) submissions were received.

Of the twenty-three (23) submissions, seventeen (17) were letters of support and the remainder objected to the proposals. Issues raised are more relevant to the nine (9) lot subdivision and a detailed assessment of the submissions is contained in the report on that application.

(e) Public interest

The proposed boundary adjustment is not considered to compromise the public interest. The boundary adjustment will facilitate the subdivision of the land at a density that is consistent with the intended land-use outlined in the relevant zone objectives.

OPTIONS:

1. Approve the boundary adjustment subject to conditions of consent in accordance with the recommendation.
2. Refuse the boundary adjustment and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal to the Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal is generally compliant with all relevant statutory controls pertaining to boundary adjustments. There are no areas of non-compliance.

The application is therefore 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).

1. Approved plan of five (5) lot subdivision - Consent No. 1038/2000DA dated 19 January 2001 (DW 1648328)
 2. Plan of boundary adjustment (DA06/0832) (DW 1648331)
 3. Plan of nine (9) lot subdivision (DA06/0897) (DW 1648338)
 4. Plan of zoning of land (DW 1648340)
 5. Plan of two (2) lot subdivision (DA04/0311) (DW 1648342)
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