



AGENDA

PLANNING COMMITTEE MEETING Tuesday 13 February 2007

Chairman: Ms Lucy Turnbull

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

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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

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

MATTERS FOR CONSIDERATION

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

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1 [PD-PC] Development Application DA06/1462 for Alterations to Unit 301 at Lot 39 SP 77096, No. 39/2-6 Pandanus Parade Cabarita Beach

ORIGIN:

Development Assessment

FILE NO: DA06/1462 P1

SUMMARY OF REPORT:

Council has received a development application for alterations to the deck and planter box of Unit 301 within the recently completed tourist development known as 'The Beach' at Cabarita Beach

The proposal involves excising a portion of the planter box on the southern side of the building and replacing it with useable balcony space. The balcony will be extended in a triangular configuration by an area of approximately 15m². The alterations will also include the erection of a louvre privacy screen on top of the new planter wall and a lightweight shade sail over the extended deck area. It is proposed these two devices will eliminate the potential for direct line of sight between the balcony of Unit 301 and the neighbour's main living and entertaining area. The shade sail will also act as an acoustic barrier between the two properties.

The area surrounding The Beach is characterised by a mix of commercial, retail, residential and community land uses, however to the south is a three storey residential dwelling. The outdoor entertaining deck area of this dwelling is situated very close to the northern boundary of the site – a visual inspection estimates the most north-eastern corner of the deck is within 10 metres of the balcony of the subject Unit 301.

The application was notified to the owners of the adjoining property who submitted an objection raising privacy and amenity issues as their main concern. Given the current design did not pre-empt the existing amenity concerns of both parties, and the current approved plans do not include measures to mitigate such concerns, it is recommended that the proposed development, including the installation of privacy screens and a shade sail, would facilitate greater residential amenity for both the subject site and the adjoining site to the south. Hence the concerns of the adjoining neighbour are not warranted. This issue is discussed in greater detail in the body of this report.

RECOMMENDATION:

That Development Application DA06/1462 for alterations to Unit 301 at Lot 39 SP 77096, No. 39/2-6 Pandanus Parade Cabarita Beach be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans entitled "The Beach, Cabarita Apartment 301 Enlarged Balcony prepared by dated 22nd November 2006, 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. Notwithstanding the reduction in physical size of the planter box, landscaping within the modified planter box shall be in accordance with the planting schedule as shown on the landscaping plan and approved under DA03/1221.
4. The shade sail shall be erected in a position that eliminates any potential for direct line of sight between the extended balcony area of Unit 301 and the main indoor living area or outdoor entertaining area of the neighbouring dwelling to the south. [GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided. [PCC0285]

PRIOR TO COMMENCEMENT OF WORK

6. 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]*
7. 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]*
8. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

9. 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]

10. 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]

11. 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]

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

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

[DUR1005]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

REPORT:

Applicant: Resort Corp Pty Ltd
Owner: Mr BJ Stoltz and Mrs E Stoltz
Location: Lot 39 SP 77096 No. 39/2-6 Pandanus Parade, Cabarita Beach
Zoning: 3(b) General Business
Cost: \$40,000

BACKGROUND:

Council has received a development application for alterations to the deck and planter box of Unit 301 within the recently completed tourist development known as 'The Beach' at Cabarita Beach.

The proposed alterations are required to facilitate improved privacy between the subject site and the outdoor entertaining area of the adjacent dwelling to the south.

The proposal involves excising a portion of the planter box on the southern side of the building and replacing it with useable balcony space. The balcony will be extended in a triangular configuration by an area of approximately 15m². At the eastern end, it will be 1.6 metres wider than the existing width; however will taper back towards the main building over a length of 11 metres to be less than 0.5 metres wider at the western end. The alterations will also include the erection of a louvre privacy screen on top of the new planter wall and a lightweight shade sail over the extended deck area. It is proposed these two devices will eliminate the potential for direct line of sight between the balcony of Unit 301 and the neighbour's main living and entertaining area. The shade sail will also act as an acoustic barrier between the two properties.

The subject site is legally described as Lot 39 in Strata Plan 77096, No. 2-6 Pandanus Parade Cabarita Beach. The building in its entirety is more commonly known as The Beach tourist accommodation, for which the (then) Department of Infrastructure, Planning and Natural Resources was the consent authority and assessed the proposal as State Significant Development. Approval was granted in 2004.

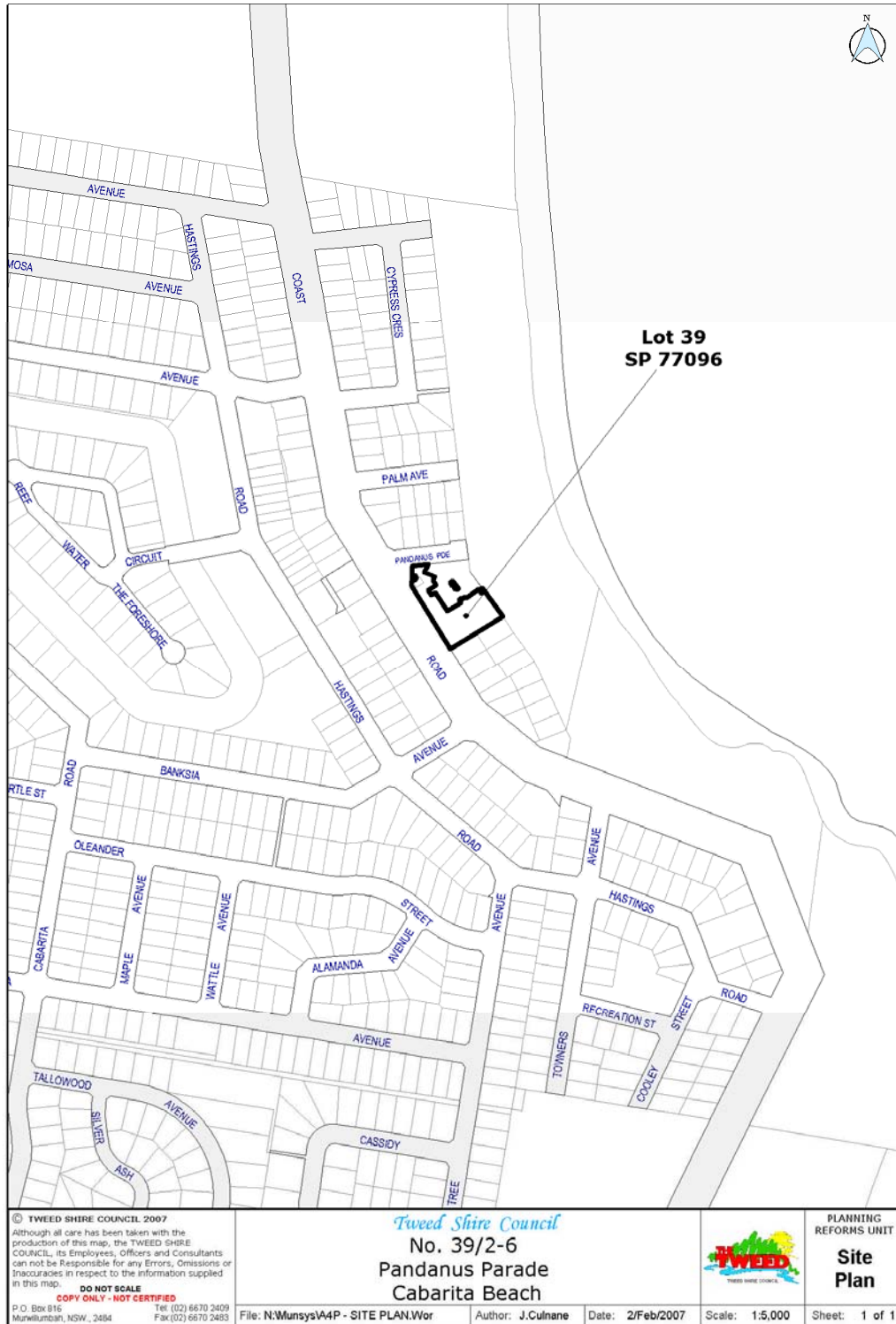
The Beach development is comprised of 57 tourist accommodation units, two levels of basement car parking, ground floor commercial and retail tenancies and internal landscaping and pools. The ground floor tenancies are yet to be fitted out, however the tourist accommodation component has been fully operational for some time now. The subject unit is on the third floor and is located at the south-eastern corner of the building.

The area surrounding The Beach is characterised by a mix of commercial, retail, residential and community land uses. To the north of the complex is Pandanus Parade, the Cabarita Beach Surf Life Saving Club and a Council owned public car; to the east is coastal reserve land and Cabarita Beach; to the west is the Tweed Coast Road and the main commercial and retail strip of Cabarita Bogangar; and to the south is a three storey residential dwelling. The living and outdoor entertaining deck area of this dwelling are situated on the north eastern corner of the site and afford expansive ocean views to the east and northeast. They are very close to the boundary of the site – a visual inspection estimates the most north-eastern corner of the deck is within 10 metres of the balcony of the subject Unit 301.

The proposed alterations are intended to improve the amenity of both the owners of Unit 301 and the owner's of the dwelling to the south.

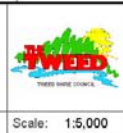
The original approval for The Beach did not include measures to specifically mitigate privacy and amenity issues between the two dwellings. The developer recognised this problem post construction and in an attempt to rectify the situation commenced the proposed works without consent, believing them to be exempt development. The resident of the dwelling to the south alerted Council to the works and the applicant was advised that a development application was required. Subsequently, the applicant has submitted this application, which proposes to create a more useable deck area for Unit 301, whilst also improving privacy between the two properties.

SITE DIAGRAM:



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Tweed Shire Council
No. 39/2-6
Pandanus Parade
Cabarita Beach
 File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Culnane Date: 2/Feb/2007



PLANNING REFORMS UNIT
Site Plan
 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 site is located within the 3(b) General Business zone. The proposal is defined as ancillary development to the primary use of the site for *Tourist Accommodation*, which is a permissible use within the zone.

Clause 8 of TLEP requires Council to assess the consistency of the proposal against the primary zone objectives and any other aims and objectives of the plan. The primary objective of the 3(b) zone is to provide neighbourhood centres within residential areas where many of the community's needs can be met, but also to ensure they are at a scale that is compatible with the character of surrounding residential areas. A secondary objective is to provide for tourist development. Given the minor scale of the alterations and that the proposal is ancillary to an already approved land use that incorporates both tourist accommodation and commercial and retail floor space, it is considered to be in accordance with the 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. All services are currently available to the site. The additional floor space would not add significant further demand upon the existing infrastructure and as such would not require the provision of additional services.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The subject site has an allowable building height of three storeys. The existing building is 3 storeys and no additional height is proposed. As such, the proposed development is consistent with the allowable building height.

Clause 22 of TLEP is concerned with the impact of development on the capacity, efficiency, safety and scenic attractiveness of designated roads and the potential impact of traffic noise on development adjacent to such roads. The Tweed Coast Road is a Council designated road and as such the provisions of clause 22 are a relevant matter for consideration. These issues were addressed in the original consent for The Beach development, and it is considered that the alterations to the balcony of Unit 301 would have no further impact on the Tweed Coast Road, nor would the residents of the unit be further disturbed from traffic noise.

Clause 35 of the TLEP requires an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. Council's records indicate that the subject site may be affected by Class 4 and Class 5 Acid Sulfate Soils. The proposal does not involve the disturbance of any potential acid sulfate soils nor is it likely to lower the water table on site or on adjacent sites. Hence an Acid Sulfate Soils Assessment is not warranted.

North Coast Regional Environmental Plan 1988

Clause 32B – Development Control within coastal lands

The provisions of Clause 32B specify that all development within the region to which the NSW Coastal Policy 1997 applies must consider the provisions of that policy, the Coastline Management Manual and the North Coast: Design Guidelines. Given the minor nature of the alterations, the fact they are on the southern side of the building and that they would not be extending the actual bulk of the building but would simply be exchanging planter box area for balcony area, the proposed additions would not cause any additional overshadowing of waterfront open space, nor impede public access to the foreshore area. Hence the proposal is considered consistent with the aims and objectives of the abovementioned documents and Clause 32B.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The subject site falls within land identified as the 'coastal zone' as under SEPP 71. Referral to the Department of Planning is not necessary given the proposal does not fall under the development types specified in Part 3 as significant coastal development as it is considered a minor alteration to a tourist facility.

Despite this, the items contained in Clause 8 of the policy remain a relevant matter for consideration. These items relate to the potential impacts of the development on public access to the foreshore, views, overshadowing of the foreshore, existing wildlife corridors, the suitability of the site for the development and measures to reduce other adverse environmental impacts. Given the nature of the alterations and that no additions to the building in terms of height or width are proposed, the proposal is considered consistent with the matters for consideration under Clause 8 and is a suitable development for the site.

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

There are no draft environmental planning instruments, which apply to the development application.

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

Development Control Plan No. 48 – Tweed Coast Building Heights (DCP 48)

DCP 48 provides guidelines on Council's preferred building heights, setbacks and design and use of rooftops in the urban areas of the Tweed Coast between Fingal Head and Pottsville, with the objective of protecting the region's public amenity by enhancing its diverse and unique built environment through qualitative urban design.

As the proposed balcony alteration would not add any additional height to the existing building, nor would it alter the design or appearance of the existing roofline, it is considered consistent with the objectives of DCP 48.

There are no other Development Control Plans that are applicable to this proposal.

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

Clause 92(a) Government Coastal Policy

The proposed site is located within the area covered by the NSW Coastal Policy 1997, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. The potential implications of the proposed balcony alterations are considered negligible given their minor nature with regards to impact on the natural environment. Hence the development is considered consistent with the stated objectives of the NSW Coastal Policy 1997.

There are no further matters prescribed by the regulations that are applicable to this proposal.

(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

Privacy and Amenity of adjoining neighbour

The Beach development was identified as State Significant Development, and as such the (then) Department of Infrastructure, Planning and Natural Resources was the consent authority. Approval was granted in 2004.

An oversight in the original assessment of The Beach meant that specific requirements to minimise privacy and amenity conflicts between Unit 301 and the neighbour on the southern side of the development were not addressed. The existing design is inadequate in that current approved plans do not include privacy screens on the balcony of the unit and do not incorporate tall fast growing plants that would grow to be a suitable screen.

The only measures specifically addressing privacy concerns of the adjoining neighbour to the south were in relation to the unit above the subject unit, included as Condition 9, which states that “the design of the proposed privacy screen to the southern length of the outdoor terrace to unit 404 is to be constructed in consultation with the southern neighbours, whose bedroom window and deck is located directly opposite, and to the satisfaction of the Director of Development Services, Tweed Shire Council.”

Notwithstanding that there are no planning controls which would justify refusal of this application, should it be refused on the grounds of reduced amenity for the neighbouring property, the owners of unit 301 will be required to re-instate the unit to the condition it was in at issue of occupation certificate in order to comply with the existing consent. As stated above, no privacy screens or shade sails were approved. Thus refusal would result in a planning outcome that is not beneficial to either party, as it would actually increase the amenity conflict between the two residences. Conversely, approval of this proposal would be in accordance with Council’s existing planning controls, would ensure privacy concerns of both parties are addressed, and it would greatly increase the overall amenity for both residences.

Due consideration has been given to the impacts on the amenity of the neighbouring property and it is considered that the proposal is an acceptable and desirable outcome.

Short Term Construction Noise

Construction of the proposed works will result in a temporary increase in noise. Standard conditions restricting hours of work and vehicle movements have been applied to ensure minimal disturbance to surrounding residents and landowners.

(c) Suitability of the site for the development

The site is considered suitable for the proposal given it is already in use as a residence and extension of the balcony by a further 15m², the installation of privacy screens and a shade sail would facilitate greater residential amenity for both the subject site and the adjoining site to the south.

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

The application was notified to the adjoining neighbour to the south, who responded with an objection raising the following issues:

“Substantial loss of amenity”

Discussion: Amenity issues have been discussed in the previous section of this report. It is considered that the proposed alterations would greatly improve the existing situation for both the neighbours and the owners of Unit 301, and minimal negative impacts are anticipated for either party.

“In the original proposal a 3-metre buffer zone, privacy screens and planting were arranged and agreed”

Discussion: As discussed in the above section, no privacy screens were included in the original approval. The screens that were erected after construction was complete were not approved and not in accordance with the consent. Whether or not the measures to maintain privacy were privately ‘arranged and agreed’ between the two parties has no bearing on the current proposal. This application is being assessed having regard to the current approved design, and the most appropriate method of resolving the existing amenity issues for both parties.

“For the last two months the unit has been an eyesore, with no screens and planting and at our own expense of approx. \$2000.00 we have had to erect screens for our own privacy”

Although it is not disputed that the temporary privacy screens and plantings have been removed, it must be acknowledged that temporary hoarding has been erected to mitigate privacy issues in the interim. Furthermore, the screens and plants that were previously in place were not in accordance with the approved plans and would have been removed anyway to re-instate the site to its original approved form.

“...by extending the verandah space it will create additional living areas which will create additional noise, less privacy and ultimately loss of our existing amenity. This additional area to be created adjoins our main living and outdoor entertaining area.”

The balcony will be extended by an area of approximately 15m². At the eastern end, it will be 1.6 metres wider than the existing width and less than 0.5 metres wider at the western end. This is not considered a significant increase in the overall living area of the unit, and would not result in a significant increase in noise. Furthermore, it is proposed to erect a lightweight shade sail over the extended deck area, which will eliminate the potential for direct line of sight between the balcony and the neighbour’s main living and entertaining area; and will also act as an acoustic barrier between the two properties. Due consideration has been given to the potential impacts on amenity of the neighbouring property and it is considered that the proposal is an acceptable and desirable design.

Public Authority Submissions

The Beach was originally assessed as a State Significant Development by the Department of Infrastructure, Planning and Natural Resources. As such, the Department of Planning were notified and given the opportunity for comment. Response from the Department was for full assessment to be undertaken by Council.

(e) Public interest

The proposed development demonstrates consistency with the relevant planning instruments and Council requirements. The applicant has addressed all relevant issues and sufficient information has been supplied to make a proper assessment of this application. Given that the proposed development would will eliminate the potential for direct line of sight between the balcony and the neighbour's main living and entertaining area; will act as an acoustic barrier between the two properties; and will improve the overall amenity of both residences, it is considered appropriate for the site, would not set an undesirable precedent for future development in the Shire and is considered beneficial to the wider public interest.

OPTIONS:

1. Resolve to adopt the recommendation and approve the development application subject to conditions
2. Resolve to refuse the application for stated reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicant is dissatisfied with the determination, a right of appeal exists in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

That Development Application DA06/1462 for alterations to Unit 301 at Lot 39 SP 77096, No. 39/2-6 Pandanus Parade Cabarita Beach be approved subject to conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au 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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2 [PD-PC] Development Application DA06/1189 for Replacement of a Traffic Bridge Incorporating a Pedestrian/Cycleway Path over Cudgen Creek at Lot 1 DP 1095491, Casuarina Way, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA06/1189 Pt1

SUMMARY OF REPORT:

Council has received a development application from the Tweed Shire Council Design Unit for a new pedestrian and vehicle bridge to replace the existing bridge over Cudgen Creek at Kingscliff.

The proposed bridge will be constructed from reinforced concrete design with a length of 40 metres, and an overall width of 12.5 metres. It has been proposed to construct the bridge in two stages. Stage One, to be constructed immediately, will consist of a 4 metre wide pedestrian bridge, built 4 metres downstream of the existing bridge. Stage Two will incorporate an 8 metre wide span to accommodate two lanes of traffic adjacent to the pedestrian bridge on the upstream (western) side.

Ancillary works will occur on the Council-owned road reserves on the northern and southern sides of the creek, as well as within the bed of the creek itself, which is owned and administered by the Crown (NSW Department of Lands). Tweed Shire Council is currently in negotiations with the Department to purchase the land and secure ownership of the creek bed within the confines of the bridge and approaches to encompass the entire area of proposed works.

Some disturbance to the natural environment is anticipated by way of temporary decrease in water quality during construction, and the removal of a small area of the endangered ecological salt marsh community, which occurs along the foreshore of Cudgen Creek. Notwithstanding, the level of impact to the salt marsh EEC is not considered significant given the local extent of the community; along with the proposed compensatory planting, monitoring programs and rehabilitation of other areas of foreshore salt marsh.

The application is regarded as Integrated Development in accordance with section 91 of the Environmental Planning and Assessment Act 1979 as it requires approval under Section 201 and 205 of the Fisheries Management Act 1994 for works below mean high water mark. It also requires the concurrence of the Minister of the Department of Planning under Clause 27 of Tweed LEP 2000 and approval under SEPP 71. Council is also required to consider comments from the Department of Environment and Conservation under Clause 25 of Tweed LEP 2000.

In accordance with Council's Public Notification Policy, the development application was notified to nearby and surrounding landowners and residents for a period of two weeks from Wednesday 8th November 2006 to Wednesday 22nd November 2006. During this period two written submissions objecting to the proposal were received. The primary issue raised in both the submissions relates to the length of the bridge span, the presence of abutments and their influence upon flood and tidal flow. In addition to the results and recommendations contained within the Flood and Tide Assessment prepared by WBM Oceanics Australia, which support the proposed bridge, the applicant has provided adequate response addressing the issues raised. This is discussed in greater detail in the body of the report.

RECOMMENDATION:

That Development Application DA06/1189 for a replacement of traffic bridge incorporating a pedestrian/cycleway path over Cudgen Creek at Lot 1 DP 1095491, Casuarina Way Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's WK04015/01, WK04015/03 -18, and WK04015/50-51, prepared by Tweed Shire Council Design Unit and dated August 2006, except where varied by the conditions of this consent.

[GEN0005]

2. Riparian vegetation shall not be lopped, damaged or removed except for those trees identified in the Statement of Environmental Effects, as strictly necessary to complete the approved works.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

3. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to The General Manager or his delegate for approval.

[PCC0465]

PRIOR TO COMMENCEMENT OF WORK

4. 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]

5. 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]

6. At least one month prior to the closure of the vehicle bridge, all residents and landowners who were notified of this development application shall be notified in writing of the pertinent closure. Additionally, a notice shall be advertised in the Tweed Link for a period of two months prior to closure of the bridge to vehicles.

[PCWNS01]

DURING CONSTRUCTION

7. 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]

8. 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]

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

[DUR0225]

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

[DUR0235]

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

[DUR0415]

12. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

13. On completion of the filling work, all topsoil to be re-spread and the site to be grassed and landscaped.

[DUR0755]

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

[DUR0985]

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

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

[DUR1005]

16. 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]
17. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]
18. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR2185]
19. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.

[DUR2215]
20. 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.

[DUR2375]
21. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]
22. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate.

[DUR2425]
23. 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]
24. All transport trucks shall cover loads during transport and stockpile and disturbed areas shall be watered to prevent dust nuisance.

25. All chemicals and fuels shall be stored a minimum of 50 metres from the creek bank. Potentially polluting materials shall not be permitted to discharge, flow or percolate into the creek.
26. A suitably qualified person shall monitor the work area for radioactive materials during earth works. Should radiation levels exceed NSW Health Action Levels, then works shall cease and a remediation action plan be submitted to Council for approval. All works shall comply with that approved plan.
27. Upon completion of works and prior to use of the new bridge or approaches a post earthworks surface radiation validation statement shall be provided to Council, to the satisfaction of the Director of Environment and Community Services, which establishes that radiation levels are within NSW Health Action Levels and the site is suitable for the proposed use. The statement shall also provide details of radiation levels encountered and recorded during earthworks.
28. All works shall comply with the Plan of Management (Tweed Shire Council, September 2006), including the environmental management and monitoring measures identified therein. [DURNS01]

USE

29. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
[USE0125]
30. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.
[USE0205]
31. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.
[USE0875]
32. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.
[USE1035]

GENERAL TERMS OF APPROVAL UNDER THE FISHERIES MANAGEMENT ACT

1. A permit under s198-202 of the *Fisheries Management Act 1994* for dredge and reclamation activities be obtained prior to commencement of the works.
2. A permit under s205 of the *Fisheries Management Act 1994* for harm to marine vegetation (seagrass, mangroves, kelp) be obtained prior to commencement of the works.

3. Environmental safeguards (silt curtains, booms etc.) are to be utilised during construction / installation of the revetment wall to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works.
4. Sand, gravel, silt, topsoil or other materials must not be stockpiled within 50 metres of the water unless surrounded by sediment control measures.
5. Driving of piles is to be undertaken from the riverbank, or in the instance of centre piles from a 'temporary bridge platform' as outlined in the planning documentation so as to avoid triggering sections 219-220 of the *Fisheries Management Act* 1994 which requires appropriate fish passage be provided.
6. That a marine vegetation compensatory plan off-setting at a ratio of 2:1 (better) the 89m² of saltmarsh - a threatened ecological community be developed and implemented. Implementation of the compensatory plan is to have commenced, within one year of the date of the determination of the DA, and the plan is to be implemented to the satisfaction of the Senior Fisheries Conservation Manager (North) DPI.

REPORT:

Applicant: Tweed Shire Council
Owner: Department of Lands
Location: Lot 1 DP 1095491 Casuarina Way, Kingscliff
Zoning: Uncoloured Land
Cost: \$2,100,000

BACKGROUND:

The existing bridge across Cudgen Creek was constructed in the 1960s to provide access to sand mining operations being carried out on the south side of the creek. Until recent years, it has operated as a standard, two-way, vehicular traffic bridge with no formalised pedestrian access.

With increased development of land to the south of Cudgen Creek with the Salt and Casuarina residential and tourist developments, a need was recognised for safe pedestrian and cycle access across the creek. As part of the Salt development a condition of consent was included requiring the developer to upgrade the existing bridge with formalised pedestrian and cycle access. Council agreed to accept a monetary contribution for these works.

To address the problem in the interim, the configuration of the existing bridge was modified by reducing the previous two traffic lanes to one lane, with the additional space being used to allow exclusive pedestrian access and safe passage across the creek. This was, however, only an interim solution, as the Salt and Casuarina developments have also resulted in increased vehicular traffic and a single lane bridge where one direction of traffic is impeded while giving way is not a practical long term outcome. As such, application is now being made for the construction of a new two lane vehicular bridge, with an additional lane for exclusive pedestrian

Introduction

Council has received a development application from the Tweed Shire Council Design Unit for a new pedestrian and vehicle bridge over Cudgen Creek at Kingscliff.

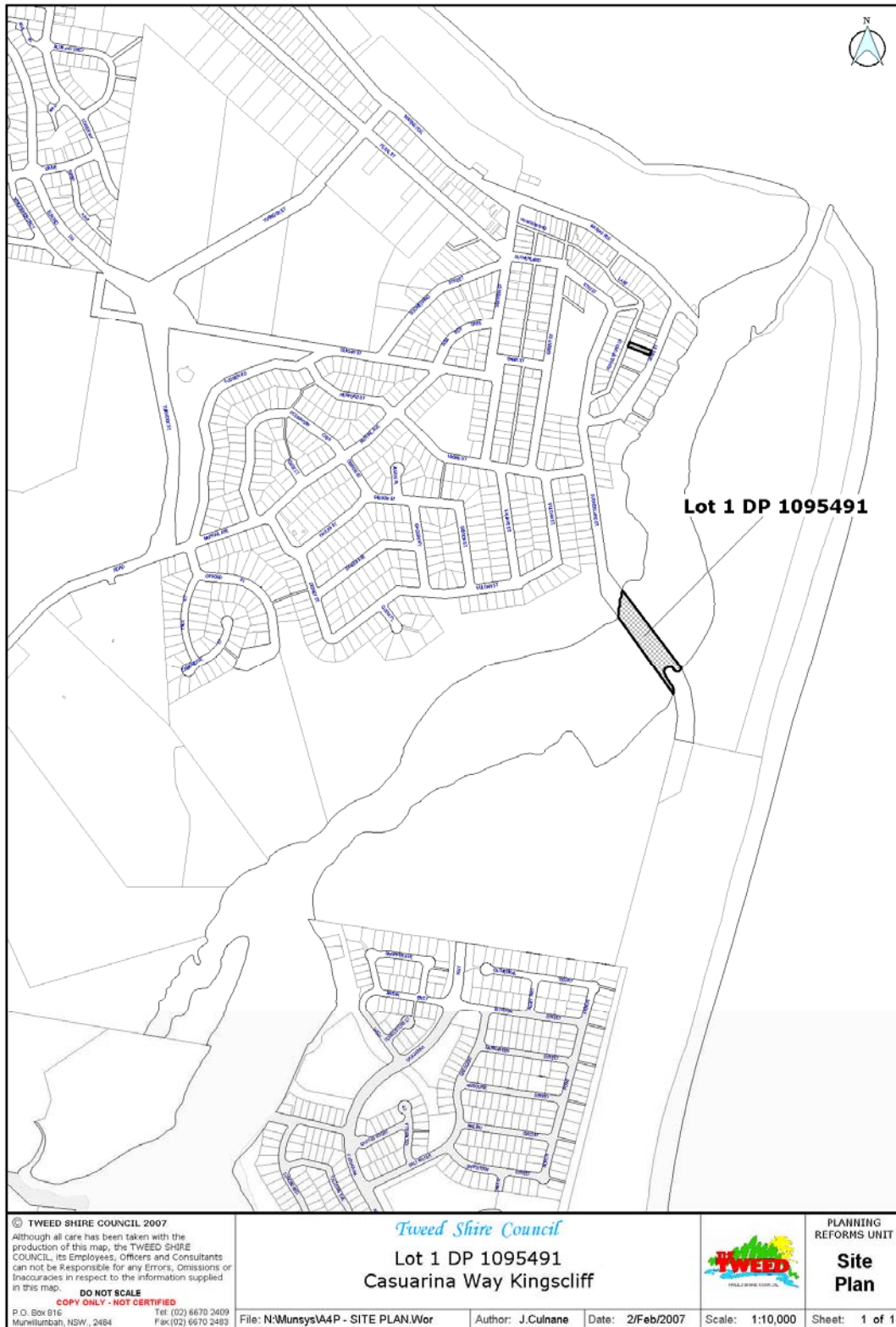
The proposed bridge will be constructed from reinforced concrete design with a length of 40 metres, and an overall width of 12.5 metres. The final bridge will incorporate twelve bored-piled foundations, which do not require any vibration or hammering to construct. Construction of these piles involves the use of tubular 'liners' slowly bored through the sand and basalt bedrock, which are eventually filled with concrete and reinforcing steel after embedment into the bedrock.

It has been proposed to construct the bridge in two stages. Stage One is to be constructed immediately and will consist of a 4 metre wide pedestrian bridge, built 4 metres downstream of the existing bridge with a minimum clearance of 2.75 metres above Mean Spring High Water Mark. Stage Two will incorporate an 8 metre wide span to accommodate two lanes of traffic adjacent to the pedestrian bridge on the upstream (western) side. It is anticipated construction of Stage 2 will occur within a ten-year time frame once budgetary resources are available.

Construction of the central piles will require the erection of a temporary bridge from the northern bank (downstream side of the bridge) to the middle of the creek to enable access for plant and equipment. The temporary bridge will be dismantled once construction of the new bridge is complete.

Works are proposed for the Council-owned road reserves on the northern and southern sides of the creek, as well as within the bed of the creek itself, which is owned and administered by the Crown (NSW Department of Lands). Tweed Shire Council is currently in negotiations with the Department to purchase the land and secure ownership of the creek bed within the confines of the bridge and approaches to encompass the entire area of proposed works. All land within the area of the proposed works has been consolidated into a new separate allotment of land, being Lot 1 DP 1095491.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The proposed development is defined as a *road* under the Tweed Local Environmental Plan, which is described as:

- (a) the airspace above the surface of the road, and
- (b) *the soil beneath the surface of the road, and*
- (c) *any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.*

in accordance with the definition in the Roads Act 1993.

Clause 11 – Zoning / Clause 13 – Development of uncoloured land

The subject site is on uncoloured land on the zoning map. As such there are no specific zoning provisions applicable to this parcel of land. Notwithstanding, *Clause 13* relates to development of uncoloured land and sets out objectives for the appropriate development of such land, ensuring that it is compatible with surrounding land uses and zones and further ensuring that development of certain waterways takes account of environmental impacts and other users of the waters.

In accordance with those objectives, assessment of the proposed bridge shall consider the following:

- a) Whether the bridge is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity, and
- b) Whether or not the bridge would alienate the use of the waters of the creek from recreational users or from commercial fishing, and, if so, whether there is sufficient area in the locality for those uses to mitigate the adverse effect of the proposed development on those uses, and
- c) The provisions of any coastal, estuary or river plan of management in force from time to time that applies to the unzoned land or land in the vicinity, and
- d) Any impacts the bridge (and/or its construction) may have on the natural environment

Land adjoining the subject site on the northern side is zoned 6(a), on which roads are allowed without consent, whilst the southern end of the bridge abuts land zoned 7(a) and 7(f). Roads are permissible with consent in both these zones, however must also satisfy the provisions of Clause 8 (TLEP 2000) in the 7(a) zone. Given the bridge will facilitate the much needed upgrade of the existing single lane bridge; will not significantly intensify the use of the road; is replacing an existing use and is permissible in all three adjoining zones, it is considered appropriate for the site and a suitable development considering existing development in the vicinity.

The new bridge would be situated with sufficient clearance to enable canoes, kayaks and small recreational watercraft to pass at high tide. There are no commercial fisheries operating in Cudgen Creek upstream from the bridge or in Cudgen Lake, meaning there is no requirement for commercial vessels to pass under the bridge. The NSW Waterways Authority has recommended a minimum clearance height of 2.75 metres above mean high water mark, which the proposal adheres to.

The provisions of the Tweed Coast Estuaries Management Plan 2004-2008 have been considered and are discussed in greater detail later in this report. Furthermore, the potential impacts of the bridge and its construction on the natural environment have been identified and measures to minimise and/or mitigate such impacts are specifically discussed later in this report.

Clause 25

Clause 25 of TLEP 2000 refers to land within or adjacent to land zoned 7(a) and requires representations on the proposal to be sought from NSW Fisheries (Department of Primary Industries) and the NSW National Parks & Wildlife Service (Department of Environment and Conservation). DEC provided comments and also requested further information specifically addressing Aboriginal archaeological heritage at the site. Further heritage assessment has been undertaken to a satisfactory level.

Response from the DPI was received on 16th January 2006 raising no concerns and giving their general terms of approval under sections 198-202 and 205 of the Fisheries Management Act 1994. The terms of approval endorse the Compensatory Habitat Proposal for the saltmarsh EEC and ensure that best management practices for sediment and erosion control will be followed, contingent upon adherence to the conditions of consent.

Clause 25 also requires preparation of a plan of management detailing how impacts arising from the proposed bridge will be mitigated. An acceptable Plan of Management addressing the potential impacts has been prepared and submitted with the proposal.

Clause 27

Clause 27 of TLEP 2000 provides further detail in relation to development adjoining land zoned 7(f) and establishes measures to protect such land that may be susceptible to coastal erosion processes. It requires Council to consider the following during assessment of the proposal:

- a) the provisions of any plan of management adopted by Council under the Local Government Act 1993 that is applicable to the land, and
- b) the impact of the development on the behaviour of the sea and/or Cudgen Creek and Cudgen Lake, and
- c) the impact of the development on any beach or dune or the bed, bank, shoreline, foreshore, margin or floodplain of the sea, Cudgen Creek or Cudgen Lake, and
- d) the impact of the development on the landscape or scenic quality of the locality, and
- e) the impact of the development on any native vegetation.

There are no community land plans of management prepared under the Local Government Act that directly affect the subject land. A plan of management does exist, however, for the land known as Jack Julius and Ed Parker Rotary Parks, which adjoins the road reserve on the northern side of the bridge. One objective of this plan is “ to provide pathway linkages throughout urban parks, while maintaining their recreational value”. In accordance with this objective, the proposed bridge will result in a much-needed upgrade to this section of the Tweed Coast pedestrian and cycleway by way of safety, amenity and aesthetics and will have minimal to no adverse impacts on the recreational values of the parks.

The land affected by the 7(f) zoning includes road reserve and Lot 489 DP 47021, which is part of the Crown reserve system known as the ‘single coastal reserve’ (Reserve number 1001008) and managed by Tweed Shire Council. The Tweed Coast Plan of Management (DLWC 1997), Tweed Shire Coastal Reserves Plan of Management (TSC & DLWC 1995) and the Tweed Shire Coastline Management Plan (2004) are all applicable to the abovementioned 7(f) land. These documents have been considered as part of the proposal and are discussed in greater detail in later sections of this report.

The applicant engaged WBM Oceanics Australia to undertake a flood and tide assessment, which concluded that construction of a replacement vehicle and pedestrian bridge would have negligible impacts on the hydraulics of the estuary or behaviour of the ocean compared to the existing situation. Results of this analysis were based on 2D modelling of the estuary system using data from a major flood event that occurred in June 2005.

Some disturbance to the creek bed will occur during piling. Such disturbance is inevitable, however will be limited to the specific area of piling and is considered of minimal impact. Additionally, and as discussed in greater detail later in this report, some salt marsh and scattered mature mangrove trees on the northern bank of the creek will be lost during construction of the new bridge. Notwithstanding, compensatory planting in accordance with the compensation plan submitted with the proposal will be carried out to Council's satisfaction.

With regard to the impact of the bridge on the scenic qualities of the area, until Stage 2 is constructed and the two bridge components are married together, the pedestrian bridge may appear somewhat out of place being a metre higher and 4 metres downstream from the existing bridge. This may detract from scenic values in the area, however the transition time is temporary and once Stage 2 is complete the new bridge will exude greater visual quality than the existing bridge.

Finally, Clause 27 also specifies that development (other than development for which consent is not required in the table to clause 11) must not be carried out within zone 7(f) without the concurrence of the Director. Council received Ministerial concurrence for the proposal on 24th November 2006 under the agreement that the bridge will provide separate safe pedestrian and cycleway access as well as improving vehicular access along that section of Casuarina Way.

Clause 31

Clause 31 applies to all land adjoining the mean high water mark. The relevant provisions for this proposal relate to the impact of the development on the scenic qualities, water qualities, aquatic ecosystems, bio-diversity and wildlife habitat and corridors. As stated above, a management plan has been prepared that addresses the impacts of the bridge (and construction) and identifies measures to reduce and ameliorate any identified impacts.

Clause 34

The objective of clause 34 is to minimise future potential flood damage and adverse effects of flooding on the community. The flood and tidal flow study prepared by WBM Oceanics concludes that the proposed bridge would have minimal impact on the drainage of adjacent land and would not result in any significant change to flood flow patterns in the area.

Flooding of the road and pedestrian footbridge is a possibility, however would only occur in extreme circumstances with a combination of both river flooding and high ocean surge conditions. Additionally, the proposed bridge would be situated over a metre higher than the existing bridge, meaning the potential for flooding to effect the road and pedestrian cycleway will be significantly less than the existing situation.

Clause 35

Clause 35 relates to all land identified as containing potential acid sulfate soils and requires an assessment of the likely impacts of acid sulfate soils. The area of proposed works is identified as having potential Class 1, 2 and 4 acid sulfate soils. Preliminary acid sulfate soil testing was carried out to ascertain the presence of acid sulfate soils, with results indicating some potential acidity exists. Full analysis and recommendations are discussed in greater detail later in this report.

Clause 39

The objective of clause 39 is to ensure contaminated land is adequately remediated prior to development occurring, and refers to SEPP 55 as the governing planning instrument. The proposal is assessed against the provisions of SEPP 55 later in this report.

North Coast Regional Environmental Plan 1988

The provisions of the North Coast Regional Environmental Policy are a relevant matter for consideration in the assessment of this proposal.

Clause 15

The relevant provisions of Clause 15 require consideration of the potential impacts of the proposed development upon local waterways and wetlands, the adjacent estuary foreshore and river water quality; and any anticipated loss of habitat, pollution or native vegetation disturbance.

Some short-term impacts on the creek are anticipated in terms of sediment disturbance, habitat disturbance and reduced water quality. However, Council is satisfied that the measures proposed to reduce, and avoid where possible, adverse impacts on the waterway and foreshore are satisfactory given the short term nature of the anticipated disturbances. Such measures are discussed in greater detail under separate heading in later sections of this report.

In terms of vegetation disturbance, no threatened species are likely to be impacted as a result of the proposal. Notwithstanding, a small area of salt marsh mangroves growing adjacent to the northern abutment of the existing bridge will be disturbed. These species are identified as part of an Endangered Ecological Community, however the EEC will not be significantly impacted given the minor area of salt marsh disturbance in comparison to its overall distribution and local extent. Furthermore, a compensatory planting schedule has been drafted, which outlines regeneration of other areas of salt marsh and includes monitoring and maintenance program for ongoing conservation of the EEC.

Clause 32B

The provisions of Clause 32B specify that all development within the region to which the NSW Coastal Policy 1997 applies must consider the provisions of that policy, the Coastline Management Manual and the North Coast: Design Guidelines. Given the proposal is replacing an existing bridge and is similar in nature in both bulk and scale to the existing bridge, Council is satisfied that the proposed bridge would not cause any additional overshadowing of waterfront open space, nor impede public access to the foreshore area. On the contrary, the pedestrian footbridge and cycleway would increase public access to both the southern and northern open space and recreation foreshore areas. Hence the proposal is considered consistent with the aims and objectives of the abovementioned documents and Clause 32B.

Clause 81

Clause 81 refers to all land within 100 metres of the ocean or a substantial waterway and requires Council to be satisfied that sufficient accessible foreshore open space will be available and that the development will not detract from the amenity of the waterway. Provision of the pedestrian cycleway path will improve public access to an area of the Cudgen Creek foreshore that consists of over 500 metres of foreshore public land, by providing safe and easy access to both the northern and southern foreshores of the creek.

This clause also requires Council to be satisfied that the proposal is consistent with any foreshore plan of management applying to the area. The proposal is consistent with the Cudgen, Cudgera and Mooball Estuary Management Plan 1997 and the reviewed plan (June 2004), as discussed under separate heading later in this report.

State Environmental Planning Policies

State Environmental Planning Policy No 55 – Remediation of Land

SEPP 55 is a relevant matter for consideration for proposals on land that may be contaminated and poses a threat to human health. The policy states that consent must not be granted to the carrying out of development on such land unless it has considered whether the land is contaminated; and if it is contaminated, the suitability of the site for development in its current state or the need for remediation.

A sand mining processing plant was operational at Sutherland Point for over 30 years from the 1960s to 1990s, and land along the southern side of the creek and within the creek bed upstream of the bridge has also been sand-mined. Sandmining can lead to radioactive materials such as Radium and Thorium being left behind in the sand and these materials are harmful once they reach a certain concentration.

Surface level radiation testing was undertaken on 29th November 2006 to establish the likelihood of high-level radiation occurring in the proposed disturbance footprint. Results from this monitoring showed surface radiation levels recorded on site were generally only marginally below the stated Action Level Criteria as set out by the NSW Department of Health Radiation Branch for areas where occupancy is for a few hours a week or less by the same individual or different individuals. The levels were, however, substantially below the recommended level for roads.

Notwithstanding, a precautionary approach has been taken by the applicant, who proposes further testing be carried out during earthworks construction. Should levels reach or exceed the recommended levels, remediation will be carried out. Council's Environmental Health Officer has reviewed the surface radiation testing results, concurs with the need for further testing during construction and has included this requirement as a condition of consent.

State Environmental Planning Policy No 71 – Coastal Protection

The subject site falls within the coastal zone as identified under SEPP 71 and as such the provisions of the policy are a relevant matter for consideration. As the proposal is within a sensitive coastal location, and also involves work below the mean high water mark, the application was referred to the Department of Natural Resources for comment under the provisions of SEPP 71.

Furthermore, the items contained in Clause 8 of the policy are also a relevant matter for consideration. These items relate to the potential impacts of the development on public access to the foreshore, views, overshadowing of the foreshore, existing wildlife corridors, the suitability of the site for the development and measures to reduce other adverse environmental impacts. Having regard to the nature of the proposal, being a replacement for an existing bridge of similar size; the measures proposed to reduce environmental impact; and the increase in public access to the foreshore that will be facilitated as a result of the new bridge, Council is of the opinion that the it is consistent with the matters for consideration under Clause 8 and is a suitable development for the site.

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

There are currently no Draft Environmental Planning Instruments that are relevant matters for consideration in the assessment of this proposal.

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

Development Control Plan No. 5 – Development of Flood Liable Land (DCP 5)

Flooding in the locality is only expected as a result of interactions between river flooding and large ocean surge conditions, and tends to be governed by the bathymetry of the Cudgen Creek mouth. The flood and tide study accompanying this application has showed that the proposed new bridge should not cause any significant changes to flood flow patters.

Development Control Plan No. 43 - Kingscliff (DCP 43)

Notwithstanding that the subject site falls just outside the area covered by Development Control Plan No. 43 Kingscliff, the proposal is consistent with the intent and vision of the plan, whereby “additions to the cycleway/pedestrian network will reinforce Kingscliff’s image as a pedestrian friendly town.”

Development Control Plan No. 51 – Tweed Coast Strategy (DCP 51)

The provisions of Development Control Plan No. 51 (DCP 51) are a relevant matter for consideration in the assessment of this proposal. The overall objective of the plan is to create a safe, pleasant and efficient urban environment in a practical and financially effective manner, whilst ensuring that due consideration is given to all relevant physical, social and economic factors affecting the land.

Specifically, the proposed bridge upgrade is consistent with the intent to provide pedestrian and cycleway linkages between towns and natural areas for recreation purposes, and to maintain the high level of north-south access between Kingscliff and South Kingscliff (SALT and Casuarina) provided by Casuarina Way.

The proposal is considered consistent with the provisions of the remaining Shirewide DCPs.

(a) (iv) Other relevant Management Plans or Policies

Estuary Management Plan - Cudgen, Cudgera and Mooball Creek

The Estuary Management Plan identifies public issues regarding the three Tweed Coast creeks, and recommends action strategies in response to these issues. Under “Specific Issues and Actions – Cudgen Creek North Recreational”, management issue “K” proposes to “establish a pedestrian access across the creek.” This was achieved with the closure of one lane of traffic to create a pedestrian access.

The plan was reviewed in June 2004 with little changes to the overall objectives for the area. In particular reference to the bridge, the desired outcome is that “abutments of the existing bridge are substantially removed with the construction of a replacement bridge”, with the desired associated action being “when the bridge is replaced, ensure the design of the bridge allows improved flood and tidal flow”. Based on data from major flood event that occurred in June 2005, WBM Oceanics Australia modelled the flood and tidal result of widening the existing abutments from 35 metres to 75 metres, and reported that negligible effects on flood and tidal hydraulics would occur due to the more dominant effect of the bathymetry of the creek mouth.

Although the proposal for the new bridge does not involve removal of the abutments, the proposed design does allow for improved flood and tidal flow as pier sets will be further apart and only one set placed within the creek itself rather than the existing three piers. This is considered an acceptable outcome given the objectives of the Management Plan will be met; and also given the removal of the abutments may result in further impacts on the stream system, including ecological effects due to alteration of tidal regimes upstream, particularly in Cudgen Lake; increased bank erosion and scour downstream from the bridge; and the impacts of lowering of creek water levels on saltmarsh communities.

Coastal Zone Plan of Management

The Coastal Zone Plan of Management completed in 1995 (for Crown Lands (TSC and DLWC)) broadly outlines a management framework for the coastal zone. A particular goal of the Plan recognises the need to manage the Tweed coastal zone in a way that maximises sustainable use, promotes biodiversity and minimises environmental damage. The management issues identified as relevant to Kingscliff include vehicle access, vegetation management and facility development and enhancement. The proposed bridge will offer direct benefits to the residents and visitors of Kingscliff through improved facilities providing easier and safer access to the Creek and foreshore.

Tweed Coast Reserve Plan of Management for Crown Lands

The Tweed Coast Reserve Plan of Management for Crown Lands (DLWC 1997) identifies key issues affecting the different management precincts along the Tweed Coast. The plan identifies access to recreational settings within the coastal zone as insufficient to meet existing and projected demand; and also states that there is an express demand for linkages between recreational areas and townships along the coast. The proposed pedestrian footbridge and cycleway will assist in addressing the first identified issue by providing improved access to the Cudgen Creek foreshore, which is a very popular recreational setting on the Tweed Coast. Furthermore, the new bridge will improve vehicular access and traffic flow linkages between Kingscliff and the South Kingscliff areas of Salt and Casuarina.

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

NSW Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy.

The potential implications of the proposed development are considered negligible given its minor nature with regards to impact on the natural environment, and the proposed provision of compensatory planting, ongoing rehabilitation and monitoring programs of the endangered ecological salt marsh communities in the area. In light of the above, it is considered that the proposed bridge is consistent with the objectives of the Government Coastal Policy.

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

Sedimentation and Water Quality

The proposal has the potential to impact on water quality through disturbance of sediments during placement of additional rocks at abutments or when the piers are being piled. Disturbance of sediments can result in smothering of seagrasses and cause difficulty in feeding for other organisms.

Some reduction in water quality is unavoidable during the construction phase. Notwithstanding, the application of best practice measures to minimise (and prevent where able) siltation will be incorporated. Such measures include use of sediment curtains in the creek; driving piles rather than excavating for footings; and storage of fuels and chemicals away from drainage lines and within bunded areas.

Furthermore, the construction phase will incorporate an extensive application of best practice measures to prevent erosion and the loss of sediment from the work site during construction. Such controls will include siting of stockpiles away from drainage lines and minimising vegetation clearing and site disturbance. These and additional measures are discussed in greater detail in the Plan of Management (for construction of the bridge) attached as Appendix 6 to the Statement of Environmental Effects. Council is satisfied that the implementation of these measures will ensure the minimum possible impact upon the creek and surrounding natural environment during construction. After construction is complete, the ongoing operation and use of the bridge will have minimal impact.

Acid Sulfate Soils

In accordance with the Tweed Heads Acid Sulfate Soil (ASS) Planning Map, the following ASS classes are identified at the subject site:

- All soil within the bed of Cudgen Creek, below MHWM, is mapped as Class 1 ASS, to which the planning instrument applies to any works;
- Soils in the vicinity of the northern abutment of the pedestrian/cycleway, above MHWM, are mapped as Class 2 ASS, to which the planning instrument applies to all works below ground surface level, or by which the water table is likely to be lowered;
- Soils in the vicinity of the southern abutment for the pedestrian/cycleway, above MHWM, are mapped as Class 4 ASS, to which the planning instrument applies to all works beyond 2 metres below ground level or by which the water table is likely to be lowered beyond 2 metres below the natural surface.

A preliminary ASS assessment undertaken by Coffey Geosciences Pty Ltd recorded net acidity in only one sample, however the level recorded is well below the levels that trigger the need for an Acid Sulfate Management Plan.

Proposed excavation works for the bridge will be limited to vegetation and surface layer clearing at the northern and southern abutments to allow construction of the pedestrian footbridge and cycleway; and establishing a footing below MHWM for the toe of the rock revetment. Generally, the only soil material to be removed from the site will be the surface layer on the downstream side of each abutment, and any sediment and/or silt collected from sediment controls. The existing piles will be cut off at bed level and the new piles will be placed using a boring technique that does not require excavation.

Given the absence of excavation in the creek bed, and the minimal amount proposed for the banks, it is considered that the proposed works constitute minor works and will not result in the oxidation of acid sulfate soils. As such an ASS management plan is not required.

Contamination

Historically, sand mining operations have the potential to lead to increased concentrations of minerals, which may become toxic when they reach certain levels. Surface radiation testing was undertaken and concluded that the present levels of radiation at the site are acceptable. This issue was discussed in greater detail under separate heading earlier in this report.

Noise

As with any construction activities, some increase in noise above background levels will occur. However, it is likely the increase will be well within acceptable limits due to the short-term nature of the works, the distance of the site from residential properties and the nature of adjacent land uses.

Standard procedures will apply in an effort to minimise the impact of construction noise, including restricting construction hours and vehicle movements to working hours, and no work to be undertaken on Sundays or Public Holidays.

Traffic

Stage 1 involves construction of the pedestrian footbridge, and during this time vehicular traffic will be managed as per Tweed Shire Council's Standards and the RTA Traffic Control at Worksites Manual. There will be some minor disruptions such as standard worksite speed limits, however in general traffic will still flow between Kingscliff and South Kingscliff.

During Stage 2, however, vehicular traffic will be temporarily prohibited from using the existing bridge, as it will be completely demolished and the new bridge constructed generally along the same alignment. Construction of a temporary bridge is considered inappropriate given the impact it would have on the creek and local flora and fauna.

The disruption is anticipated to last 6 months, during which time traffic will have to make use of the alternate route between Kingscliff and South Kingscliff, that being the Tweed Coast Way. The public will be advised of the disruption well in advance, and construction will occur outside main holiday periods to ensure minimum possible inconvenience to residents and visitors to the area.

Fauna & Flora

Field assessments recorded six species of fauna that are listed as threatened under the *NSW Threatened Species Conservation Act 1995*, including the Pied Oystercatcher and the Sooty Oystercatcher. Saltmarsh and mangrove vegetation are important for estuarine food chains in the area and clearing could potentially impact on foraging resources for these threatened shorebirds. Unmanaged construction impacts such as mobilisation of sediments may also impact on foraging resources, whilst other impacts might include noise and vibration affecting behaviour.

Impacts to vegetation include the removal of seven scattered mature mangrove trees ranging in height from 4-6 metres, as well as two Horse-tailed She Oak Casuarinas and two Macarangas trees. Compensation for the loss of mangrove vegetation is proposed through compensatory planting and rehabilitation of disturbed and degraded mangrove areas in the locality. Rehabilitation will also include a monitoring program to ensure the success of rehabilitation efforts.

Coastal Saltmarsh is listed as an 'Endangered Ecological Community' in Part 3 of Schedule 1 of the *NSW Threatened Species Conservation Act 1995*. As such, a significance assessment under Part 5 of the EP&A Act was carried out to determine the likely impacts of the development on the abovementioned flora and fauna species. The assessment found that given appropriate mitigation measures and the compensation through rehabilitation of degraded saltmarsh in the area, there is unlikely to be a significant impact on the saltmarsh EEC. In relation to threatened fauna species, impacts will more than likely relate to temporary modifications in behaviour rather than long term modification to habitat or foraging resources.

Archaeology & Heritage

Generally, all coastal sites (particularly headlands and estuaries) are likely to be significant to the local Aboriginal people in terms of fishing, food gathering and possible anthropology/mythology. Under the NSW National Parks & Wildlife Service Act 1974, it is an offence for a person to knowingly destroy, deface or damage a relic or Aboriginal place without obtaining the consent of the Director General. If materials are found which are believed to be Aboriginal cultural remains, the works at or adjacent to the material must stop and the NSW NPWS must be notified immediately. They will then advise the appropriate course of action.

Historically, the site has been extensively modified by sand mining activities, and also through fill material for the bridge and road approaches, the dynamic nature of the creek bed and flow, commercial and recreational fishing activities, and the ongoing recreational use by residents and visitors to the area. As such, it is unlikely that archaeological sites or relics would exist in their original context.

Notwithstanding, a field inspection and site assessment was undertaken over an area of 1.5 hectares surrounding the northern approach to the bridge and approximately 0.75 hectares surrounding the southern approaches. No Aboriginal sites or relics were found during the assessment. Furthermore, through consultation with the Tweed Byron Local Aboriginal Land Council and review of historical data from their internal database, the Bindjulong Mapping Program of sites and Aboriginal places, it was established that there were no areas of cultural and/or archaeological significance in the area that would be impacted by the proposed bridge.

Social & Economical

The total construction of both stages of the bridge is estimated to cost \$2.1 million. Money is available in the current budget to construct the pedestrian footbridge and cycleway, and a substantial portion of the cost of replacing the traffic bridge has been received as developer contributions in the area. Linking the north and south sides of Cudgen Creek via safe pedestrian access is identified as an important community need in a number of Council documents, management plans and strategies affecting the Tweed Coast.

(c) Suitability of the site for the development

Land Use and Amenity

The site is considered the most suitable site for the proposal, as the existing condition of the bridge is deteriorating and improved pedestrian access and two operational lanes of traffic are required in order to maintain the significant recreational values of the creek. Local residents, tourists and other visitors to the area regularly use the lower reaches of Cudgen Creek for recreational activities such as swimming, boating, fishing, and other water related activities, especially during holiday periods.

Extensive community consultation was undertaken in relation to the location of the bridge, particularly seeking comment on whether it should be located downstream, at the end of Marine Parade, or in the proposed location of the existing bridge. Results of the community consultation were clearly in favour of the existing location. Furthermore, widening of the bridge on the downstream side was chosen to limit impacts to the small amount of vegetation on this side rather than the extensive areas of mangroves growing on the upstream side.

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

The development application was notified to nearby and surrounding landowners and residents for a period of two weeks from Wednesday 8th November 2006 to Wednesday 22nd November 2006. During this period two written submissions objecting to the proposal were received.

The submissions raise a number of issues regarding historical “anecdotal facts” that not only are not substantiated, but are not directly relevant to the current application, and as such does not warrant further consideration. Therefore, the issues raised that are directly relevant to the proposed development are discussed in detail below.

Issue: Contrary to recommendations of Tweed Coast Estuary Management Committee.

As stated in both submissions, a desired outcome of the Tweed Coast Estuary Management Plan 2004-2008 regarding the Cudgen Creek bridge is “the abutments of the existing bridge are to be substantially removed with construction of replacement bridge” and the action required being that “when the bridge is replaced, ensure the design of the bridge allows improved flood and tidal flow.”

Response: Upon completion of the new bridge, the number of pylon spans in the creek will be reduced from three to one, which will result in fewer obstructions within the creek to impede tidal and flood flow. In that regard, the objective and required actions of the Tweed Coast Estuary Management Plan will be met.

As stated by the applicant, the matter has been discussed at the Tweed Coastal Committee (the body responsible for implementation of the Tweed Coast Estuaries Management Plan) meetings of 9th February 2006 and 12th April 2006. It has also been considered within a report to Council at its February 28th 2006 meeting where both options were considered and costed. Council resolved at that meeting that “the new pedestrian cycleway bridge be designed and constructed to span approximately 40 metres, matching the length of the existing road bridge.

The minutes for both the abovementioned meetings have been provided by the applicant, and Council is satisfied that the issue has been given due consideration by the relevant bodies.

It should also be noted that the authors of the Cudgen Creek Bridge Upgrade Flood and Tide Assessment report which accompanies this application (WBM Oceanics Australia) are the same authors of the first Estuary Management Plan – Cudgen, Cudgera and Mooball Creeks (1997), which introduced the management issue of “constriction of flood/tidal flows associated with the bridge” and the corresponding action strategy of ensuring improved tidal flow with replacement of the bridge. For the same organisation to now provide modelled evidence to support a negligible impact from the same activity, one must consider they are certain of their results.

Issue: “There are other engineering studies that contradict the recent proposal commissioned by the Tweed Council”

Response: These statements have not been substantiated with evidence of the other studies, nor has a background literature review undertaken by the applicant revealed any such studies. Given the objector did not produce evidence of such studies, and the existing expert studies do not suggest that removing the abutments would cause any significant difference in flood passage, the issue does not warrant further consideration.

Issue: “Increase in traffic that will use this suggested bridge passes along two sides of the local Kingscliff School. The bridge should be built upstream of the existing bridge and be connected to Tweed Coast Road to stop increased traffic through village single lane streets.”

Response: As discussed in the above sections of this report, a major focus of the development control plans and management plans applying to the Kingscliff area is to maintain connectivity between Kingscliff and the newer development areas at South Kingscliff (SALT and Casuarina). There would be no net increase in traffic travelling past the school into Kingscliff due to the new bridge given it is replacing an existing bridge, not providing access where there previously was none. This issue is not considered sufficient to warrant refusal of the application.

Issue: Both submissions include aerial photographs and anecdotal notes of historical observations and conversations and maintain that “the restrictive action of the existing bridge abutments has reduced the tide flow and increased the depth of the creek. Why build a new bridge that compounds the mistakes of the past.”

Response: Whilst the anecdotal evidence is not disputed, it must be realised that there has been progressive and continual change to the immediate area and surrounds since before the bridge was constructed. The most notable of these is the construction of training walls, which keep the mouth of the creek permanently open. Other impacts include sandmining within the bed of the creek creating large dredge holes immediately upstream of the bridge and substantially widening the creek at this point; and substantial amounts of fill placed on creek edges. Additionally, existing bank erosion and scour downstream of the bridge could be intensified with removal of the abutments.

It cannot be assumed that removal of the abutments would return the creek to the state it was in during the early 1900s, nor even a state which is any ‘better’ than the existing conditions. Careful consideration must be given to the ecological effects of any alteration to the existing tidal regime on upstream areas, particularly Cudgen Lake. Improving flow could have corresponding effects on tidal range, causing a subsequent lowering of creek water levels and impacting on saltmarsh communities that populate the foreshore.

(e) Public interest

The proposed replacement bridge over Cudgen Creek demonstrates consistency with the relevant planning instruments and Council requirements. The applicant has addressed all relevant issues and sufficient information has been supplied to make a proper assessment of this application. Given that the proposed bridge would facilitate greater public access to the foreshore of Cudgen Creek through safer and more efficient pedestrian and cycle access; and would decrease the incidence of traffic interruptions caused by the existing single lane bridge, it is considered appropriate for the site, would not set an undesirable precedent for future development in the Shire and is considered beneficial to the wider public interest.

OPTIONS:

1. Resolve to adopt the recommendation and approve the development application subject to conditions.
2. Resolve to refuse the application for stated reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicant is dissatisfied with the determination, a Right of Appeal exists in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

That Development Application DA06/1189 for replacement of traffic bridge incorporating a pedestrian/cycleway path over Cudgen Creek at Lot 1 DP 1095491, Casuarina Way Kingscliff, be approved subject to the attached conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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- 3 [PD-PC] Development Application DA06/1217 for the Demolition of Existing Building and Erection of Six (6) Storey Multi-Dwelling Housing Comprising 6 x Two-Bedroom Apartments and 3 x Three-Bedroom Apartments With Basement Car Parking at Lot 96 DP 237806,**

ORIGIN:

Development Assessment

FILE NO: DA06/1217 Pt1

SUMMARY OF REPORT:

The proposed multi dwelling housing development is consistent with the applicable environmental planning instruments, the Tweed Heads Master Plan, Development Control Plan No. 2 – Site Access and Parking Code, Development Control Plan No. 5 - Development of Flood Liable Land, Development Control Plan No. 39 - Energy Smart Homes, Development Control Plan No. 47 - Cut and Fill on Residential Land and is generally consistent with DCP No. 18 – Tweed Heads.

Four (4) submissions have been received to date objecting to the proposed development.

RECOMMENDATION:

That Development Application DA06/1217 for the demolition of existing building and erection of six storey multi-dwelling housing comprising 6 x 2 bedroom apartments and 3 x 3 bedroom apartments with basement car parking at Lot 96 DP 237806, No. 13 Ivory Crescent 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 Drawing Nos:**
 - 01.6 B prepared by Pat Twohill Designs Pty Ltd and dated 28/11/2006,**
 - 01.7 B prepared by Pat Twohill Designs Pty Ltd and dated 28/11/2006,**
 - 01.8 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,**
 - 01.9 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,**
 - 01.10 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,**
 - 01.11 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,**

- 01.12 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 01.13 A prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 01.15 prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 03.5 prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 03.6 prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 03.7 prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 03.8 prepared by Pat Twohill Designs Pty Ltd and dated 20/11/2006,
- 01.14 prepared by Pat Twohill Designs Pty Ltd and dated 11/10/2006,
- 04.1 prepared by Pat Twohill Designs Pty Ltd and dated 11/10/2006,

except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0045]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

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

[GEN0135]
5. A Construction Certificate approval is to be obtained for all proposed pre-cast concrete panel fencing of any height and masonry fencing in excess of 1.2 metres in height, prior to any construction of the fence being commenced.

Site specific design details or approved generic details prepared by a practicing structural engineer are required to be submitted and approved as part of the Construction Certificate application.

Such structural engineers design details are to confirm that the fence proposal has been designed to take account of all site issues including the site's soil and load bearing characteristics, wind and other applied loadings, long term durability of all components particularly in relation to corrosion and compliance with Tweed Shire Council's policies for "Sewers - Building in Proximity" and provision of appropriate pedestrian sight clearances to footpaths in accordance with Australian Standard AS2890 "Parking Facilities".

[GEN0145]

6. All waters pumped from the site in the de-watering process are to be treated with an effective deodoriser to the satisfaction of Council's Director of Environment and Community Services to neutralise any offensive odours. The point of discharge shall also be approved by Council's Director of Environment and Community Services prior to installation and shall include a water-sampling outlet.

[GENNS01]

7. All works shall be undertaken in accordance with the *Preliminary Acid Sulfate Soil Investigation & Dewatering Management Plan for Ivory Crescent, Tweed Heads* prepared by HMC Environmental Consulting Pty Ltd dated October 2006 (Report No: 2006.142A).

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0685]

9. The developer shall provide 15 parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11.

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

[PCC0065]

10. 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: \$5,667
S94 Plan No. 4 (Version 4.0)
Sector1_4

Heavy Haulage Component

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

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

where:

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

and:

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

Dist. average haulage distance of product on Shire roads

(trip one way)

\$Unit	the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)	
Admin.	Administration component - 5% - see Section 6.5	
(b) Open Space (Structured):	S94 Plan No. 5	\$3,810
(c) Open Space (Casual):	S94 Plan No. 5	\$814
(d) Shirewide Library Facilities:	S94 Plan No. 11	\$3,362
(e) Eviron Cemetery/Crematorium Facilities:	S94 Plan No. 13	\$679
(f) Community Facilities (Tweed Coast - North)	S94 Plan No. 15	\$3,346
(g) Emergency Facilities (Surf Lifesaving)	S94 Plan No. 16	\$979
(h) Extensions to Council Administration Offices & Technical Support Facilities	S94 Plan No. 18	\$6,197.07
(i) Cycleways	S94 Plan No. 22	\$1,718
(j) Regional Open Space (Structured)	S94 Plan No. 26	\$11,361
(k) Regional Open Space (Casual)	S94 Plan No. 26	\$4,176
(l) Tweed Heads Master Plan:	S94 Plan No. 27	\$9,423.00

[PCC0215/PSC0175]

11. 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:	4.01 ET @ \$4598	\$18,438
Sewer Banora:	6.5 ET @ \$2863	\$18,610

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]

12. Any works to be carried out within the adjoining road reserve is subject to application and approval being issued by Tweed Shire Council as the road authority.

Application for these works and receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

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

[PCC0285]

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

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

[PCC0485]

15. The site is to be filled to a minimum level of RL 2.6m AHD. The fill is to be retained by perimeter structural walls with concrete lined perimeter drainage or other approved treatment. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimizing the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

16. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 2.6m AHD.
 - (b) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.
 - (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

17. 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) vehicular access in accordance with Council's adopted standards.

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]

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

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

[PCC1105]

19. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils adopted *Development Design and Construction Specification - Stormwater Quality*.

[PCC1125]

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

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

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

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

[PCC1145]

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

(a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

(b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

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

All stormwater must initially be directed to the DCP.

Minimum site storage requirements for the OSD system shall be 30m³.

[PCC1165]

23. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

24. 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]

25. All surface waters, other than roofwater shall be directed to Council approved pre-treatment facilities before discharge to sewer. Details are to be submitted to and approved by Tweed Shire Council.

[PCC1245]

26. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

27. Prior to the issue of the Construction Certificate, a landscaping plan shall be submitted to Council which is to be prepared to the satisfaction of Council's Director of Planning and Development.

[PCCNS01]

28. Prior to the issue of a Construction Certificate, the applicant must prepare and submit to the satisfaction of Council's Director of Planning and Development a colour palate for the external colours of the building. Colours such as those nominated by DCP No. 18 are to be used.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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

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

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

[PCW0985]

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

[PCW1005]

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

[PCW1165]

37. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, 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]

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

[PCW0005]

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

[PCW0965]

40. 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]

DURING CONSTRUCTION

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

[DUR0005]

42. 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]

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

[DUR0245]

44. 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]

45. 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]

46. 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]

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

[DUR0415]

48. 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]

49. 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]

50. All demolition works are to be carried out in accordance with the Demolition Report submitted by Darryl Anderson Consulting Pty Ltd dated October 2006, together with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

51. 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]

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

- **Noise, water or air pollution**
 - **Minimise impact from dust during filling operations and also from construction vehicles**
 - **No material is removed from the site by wind**
- [DUR1005]
53. **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]
54. **The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction and demolition.**
- [DUR2185]
55. **Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:**
- (a) **internal drainage, prior to slab preparation;**
 - (b) **water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;**
 - (c) **external drainage prior to backfilling.**
 - (d) **completion of work and prior to occupation of the building.**
- [DUR2485]
56. **Plumbing**
- (a) **A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.**
 - (b) **The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.**
- [DUR2495]
57. **An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.**
- [DUR2505]
58. **Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.**
- [DUR2515]
59. **All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.**
- [DUR2525]

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

[DUR2535]

61. 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]

62. 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]

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

[DUR2615]

64. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

65. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

66. The provision of 15 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls, the Building Code of Australia and AS 2890.

[DUR0085]

67. 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]
68. Any pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring residential areas. Such location is to be to the satisfaction of the General Manager or his delegate.
- [DUR0225]
69. 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]
70. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
- [DUR0815]
71. Provision to be made for the designation of 1 durable and pervious car wash-down area/s. 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]
72. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.
- [DUR0985]
73. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.
- [DUR0995]

74. **Building materials used below Council's minimum floor level of RL 3.1m AHD shall be flood compatible.**
[DUR1405]
75. **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]
76. **The habitable floor area of the building is to be at a level not less than RL 3.10m AHD.**
[DUR1435]
77. **The concrete footpath is to be saw cut and removed to facilitate the construction of the concrete driveway access.**
[DUR1745]
78. **Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.**
[DUR1795]
79. **The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.**
[DUR1845]
80. **Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.**
[DUR1905]
81. **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]
82. **During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.**
[DUR2445]

83. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act. [DUR2625]
84. All pumps used for onsite dewatering operations shall be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises, and be acoustically shielded to the satisfaction of the General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation. [DUR0235]
85. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the General Manager or his delegate. [DUR0255]
86. 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]
87. Prior to any works commencing, appropriate measures are to be put in place to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event. [DUR2405]
88. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
89. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

90. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]

91. Prior to 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]

92. A survey certificate signed by a registered surveyor is to be submitted to the PCA at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.1m AHD.

[POC0565]

93. 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]

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

[POC1055]

95. 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]

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

[POC0005]

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

[POC0475]

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

[POC0755]

99. 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]

USE

100. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.

[USE0435]

101. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.

[USE1235]

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

[USE0125]

103. 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]

104. 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 intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises.

[USE0235]

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

[USE0875]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC1165]

107. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- (b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC1185]

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

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. 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.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.

10. 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.
11. All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
12. Works for construction of bores must be completed within such period as specified by the Department.
13. 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.
14. 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.
15. Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
16. 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
17. The work shall be managed in accordance with the constraints set out in the "Preliminary Acid Sulfate Soil Investigation and Dewatering Management Plan" produced by HMC Environmental Consulting dated October 2006 Report No.2006.142A presented as Annexure J of the Statement of Environmental Effects for the proposed development.
18. The volume of groundwater extracted as authorised must not exceed 5 megalitres.
19. 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.
20. The licence shall lapse within six (6) months of the date of issue of the licence.

REPORT:

Applicant: Frase Pty Ltd
Owner: Mrs E Nuspan
Location: Lot 96 DP 237806 No. 13 Ivory Crescent, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$1,900,000

BACKGROUND:

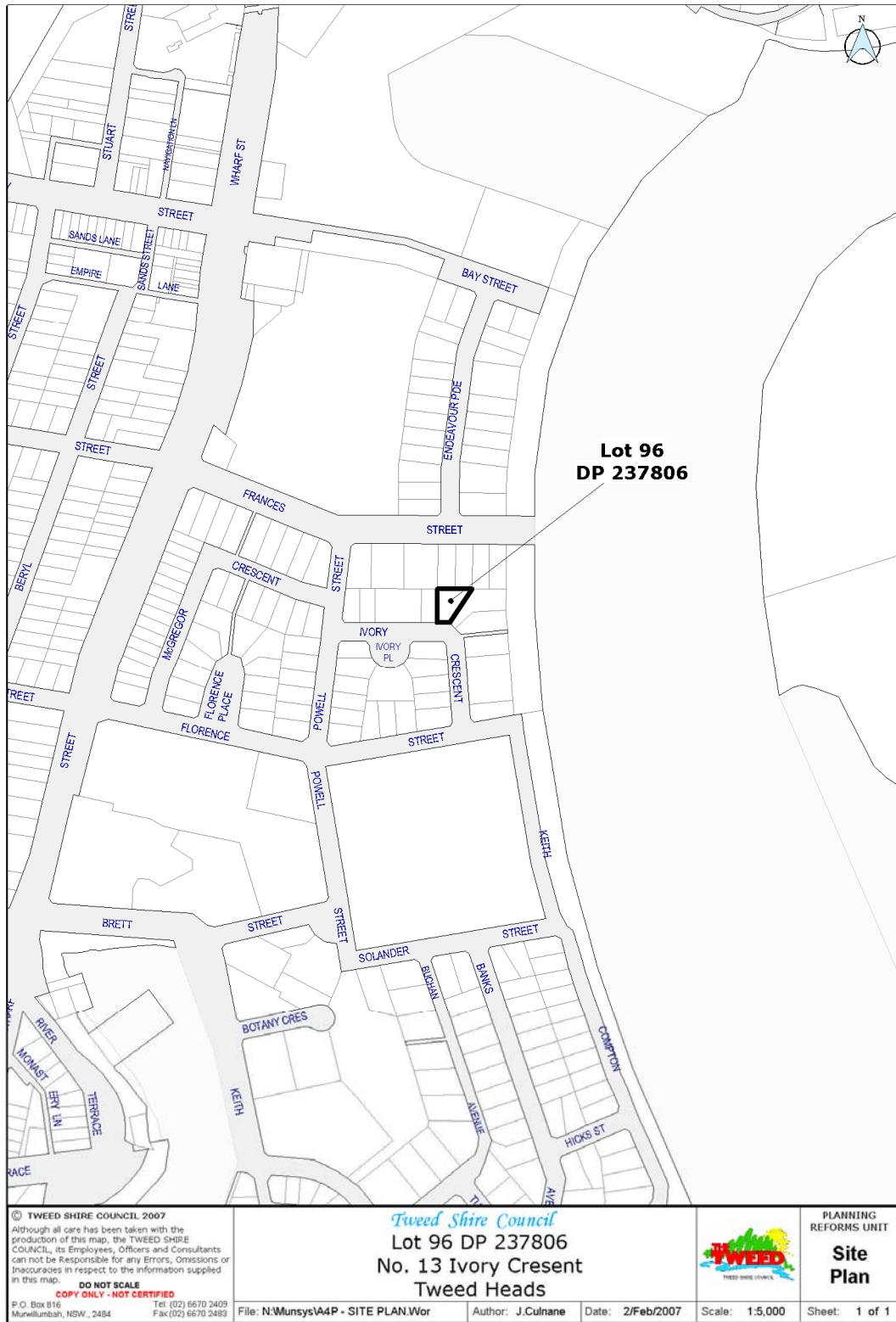
The subject site is presently occupied by a single dwelling house and an associated structure. It is likely this dwelling house was approved and constructed prior to 1987.

Council's records indicate the site has a total area of 916.9m² with approximately a 13m frontage to Ivory Crescent. The site is generally level. Vehicular access to the site is available from Ivory Crescent.

The application currently before Council seeks consent to construct a six (6) storey multi dwelling housing development consisting of 6 x 2 bedroom units and 3 x 3 bedroom units. Fourteen (14) car spaces are proposed within the basement car park and one (1) car space/car wash bay is proposed in the front setback. The application also seeks consent to demolish all existing structures.

Vehicular access is available to the site via Ivory Crescent.

SITE DIAGRAM:

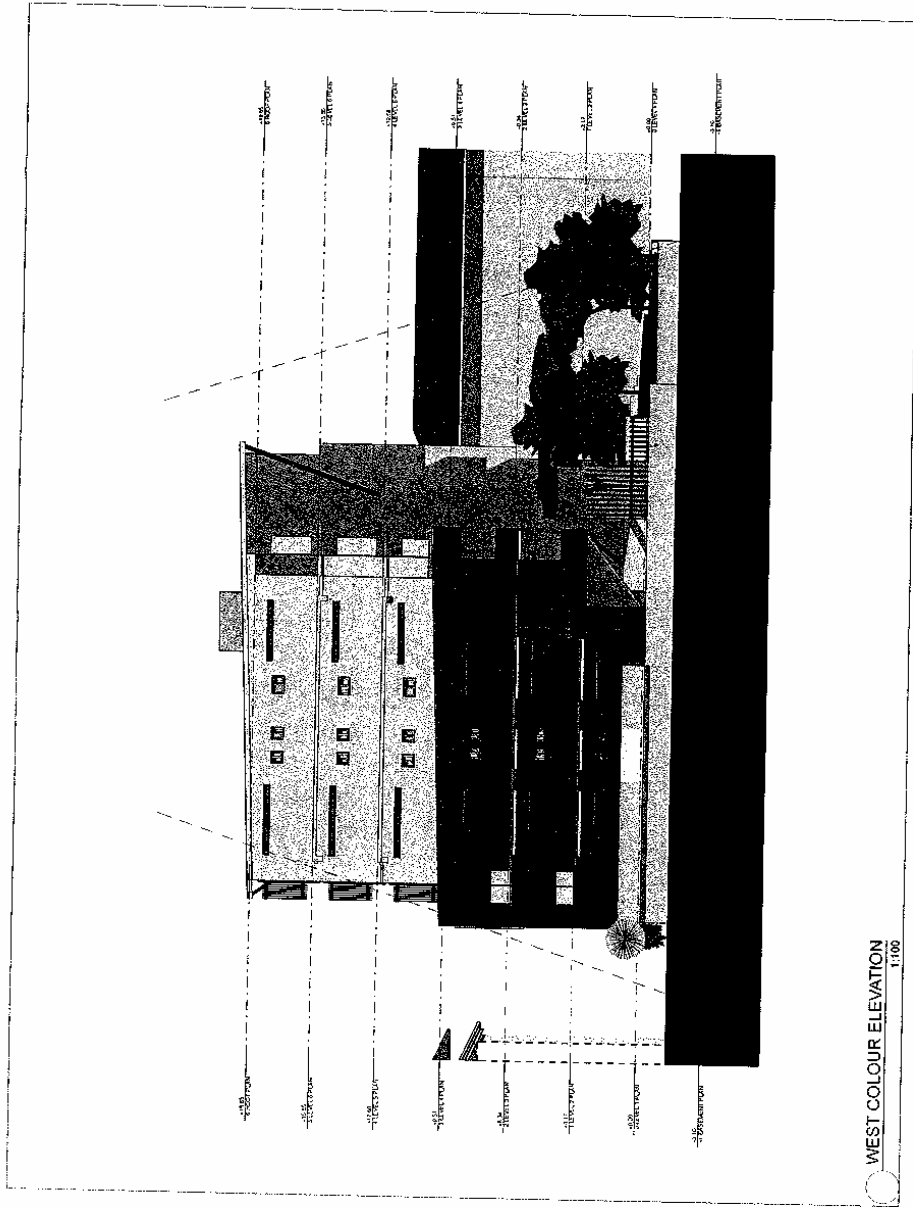


ELEVATION PLANS

Notes: 1. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 2. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 3. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 4. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 5. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 6. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 7. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 8. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 9. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001. 10. All elevations shall be in accordance with the Australian Standard AS/NZS 4469:2001.

ANTHONY DESIGN PTY LIMITED ARCHITECTS
 10/11-13/15 BROADWAY, SYDNEY NSW 2009
 TEL: (02) 9550 1111 FAX: (02) 9550 1112
 WWW.ANTONYDESIGN.COM.AU

Project Name: **Proposed Multi-Unit Development**
 Client: **FRS**
 Project No: **4306/DA**
 Date: **03.8**
 Drawing No: **03.8**



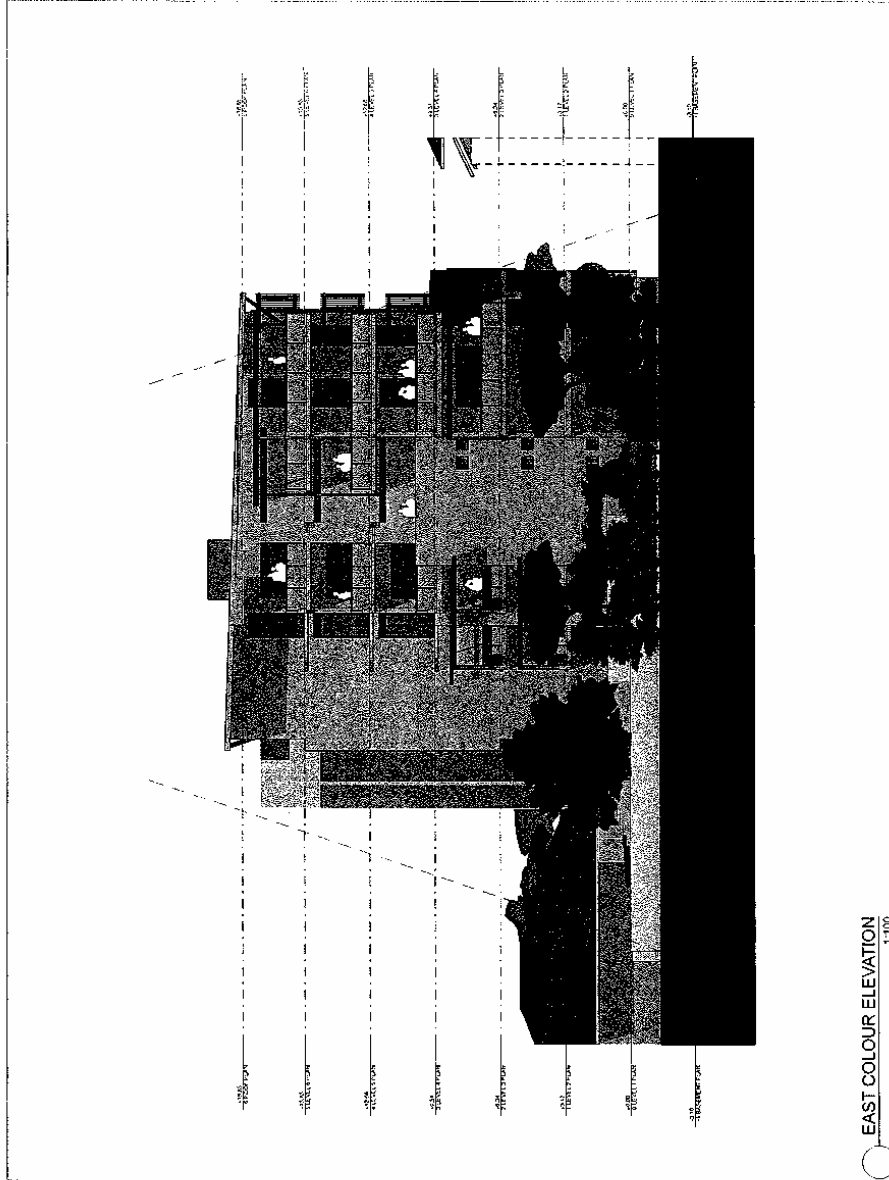
This drawing is the property of the Architect and is to be used only for the purposes for which it is prepared. It is not to be used for any other purpose without the written consent of the Architect. The Architect is not responsible for any errors or omissions in this drawing. The Architect is not responsible for any delays or interruptions in the progress of the project. The Architect is not responsible for any costs or expenses incurred by the client in connection with the project. The Architect is not responsible for any claims or damages arising from the use of this drawing.

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Project Name: **Proposed Multi-Unit Dev**
 13 Ivory Crescent Tweed Heads

DATE: **2007/02/13**

DRAWING NO: **4306/DA/03.7**



Please note all dimensions and levels shown on this drawing are approximate and subject to change. All dimensions and levels are given in metres unless otherwise stated. The client is responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided.

Drawn: [Name] / Checked: [Name] / Date: [Date]

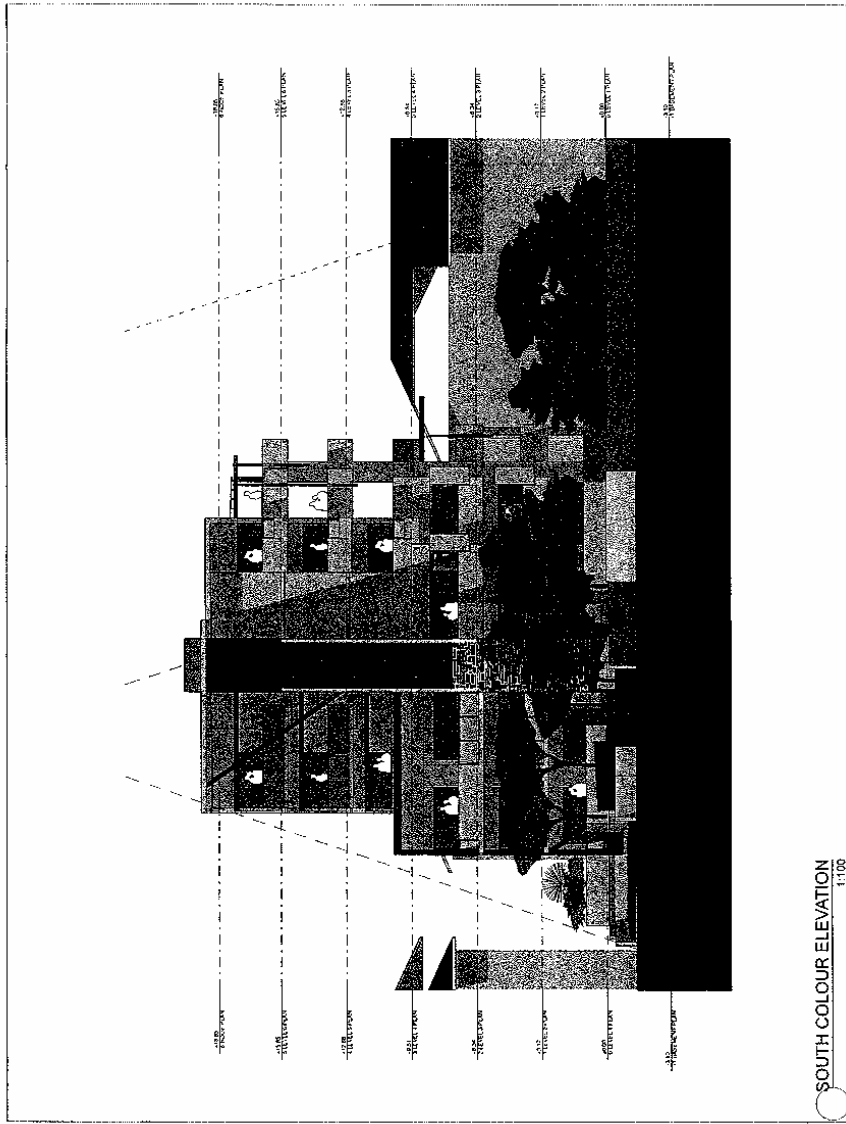
NATIONAL RESIDENTIAL ARCHITECTS
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Project Name: **Proposed Multi-Unit Dev**
 33 Ivory Crescent Tweed Heads

Drawn By: [Name]
 Checked By: [Name]
 Date: [Date]

Scale: 1:100

Project No: 4306/DA/
 03.6



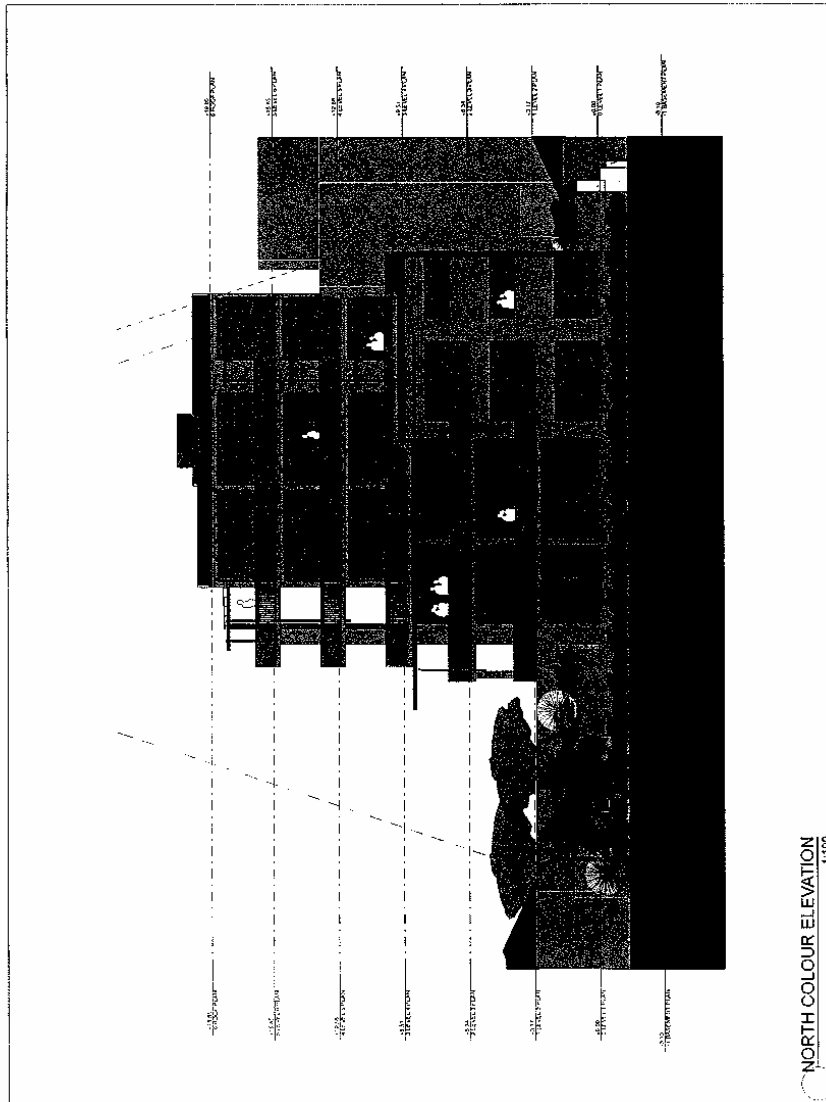
Please note: all elevations and levels below are approximate and subject to change. All drawings shall not be used for construction purposes without the approval of the architect. Construction shall be in accordance with the Australian Standard AS/NZS 1170:2002. All work to comply with Building Code of Australia. This drawing is the property of the architect and shall not be used for any other purpose without the written consent of the architect. The architect is not responsible for any errors or omissions in this drawing. The architect is not responsible for any errors or omissions in this drawing. The architect is not responsible for any errors or omissions in this drawing.

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Client Name: **FRESB**
 Project Name: **Proposed Multi-Unit Dev**
 13 Ivory Crescent Tweed Heads

Drawn By: **AT**
 Checked By: **AT**
 Date: **03/02/07**

Project No: **4308/DA/03.5**



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

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

Tweed Local Environmental Plan 2000

The subject site is zoned 2(b) Medium Density Residential. The primary zone objective of the 2(b) zone relates to the provision of medium density housing. The applicable secondary objective relates to non-residential development, which supports the residential use of the locality.

The proposed six (6) storey development is considered to be a high density development as permitted by the zone.

The proposed scale utilises the land appropriately for residential purposes. The proposal is consistent with the desired future character of the precinct, which is discussed later in this report.

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

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

Clause 16 of the TLEP requires development to be carried out in accordance with the height of buildings map. The proposed development is 6 storeys and is consistent with the allowable height.

Clause 34 of the TLEP 2000 requires the consent authority to ensure that only flood compatible development occurs on flood liable land. Council's Development Engineer has reviewed the proposal with regards to flooding and raised no concerns regarding this matter subject to conditions of consent.

Clause 35 of the TLEP 2000 requires an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as being land class two (2). Council's Environmental Health Officer has reviewed the proposed development and accompanying Preliminary Acid Sulfate Soil Investigation and Dewatering Management Plan and advised the acid sulfate soils are unlikely to be disturbed.

Water Act 1912

The application is classified as integrated development as the proposal involves temporary dewatering for construction purposes. The application was referred to the Department of Natural Resources in accordance with the Water Act 1912 who issued general terms of approval.

North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP applies to the subject site as it is within the region to which the NSW Coastal Policy 1997 applies.

The proposal is not considered to be inconsistent with the NSW Coastal Policy 1997, Coastline Management Manual, and North Coast: Design Guidelines. The submitted plans demonstrate the proposal will not result in public access to the foreshore being impeded nor will it result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

The proposed development is considered to be consistent with the NCREP.

State Environmental Planning Policies

SEPP No. 65 - Design Quality of Residential Flat Development

SEPP No. 65 applies to the development application as the proposed building is considered to be a residential flat building as it is greater than three (3) storeys in height and contains more than four (4) self-contained dwellings. As such an assessment in accordance with the design quality principles as detailed in Part 2 of the SEPP is required.

The design quality principles of SEPP No. 65 provide a guide to achieving good design and the means of evaluating the merit of proposed solutions.

Context

The proposed development responds to the desired future character of Tweed Heads as per Development Control Plan No. 18 and the Tweed Heads Masterplan (THM). The area is characterised by older style residential flat buildings, however one site has been redeveloped. The older character is likely to change as a result of the THM. The proposal is contemporary in design and utilises a variety of finishes. The development is considered to contribute to the quality and identity of the area.

Scale and Density

The proposed development is consistent with the allowable building height of 6 storeys for the site in accordance with the TLEP 2000 and the THM. The elevations of the proposed building are articulated. The design elements utilised in the proposal including balconies, various building materials and finishes. The proposed development is consistent with the scale of the desired future character of the area.

Built form

The proposed development clearly defines the public domain. The proposal contributes positively to the character of the streetscape. The location of the proposed balconies ensures privacy while using balconies and physical separation between the street and internal living areas. The proposed development has been designed to prevent direct overlooking into the adjoining developments through the placement of windows and setbacks.

Resource, energy and water efficiency

The proposed development is orientated north-south, with the main living areas orientated north. A Basix certificate and NatHERS assessment were submitted with the development application which demonstrates the proposal achieves the minimum targets.

Landscape

The landscaping concept plan submitted with the development application proposes landscaping at ground level. A condition of consent has been imposed to ensure that a detailed landscape plan is submitted to Council and all landscaping is to be completed prior to the occupation of the development.

Amenity

The submitted shadow diagrams depict overshadowing on adjoining developments as a result of the proposed development. It should be noted that overshadowing of these properties is currently likely to occur as a result of surrounding developments.

On June 21 the proposed development will overshadow the immediately adjoining developments, being 11 Ivory Crescent and 15-17 Ivory Crescent and partially overshadow 19 Ivory Crescent.

Approximately 50% of 11 Ivory Crescent will be in shadow at 9am. By 12 noon 11 Ivory Crescent is free of shadow generated with the proposed development. At 12 noon 15-17 Ivory Crescent will be partially overshadowed, the shadow is restricted to the detached garages and a small portion of the internal driveway. At 3pm approximately 50% of 15-17 Ivory Crescent will be in shadow and 30% of 19 Ivory Crescent will be in shadow.

These plans demonstrate the affected developments will have access to sunlight for the majority of the day on June 21.

On 21 December the proposed development will overshadow adjoining developments being 11 Ivory Crescent, 15-17 11 Ivory Crescent and 4-6 Frances Street. The development will also partly overshadow 2 Frances Street.

Approximately 60% of 11 Ivory Crescent will be in shadow at 9am. By 12 noon all shadow is retained within the subject site. At 3pm the detached garages on 15-17 Ivory Crescent will be partially in shadow. At 6.30pm approximately 30% of the residential component of 15-17 Ivory Crescent will be in shadow. Approximately 20% of 4-6 Frances Street and 2 Frances Street will be in shadow at this time.

These plans demonstrate the affected developments will have access to sunlight for the majority of the day on June 21.

Therefore it is considered that the adjoining properties receive adequate solar access as the day progresses.

In determining whether the current application unreasonably impacts upon the amenity of the adjoining properties the intended character of the area must be considered. The area is nominated as a high density area with adjoining properties having a building limit of 6 storeys as per the TLEP 2000 and particularly to the east of the subject site, have a building limit of 2 storeys as per the TLEP 2000.

The amenity of the adjoining developments and the desired future character of the area must also be considered. The setbacks proposed, particularly from the northern boundary provides visual privacy between adjoining developments. The design of the development immediately adjoining the subject site (11 and 15-17 Ivory Crescent) results in significant setbacks between the developments. The internal driveway of 11 Ivory Crescent is situated along the common boundary. The detached garages and internal driveway of 15-17 Ivory Crescent are situated along the common boundary. Thus the residential component of these adjoining developments are situated a substantial distance from common boundaries.

Having regard to the applicable planning controls and the desired future urban form of the area it is considered that the proposal does not unreasonably detract from the amenity of the area, nor does it restrict the ability of adjoining parcels to be redeveloped.

Each unit contains two balconies. The primary balconies situated on the northern elevation are generally regular in shape and are considered to be functional. These primary balconies and the secondary balconies provide some outlook. The balconies situated along the street frontage are sufficient setback from Ivory Crescent providing a clear separation between the private and public domain. The windows of bedrooms and primary living spaces are positioned to prevent direct views into and from these rooms.

Adequate storage is provided within the basement car park.

The proposal is equipped with a lift servicing all units. The lift may be accessed from the car park and also from Ivory Crescent.

Safety and security

The use of balconies on the Ivory Crescent elevation ensures casual surveillance of entries and open space areas. Clear and direct paths to entries and lift areas within the building are evident. Vegetation and fencing have been implemented to provide a clear division between public and private spaces.

Social dimensions

The proposal contains a mix of two (2) bedroom and three (3) bedroom units. The site is situated within close proximity to public open space areas; the shopping precinct; recreational facilities such as cinemas and professional services such as medical practitioners.

Aesthetics

The building is proposed to be finished to a high standard using a variety of finishes. A colour palate was not provided with the application, however colour photomontages were submitted. The montages suggest the external colours proposed are a combination of predominant colours including grey and brown and highlighting colours such as orange and yellow. The landowner confirmed the colours within the plans are not a clear representation of the light colours proposed. It is recommended that the applicant be required to submit a colour palate, which is prepared to the satisfaction of the Director of Planning and Development for the external colours of the building. It is recommended lighter colours such as those nominated by DCP No. 18 be used.

The design and variety of materials used in the building's façade are consistent with the desired future character of the area. The contemporary design of the development will make a positive contribution to the streetscape.

SEPP No. 71 - Coastal Protection

The subject site is identified as being within a sensitive coastal location as defined by the SEPP being within 100m above mean high water mark of the sea, bay or estuary. The application was assessed in accordance with the matters listed in clause 8 of the SEPP.

The proposed development is not considered to be inconsistent with clause 8 of the SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

A Basix Certificate has been submitted with the development application stating the proposal will achieve the required sustainability commitments.

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

Draft LEP Amendment No. 64 - Tweed Heads Masterplan (THM) applies to the subject site. The draft was placed on public exhibition from 21 December 2005 to the 10 February 2006 and is currently with the Minister of the Department of Planning. The amendment sought to adopt the building height limits as specified within the THM. The proposed development is consistent with the specified 6 storeys.

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

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

An assessment of the proposed car parking indicates it is consistent with the requirements of the DCP:

Required	Proposed
1.5 spaces per unit x 0.8 ESD principle = 10.8 spaces	15 car spaces Including 3 visitor car spaces and 1 car wash bay/visitor space

Sufficient area exists in front of each car space within the basement for on-site bicycle storage.

DCP No. 5 – Development of Flood Liable Land

The subject site is identified as being flood prone. Council's Engineering staff reviewed the proposal and advised the basement car park has been designed in accordance with Council standards. The officer has advised that specific requirements can be addressed via conditions of development consent.

DCP No. 18 – Tweed Heads

The subject site is identified as being within the Tweed River Precinct, which is a high density residential precinct. The proposal is consistent with the vision for Tweed Heads, precinct objectives and strategic policies. Specific areas of consideration are as follows:

Section 2.4.3 – View Corridors

The proposal would not intercept the horizon or impact on views to the ocean. The proposed building is consistent with height of 5-9 Ivory Crescent, which has been redeveloped and is within close proximity to the site.

Section 9.0 - Building Envelope

The proposed building exceeds the building envelope in sections on all elevations. The encroachments are attributed to the irregular shape of the allotment and compliance with the acceptable building limit.

These encroachments are limited to the roof areas, sections of the upper floors and sections of the balconies of the development. The encroachments are minor in overall area and do not add significantly to the bulk of the building.

The encroachments do not result in a significant amount of overshadowing or loss of views for surrounding developments.

Section 11.0 - Residential Design Guidelines

Building Mass

The proposed building utilises varied setbacks, the placement of windows, balconies and varied bedroom dimensions, which assist in dividing the building into smaller components. All continuous unbroken lengths do not exceed 15m.

Ventilation

The design of the units and the implementation of two (2) balconies per unit enables air movement throughout the apartments.

Daylight Access

The main living areas of the proposal are orientated north. The habitable rooms within the development contain at least one (1) window providing daylight access. The width of the units enables daylight to penetrate through each unit.

Wind Mitigation

Due to the open nature of the surrounding area, the proposed building is considered unlikely to create any adverse wind effects at ground level.

Overshadowing

The impact associated with overshadowing has been previously discussed in the SEPP No. 65 assessment section of this report. The level of overshadowing is considered to be acceptable in this instance.

Rooflines

The roof structure has been designed to reduce impact upon the skyline to retain view corridors as detailed in DCP No. 18. It is considered that the roof structure proposed is acceptable.

Privacy

The proposed development has been designed to prevent direct overlooking into main living areas and bedrooms of the adjoining developments through the setbacks proposed and the placement of windows.

The design of the existing developments and the proposed staggered setbacks of the current proposal assist in creating physical separation between developments.

Security and Surveillance

Clear and direct paths to entries and lift areas to the building are provided. Direct accesses between the car park and units are provided. The entry point into the building is clearly visible from the street. Landscaping and fencing have been implemented to provide a clear division between public and private spaces. Balconies on each elevation ensures casual surveillance of entries and open space areas.

Materials and Colours

As discussed previously in this report, the building is proposed to be finished to a high standard using a variety of finishes. The predominant dark colour as submitted in the plans is not consistent with the coastal environment. As such a condition has been recommended requiring lighter colours such as those nominated by DCP No. 18 be used.

Access, Parking and car wash bays

An assessment of the car parking requirements is detailed in the DCP No. 2 – Site Access and Parking Code assessment table. The proposed car parking and car wash bay is consistent with DCP No. 18.

Open Space and Balconies

The primary balconies proposed are consistent with the minimum area and dimensions specified with the DCP and are accessible from the main living areas.

DCP No. 39 – Energy Smart Homes

A NatHERS assessment has been submitted with the development application stating the proposal will achieve the required minimum of 3.5 stars.

DCP No. 47 – Cut and Fill on Residential Land

Council's Development Engineer assessed the proposal and advised approximately 1.7m to provide the basement car park, water storage tank and the elevator shaft well. The officer raised no objection to the proposal in this regard.

Tweed Heads Masterplan

The site is situated within the Riverside High Density Residential precinct. The proposal is consistent with the vision of the precinct and the objectives of the THM. The proposal is consistent with the THM Building Height Strategy as it is six storeys in height. The proposal is consistent with the urban design principles for the subject site.

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

NSW Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Demolition

Council's Building Surveyor has reviewed the proposal and recommended appropriate conditions of consent. The proposal is therefore not inconsistent with the provisions of AS 2601.

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

In addition to those likely impacts previously discussed in this report, view loss is discussed below.

View Impact

The Senior Commissioner in the Land and Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council* adopted the four-staged test to assess the reasonableness of view sharing.

1. The first step is the assessment of views to be affected;
2. The second step is to consider from what part of the of the property are the views obtained (an expectation to retain side views and sitting views would be unreasonable);
3. The third step is to assess the extent of the impact (the extent of the impact should be assessed for the whole of the property not just for the view that is affected. This could be done by ranking the affect from negligible to devastating); and
4. The fourth step is to assess the reasonableness of the proposal that is causing the impact (it may be unreasonable if it comes about as a result of non compliance with planning standards).

This test has been implemented in the assessment of this application.

The proposed development will primarily affect views from the upper floors of 5-9 Ivory Crescent (Lot 1 SP 73327), which is situated west of the subject site. The proposed development may also affect other surrounding developments, which have south-east views of the Tweed River.

5-9 Ivory Crescent contains a (6) storey multi storey housing development, the upper floor units of currently enjoy eastern and south-eastern views towards the Tweed River. Views from the site are obtained via sitting and standing positions. The view of the Tweed River is largely uninterrupted due to the existing low density character of existing developments.

The proposed development will appear as a five (6) storey development from the adjoining properties. Should the development application be approved and constructed, views of the River from the upper floors of 5-9 Ivory Crescent would be significantly reduced. Views due east would be significantly interrupted, whilst views south-east over existing developments would be available.

The proposed height of the building is consistent with the storeys permitted within the TLEP and the THM. As previously discussed in this report the proposal incorporates some encroachments outside of the building envelope. These encroachments do not add significantly to the loss of views. It is unrealistic to expect all the views of the River would be retained given the subject site is situated within a re-developing high density precinct of Tweed Heads. The precinct is likely to undergo further redevelopment as documented within the Tweed Heads Master Plan.

Therefore, it is concluded that the loss of view that will result from the construction of the proposed building is not unreasonable despite the impact it will have on surrounding properties.

(c) Suitability of the site for the development

The proposed design and mitigation measures proposed in conjunction with the proposal are considered to be consistent with the desired land use character. The suitability of the site for the proposed development has been demonstrated by way of general consistency with the environmental planning instruments and development control plans.

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

The development application was advertised and placed on public exhibition for a period of 30 days. Four submissions have been received to date and are summarised below.

Issue	Comment	Assessment
Height of the building	The proposed building height is inconsistent with the Tweed Heads Masterplan as it impedes upon the view corridor to the river and ocean. A reduced floor to ceiling height would reduce this impact.	An assessment in accordance with the THM has been provided previously in this report it concludes the proposal is consistent with the THM. An assessment regarding loss of views has been provided within the likely impacts section of this report. The assessment concludes the view loss is acceptable. This matter does not warrant refusal of the application.
	The height of the proposed development will create overshadowing to the detriment of adjoining developments. <i>'The height of the development also gives the image of unnecessary bulk on a small site'</i> . The height of the building should be lower.	Likely impacts associated with the development, an assessment regarding the number of storeys permitted on the site and the bulk of the development have been provided previously in this report. The assessment concludes the proposed development is acceptable and consistent with the applicable controls. This matter does not warrant refusal of the application.

Overshadowing and views	The encroachment and the height of the building would increase view loss and overshadowing. A reduced floor to ceiling height would reduce this impact.	The overshadowing and view loss impacts associated with the proposed development have been previously addressed in this report. The assessment found the likely impacts are acceptable. It is not considered necessary to reduce the floor to ceiling heights as the heights proposed are consistent with those permitted by the TLEP 2000. This matter does not warrant refusal of the application.
Building Envelope	The building does not comply with the required setbacks on the upper three floors, which results in encroachments out of the building envelope.	The encroachments outside of the building envelope have been previously addressed in this report. The assessment concludes these encroachments are unlikely to result in a significant amount of overshadowing or view loss. This matter does not warrant refusal of the application.
Car Parking	Parking congestion currently experienced within the area will increase as a result of the proposed development.	An assessment in accordance with DCP No. 2 as discussed previously in this report indicates the proposal is consistent with Council's requirements. This matter does not warrant refusal of the application.
	The visitor car spaces provided are not adequate. Only one (1) on-street car space is available in front of the property in Ivory Crescent.	An assessment in accordance with DCP No. 2 as discussed previously in this report indicates the proposal is consistent with Council's requirements. This matter does not warrant refusal of the application.

<p>Construction Issues</p>	<p>Construction of other developments within the area resulted in adjoining driveways and properties being used to store construction materials. What measures will be imposed to enable access for nearby residents into their properties?</p>	<p>A condition of consent has been recommended stating building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve.</p> <p>The certifying authority is responsible for ensuring the conditions of development consent have been adhered to and to manage construction and related activities. The site will also be sign posted with the necessary signage directing people to a site foreman/office.</p> <p>This matter does not warrant refusal of the application.</p>
	<p>Concern is raised regarding plans for traffic management including car parking of construction workers, the siting/storage of materials and the control of noise and dust.</p>	<p>The use of construction vehicles during construction is a necessary part of redeveloping a site. To prohibit or restrict such usage would be unreasonable.</p> <p>As discussed previously, a condition of consent has been recommended requiring building materials to not be deposited or stored on Council's footpath or road reserve.</p> <p>A condition of consent has been imposed restricting work including vehicular access to the site to 7am to 7pm Monday to Saturday. No work is to occur on Sunday or Public Holidays.</p> <p>A condition of consent has been recommended stating all work associated with this development is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from noise, water or air pollution.</p> <p>This matter does not warrant refusal of the application.</p>

<p>Appearance of the Western Elevation</p>	<p>The western elevation of the proposed development is stark, particularly with the blank exterior of the lift well and fire stairs protruding at the front of the building. This does not enhance the view of the building to the west and has potential to adversely affect redevelopment of adjoining properties.</p>	<p>Limited openings are proposed on the western elevation to limit privacy issues and to limit exposure to the sun from the west. A variety of building materials and colours are proposed on this elevation.</p> <p>This matter does not warrant refusal of the application.</p>
<p>Dewatering</p>	<p>Who is responsible if the basement pumps used for dewatering burn out or fail? Will dewatering pumps comply with noise constraints during the night?</p>	<p>Council's Engineering staff, Environmental Health Officer and the staff from the Department of Natural Resources has assessed the application with specific regard to dewatering. A condition of consent has been recommended requiring the applicant to notify owners of adjoining premises where dewatering is proposed to operate on a 24-hour basis prior to operation. No issue was raised regarding the noise levels of the pumps. As previously stated, the certifying authority is responsible for ensuring the conditions of development consent have been adhered to and to manage construction and related activities. The site will also be sign posted with the necessary signage directing people to a site foreman/office.</p> <p>This matter does not warrant refusal of the application.</p>
<p>Loss of Property Value</p>	<p>The proposed development will depreciate adjoining development.</p>	<p>Loss of property value cannot be considered in the assessment of a development application in accordance with the Environmental Planning and Assessment Act 1979.</p> <p>This matter does not warrant refusal of the application.</p>
<p>Support of the proposed development</p>	<p>The height and density of the proposal is considered to be acceptable. The proposed development is unlikely to result in parking problems within Ivory Crescent. Car parking problems have not</p>	<p>These matters have been considered in the assessment of the proposed development.</p> <p>This matter does not warrant refusal of the application.</p>

	arisen as a result of construction within Ivory Crescent. The proposal is part of the revitalisation of the Tweed CBD area.	
Error within the development application	The submitted plans refer to a nearby street incorrectly as 'Enid Street'.	It is acknowledged some of the submitted plans including the shadow plans and site plan incorrectly refer to Frances Street as Enid Street. Assessment by Council officers including site inspections confirms that the correct property description and location has been provided for the current development. This matter does not warrant refusal of the application.

(e) Public interest

Despite the issues raised in the submission, it is considered that the proposal is not contrary to the wider public's interests.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right to appeal in the Land and Environment Court should he/she be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is generally considered to be suitable for the proposed development. The proposed development is considered to be consistent with the applicable planning instruments and generally consistent with the applicable development control plans.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

- 4 [PD-PC] Development Application DA06/1027 for the Demolition of Existing Structures and Establishment of a Service Station at Lot 1 DP 207188; Lot 1 DP 780342; Lot 1 DP 780345; Lot 1 DP 780344, No. 98-102 Minjungbal Drive Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: DA06/1027 Pt1

SUMMARY OF REPORT:

The proposed development is consistent with the Tweed Local Environmental Plan 2000 and the applicable Development Control Plans and is recommended for approval subject to conditions.

One (1) submission has been received regarding the proposed development.

RECOMMENDATION:

That Development Application DA06/1027 for the demolition of existing structures and establishment of a service station at Lot 1 DP 207188; Lot 1 DP 780342; Lot 1 DP 780345; Lot 1 DP 780344, No. 98-102 Minjungbal Drive Tweed Heads South be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos:
 - 0637-D02 Rev A prepared by TFA Project group and dated 28/08/2006,
 - 0637-D03 Rev A prepared by TFA Project group and dated 29/08/2006,
 - 0637-D05 Rev A prepared by TFA Project group and dated 29/08/2006,
 - 0637-D07 Rev A prepared by TFA Project group and dated 29/08/2006,
 - 0637-D08 Rev A prepared by TFA Project group and dated 29/08/2006,except where varied by the conditions of this consent. [GEN0005]

2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]

3. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]
4. **All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.**
[GEN0075]
5. **Advertising structures/signs to be the subject of a separate development application, where statutorily required.**
[GEN0065]
6. **The development is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.**
[GEN0125]
7. **Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.**
[GEN0045]
8. **All signage is to be a maximum height of 8 metres above the ground as per State Environmental Planning Policy No. 64 - Advertising and Signage.**
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. **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]
10. **All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to the General Manager or his delegate for approval.**
[PCC0465]

11. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

12. Prior to the Construction Certificate being issued, a site management plan outlining the proposed ongoing groundwater and offensive and /or noxious vapour monitoring and management regime shall be submitted to the satisfaction of Council's Director of Environment and Community Services. The plan shall be in general accordance with Proposed Site Layout plan prepared by TFA Project Group dated 25/05/2006 (Drawing No. 0637-D02 Rev B).

[PCCNS01]

13. Any site/carparking 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]

14. The developer shall provide 5 parking spaces including parking for the disabled in accordance with Development Control Plan No. 2 - Site Access and Parking Code, AS 2890 and Austroads Part 11. Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

The proposed advertising signage (pylon) located at the exit point shall be designed to meet the minimum sight distance requirements of AS 2890. Adequate street lighting shall be provided at the entry and exit points of the development site in accordance with the relevant Australian Standard.

[PCC0065]

15. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan: \$36,788
S94 Plan No. 4 (Version 4.0)

Sector2_4

Heavy Haulage Component

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

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

where:

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

and:

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

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

$\text{\$Unit}$ the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

[PCC0215/PSC0175]

16. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.
Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Sewer Banora: 1.4 ET @ \$2863 \$4,008

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

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

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

[PCC0265/PSC0165]

17. 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]

18. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.
All fill and cut batters shall be maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

19. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimising the impact of filling in local drainage. Detailed engineering plans shall be submitted with a S68 Stormwater Application for Council approval prior to the issue of a construction certificate. Filling shall grade towards Minjungbal Drive or alternative approved stormwater system.

[PCC0585]

20. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) All building materials used below Council's design flood level of 2.6m AHD must not be susceptible to water damage.
 - (b) 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.
 - (c) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

21. 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]

22. 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) Provision of separate entry exit points in accordance with Councils adopted standards.
- (b) Removal and reinstatement of barrier kerb for any disused access points along the development site frontage.

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]

23. Details from a Structural Engineer are to be submitted to the Principal Certifying Authority for approval for the proposed 3m high (block) vapour wall, including a certificate of sufficiency of design prior to the determination of a construction certificate.

The detail shall include the structural foundation bridging of the existing sewer main and ensure future maintenance of the main does not require the removal of the wall.

[PCC0935]

24. Any building or structure classified under the Building Code of Australia and not included within Councils DCP 40 - Exempt and Complying Development, separate development/construction certificate approvals shall be required.

[PCC0995]

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

(a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

(b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.

(c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.

(d) Specific Requirements to be detailed within the Construction certificate application include:

(i) Runoff from exposed/uncovered driveway, car parking and hardstand areas shall be collected in a piped system and treated to remove oil and sediment pollutants. Proprietary treatment devices shall be sized in accordance with Section D7.12 of *Development Design Specification D7 - Stormwater Quality*, with detailed engineering plans for these devices including maintenance schedules, to be submitted with a s68 Stormwater Application for Council approval prior to the issue of a Construction Certificate. Litter baskets/screens must be installed on inlet pits to capture gross pollutants in accordance with Section D7.11-1

(ii) Roof runoff from the service station building and canopy does not require treatment and should be discharged downstream of any treatment devices in the internal stormwater system.

- (iii) The undercover fuel bowser area shall be adequately bunded to prevent stormwater contamination. All runoff from the undercover catchment must be treated and disposed of to sewer as trade waste, requiring a separate trade waste application.

[PCC1105]

26. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

[PCC1145]

27. 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]

28. 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.
- The development site contains a public sewer. This service must be protected from damage due to excessive loading or excavation during construction. No interruption to sewerage services is permitted without prior written approval of Council. Car park works (including pavement construction, sealing and kerbing) are permitted over the sewer. The proposed air and water service facility must be set back at least 1m horizontally from the sewer pipe.

[PCC1235]

PRIOR TO COMMENCEMENT OF WORK

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
 - (iii) the principal certifying authority has, no later than 2 days before the building work commences:
 - (iv) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (v) 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
- (c) 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. 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]

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

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and

(b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

33. 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]

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

[PCW0985]

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

[PCW1005]

36. 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]

37. 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]

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

[PCW0005]

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

[PCW0015]

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

[PCW1075]

41. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.

[PCW1105]

DURING CONSTRUCTION

42. 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]

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

[DUR0245]

44. 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]

45. 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]

46. 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]

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

[DUR0415]

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

- Noise, water or air pollution

- **Minimise impact from dust during filling operations and also from construction vehicles**
 - **No material is removed from the site by wind**
- [DUR1005]
49. **The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction and demolition.**
- [DUR2185]
50. **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]
51. **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]
52. **Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**
- [DUR2545]
53. **All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-**
- * **43.5⁰C 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]
54. **A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.**
Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.
- [DUR2655]

55. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures", the relevant requirements of the WorkCover Authority and the demolition works plan prepared by D & L Long Demolition.
[DUR0645]
56. 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]
57. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.
[DUR0675]
58. Footings to the concrete block vapour wall, where it crosses Council's sewer main or is located adjacent to Council's sewer main, shall be pierced to below the zone of influence of the sewer main. The piers shall be no closer than 1.0 m to the sewer main and shall be designed by a practising structural Engineer so that the footing loads will be transferred to the foundation material and will not effect or be affected by the sewer main.
[DURNS01]
59. 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]
60. All pumps used for any onsite dewatering operations shall be installed on the site in a location that will minimise any disturbance to neighbouring premises and be acoustically shielded to the satisfaction of the General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.
[DUR0235]
61. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
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62. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of the General Manager or his delegate. [DUR0815]
63. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be coved to a radius of not less than 25 millimetres. [DUR0985]
64. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices. [DUR1495]
65. 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]
66. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary. [DUR2205]
67. Prior to any works commencing, appropriate measures are to be put in place to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event. [DUR2405]
68. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
69. All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [DUR2435]
70. All works shall be undertaken in accordance with the Preliminary Acid Sulfate Soil Assessment and Management Plan and Dewatering Management Plan for 98-102 Minjungbal Drive, Tweed Heads South prepared by HMC Environmental Consulting Pty Ltd dated August 2006 (Report No. 2006.106A). [DURNS02]

71. All works shall be undertaken in accordance with the *Noise Assessment Report - Service Station Development, Minjungbal Drive, Tweed Heads* prepared by Noise Assessment Measurement Services Pty Ltd dated 1 August 2006 (Report No. 867). [DURNS03]
72. 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]
73. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0005]
74. The concrete driveway across the footpath is to be constructed in accordance with the approved plan and be a minimum of 150 millimetres thick reinforced with F82 mesh. [DUR0105]
75. 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]
76. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans. [DUR1045]
77. 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]
78. The concrete footpath is to be saw cut and removed to facilitate the construction of the concrete driveway access. [DUR1745]
79. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]

80. 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]

81. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

82. 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]

83. 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]

84. 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]

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

[DUR2645]

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

[DUR2715]

87. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.
[DUR2595]
88. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.
[DUR2675]
89. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement
[DUR2685]
90. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically. No filling of any description is to be deposited, or remain deposited, within adjacent properties.
[DUR0765]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

91. 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]
92. 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]
93. 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]
94. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.
[POC0615]
95. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.
[POC0625]
96. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.
[POC0635]

97. A 2.6m acoustic barrier in accordance with 'Figure 2: Development site layout and recommended acoustic barrier' as detailed in the *Noise Assessment Report - Service Station Development, Minjungbal Drive, Tweed Heads* prepared by Noise Measurement Services Pty Ltd dated 1 August 2006 (Report No. 867) shall be installed prior to the use of the site. [POCNS01]
98. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
99. Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications. [POC0755]
100. 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]
101. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices. [POC0985]
102. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
103. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:
- (a) Easements for sewer, water supply and drainage over ALL services on private property.

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. [POCNS02]

104. Prior to the issue of an Occupation Certificate a CCTV inspection of the public sewerage system including joints and junctions will be required to demonstrate that no damage has occurred during construction of the development or erection of the proposed block vapour barrier wall. Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[POCNS03]

105. All landscaping requirements shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision/Occupation Certificate, whichever occurs first.

[POCNS04]

USE

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

[USE0125]

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

[USE0225]

108. All externally mounted air conditioning units, generators, mechanical plant and equipment shall be acoustically treated where necessary or required to the satisfaction of the General Manager or his delegate so as to avoid the creation of intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises.

[USE0235]

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

[USE0525]

110. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act* 2003, FSANZ Food Safety Standards 3.2.1, 3.2.2 and 3.2.3 and AS 4674 Design, Construction and Fit-out of Food Premises.

[USE0835]

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

[USE0845]

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

[USE0875]

113. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

114. All containers, whether or not empty, which contain or once contained potentially contaminated materials, mechanical parts and the like shall be stored to the satisfaction of Council's General Manager or his delegate.
[USE1045]
115. The delivery of goods and the servicing of waste shall be restricted to between the hours of 7am to 6pm daily.
[USENS01]
116. All drainage grates traversing trafficable areas shall be fixed to avoid generation of offensive noise.
[USENS02]
117. Tyre pressure gauge shall be of a dial type only. Gauges that emit sound to notify that the required pressure has been achieved are not permitted.
[USENS03]
118. Compliance with the provisions of AS 1940:2000 'The Storage and Handling of Flammable and Combustible Liquids'.
[USENS04]
119. All external artificial lighting shall be shielded where required to the satisfaction of Council's General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.
[USE0205]
120. A backflow containment device will be installed adjacent to Council's water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owner's expense.
The duty manager of the facility is responsible to ensure price discounting does not result in traffic queuing onto Minjungbal drive or obstructing the cycleway, and if such queuing does occur, must take immediate action to remedy the problem.
[USE1455]
121. The intensity of the illumination of the signage may be adjusted, if in the opinion of the General Manager or his delegate, it is deemed necessary.
[USENS05]
122. A sign shall be located adjacent to the driveway stating '*Obstructing the footpath is an offense and drivers can be fined*'. The sign is to be clearly visible to drivers entering the site.
[USENS05]

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)

1. 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 of Natural Resources. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. 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.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. 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.
11. All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
12. Works for construction of bores must be completed within such period as specified by the Department.

13. 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.
14. 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.
15. Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
16. 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
17. The work shall be managed in accordance with the constraints set out in the "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.
18. The volume of groundwater extracted as authorised must not exceed 5 megalitres.
19. 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.
20. The licence shall lapse within six (6) months of the date of issue of the licence.

REPORT:

Applicant: Woolworths Limited
Owner: Fabcot Pty Limited
Location: Lot 1 DP 207188; Lot 1 DP 780342; Lot 1 DP 780345; Lot 1 DP 780344,
No. 98-102 Minjungbal Drive, Tweed Heads South
Zoning: 3(c) Commerce and Trade and 2(b) Medium Density Residential
Cost: \$1,200,000.00

BACKGROUND:

The subject site is presently occupied by two (2) dwelling houses and associated structures.

Council's records indicate the site has a total area of 2,127m² with approximately 50m frontage to Minjungbal Drive. The site is generally level. Vehicular access to the site is available from Minjungbal Drive. A public sewer main traverses the site within Lot 1 DP 207188.

Council's records indicate the Development Assessment Panel approved an application for the establishment of a service station on Lot 1 DP 207188, Lot 1 DP 780345, Lot 1 DP 780343, Lot 780344 and Lot 11 DP 780342 on 8 June 1995 (D95/0021). This consent has been acted upon.

Council's records indicate an application for the erection of a shed for domestic storage on Lot 1 DP 780345 and Lot 1 DP 780344 was approved on 15 April 1991 (D91/0037). This consent has been acted upon.

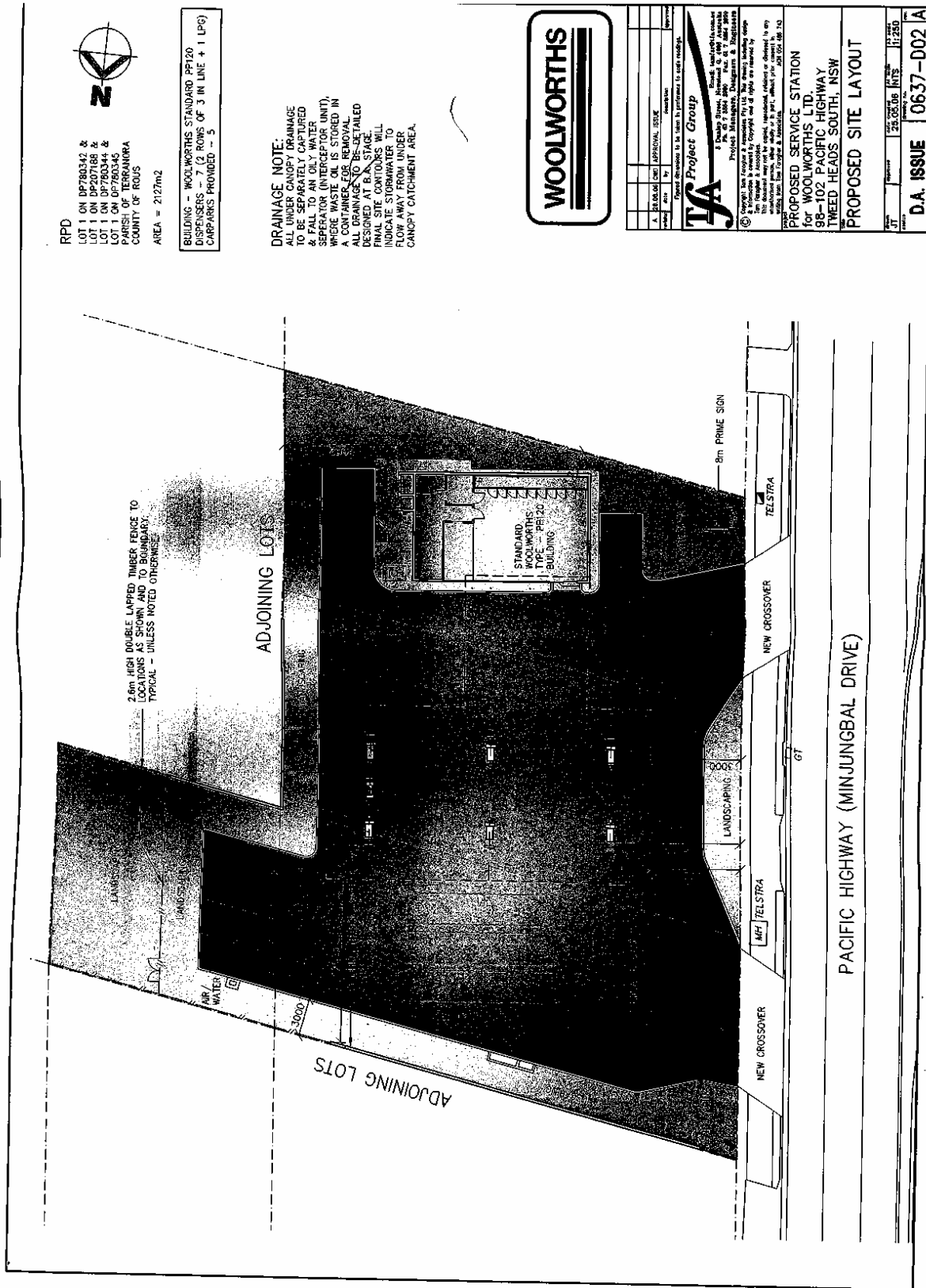
The application currently before Council seeks consent to demolish all structures on-site and to construct a service station and ancillary convenience store, a car park, associated signage and landscaping. The service station is proposed to operate 24 hours a day, 7 days per week.

Approximately 306m² of the subject site is zoned 2(b) (Lot 1 DP 207188) and is landlocked, being accessible only via adjoining allotments. The proposed development on this portion of the site contains landscaping and car parking.

SITE DIAGRAM:



SITE PLANS:



WEST (MINJUNGBAL DRIVE) SITE ELEVATION
SCALE 1:250

NORTH SITE ELEVATION
SCALE 1:250

WEST BUILDING ELEVATION
SCALE 1:100

EAST BUILDING ELEVATION
SCALE 1:100

NORTH BUILDING ELEVATION
SCALE 1:100

WEST BUILDING ELEVATION
SCALE 1:100

WOOLWORTHS

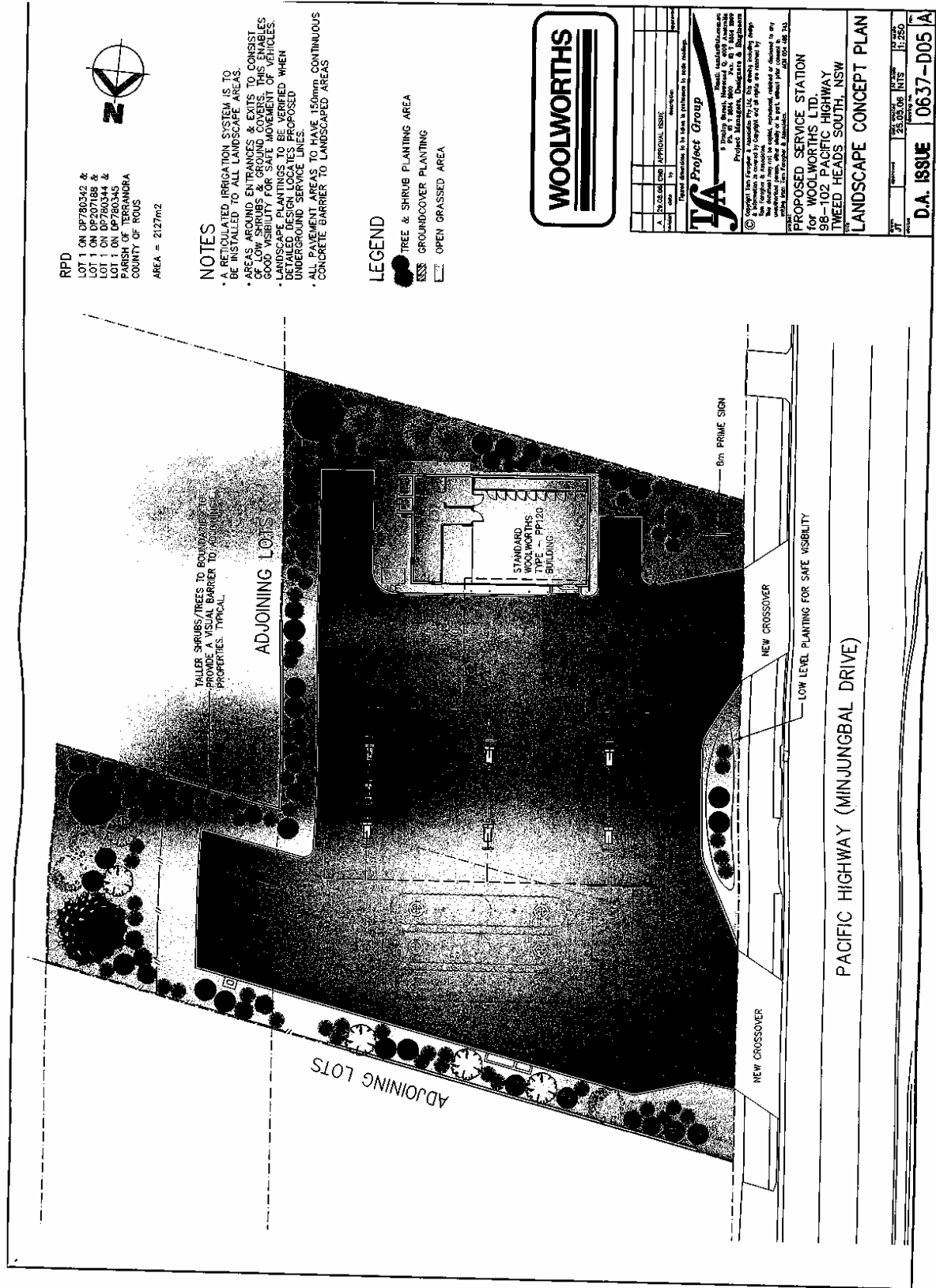
Project Group

PROPOSED SERVICE STATION
for WOOLWORTHS LTD.
98-102 PACIFIC HIGHWAY
TWEED HEADS SOUTH, NSW

SITE & BUILDING ELEVATIONS

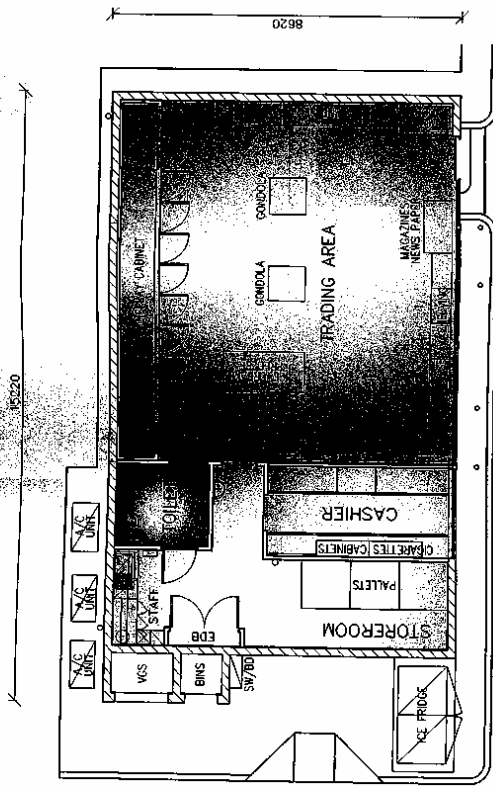
D.A. ISSUE 0637-D03 IA

Labels in drawings: BOUNDARY LINE, REAR BOUNDARY LINE, MINJUNGBAL DRIVE, 3m HIGH (BLOCK) VAPOUR BARRIER WALL, 2.5m HIGH DOUBLE LAPPED TIMBER FENCE TO SIDE AND REAR BOUNDARIES, 8M PRIME SIGN, DOORS TO VGS & BIKES ENCLOSURES, 190 CONCRETE BLOCK WALLS CEMENT RENDER/PAINY FINISH, A/C CONDENSERS, ALUMINIUM FRAMED GLAZING TO SHOPFRONT, METER BOX, ADHESIVE VINYL STRIPS, CASING AND CAPPING PAINT FINISH, INTERNALLY FINISHED MINUTE STRIPS.





RPD
 LOT 1 ON DP780342 &
 LOT 1 ON DP207188 &
 LOT 1 ON DP780344 &
 LOT 1 ON DP780345
 PARISH OF TERRANORA
 COUNTY OF ROUS
 AREA = 2127m²



WOOLWORTHS STANDARD LAYOUT FOR BUILDING TYPE PP120 REVERSED



PROJECT NO.	DATE	BY	DESCRIPTION
A. PROPOSAL	25.05.06	INTS	14.00
<p>TJA Project Group 4 Piney Street, Tweed Heads, NSW 2486 Project: Manufacturing, Distribution & Logistics Design: Jim Frigate & Associates Pty Ltd. This drawing is the property of TJA Project Group & Associates. It is not to be used, copied, or reproduced in any form without the written consent of TJA Project Group & Associates. All rights are reserved by TJA Project Group & Associates. Phone: (07) 954 98 737</p>			
<p>PROPOSED SERVICE STATION for WOOLWORTHS LTD. 98-102 PACIFIC HIGHWAY TWEED HEADS SOUTH, NSW</p>			
<p>PROPOSED BUILDING FLOOR LAYOUT</p>			
<p>D.A. ISSUE 10637-D07A</p>			<p>DATE: 25.05.06 INTS 14.00</p>

1 8.0m PRIME SIGN
SCALE 1:50

2 ILLUMINATED CANOPY FASCIA SIGN
SCALE 1:50

3 ILLUMINATED PAYPOINT BUILDING FASCIA SIGN
SCALE 1:50

4 AIR/WATER SIGN POLE OR FENCE MOUNTED
SCALE 1:20

5 "STAFF & CUSTOMER PARKING"
NOT TO SCALE

6 ACCESSIBLE PARKING SIGN
NOT TO SCALE

7 ENTRY SIGN
SCALE 1:20

8 EXIT SIGN
SCALE 1:20

SITE PLAN
NTS

PAVED HIGHWAY (MUNICIPAL DRIVE)

Woolworths Signage Details:
 - **1** 8.0m PRIME SIGN: Dimensions 2170 x 8000. Features Caltex logo, Woolworths logo, and 'LPG Press Available' text.
 - **2** ILLUMINATED CANOPY FASCIA SIGN: Dimensions 3880 x 750. Features Caltex logo.
 - **3** ILLUMINATED PAYPOINT BUILDING FASCIA SIGN: Dimensions 3945 x 450. Features Woolworths logo.
 - **4** AIR/WATER SIGN: Dimensions 750 x 850. Features 'No Entry' text and arrow.
 - **5** "STAFF & CUSTOMER PARKING": Dimensions 750 x 850. Features 'No Exit' text and arrow.
 - **7** ENTRY SIGN: Dimensions 750 x 850. Features 'No Entry' text and arrow.
 - **8** EXIT SIGN: Dimensions 750 x 850. Features 'No Exit' text and arrow.

TJA Project Group
 TJA
 111 Pacific Highway, Newcastle & City Centre
 111 Pacific Highway, Newcastle & City Centre
 Project Management, Engineering & Drafting
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 020 422 44 715

PROPOSED SERVICE STATION
 for WOOLWORTHS LTD.
 98-102 PACIFIC HIGHWAY
 TWEED HEADS SOUTH, NSW

PROPOSED SITE SIGNAGE PLAN

DATE	DESCRIPTION	BY	CHECKED
07.02.07	ISSUE	JT	AS
07.02.07	ISSUE	JT	AS

D.A. ISSUE 0637-D08 A

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

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

Tweed Local Environmental Plan 2000

The subject site is zoned 3(c) Commerce and Trade and 2(b) Medium Density Residential.

The section of the proposed development within the 2(b) zone is a car park consisting of 4 spaces with the remaining 2(b) land being landscaped. The service station building, petrol pumps and associated signage are situated within the 3(c) component of the site.

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

Clause 16 of the TLEP requires development to be carried out in accordance with the height of buildings map. The proposed development is one storey and is consistent with the allowable height of 3 storeys for the subject site.

Clause 22 of the TLEP requires Council to consider the impact of the proposal on Minjungbal Drive. In accordance with State Environmental Planning Policy No. 11 - Traffic Generating Developments, the application was referred to the Local Traffic Committee for consideration. The Committee raised no objection to the proposal subject to a condition of consent. The recommendations of the Committee are discussed later in this report. An assessment by Council's officers indicates the development is not likely to represent a traffic hazard nor is it considered it will reduce the efficiency of Minjungbal Drive.

Clause 34 of the TLEP 2000 requires the consent authority to ensure that only flood compatible development occurs on flood liable land. Council's Development Engineer has reviewed the proposal with regards to flooding and raised no concerns regarding this matter subject to conditions of consent.

Clause 35 of the TLEP 2000 requires an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as being class two (2) land. Council's Environmental Health Officer has reviewed the proposed development and accompanying preliminary acid sulfate soil assessment and management plan and dewatering plan and has recommended appropriate conditions of consent.

Water Act 1912

The application is classified as integrated development as the proposal involves temporary dewatering for construction purposes. The application was referred to the Department of Natural Resources in accordance with Section 10 of the Water Act 1912. The Department issued general terms of approval, which included 20 conditions.

North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP applies to the subject site as it is within the region to which the NSW Coastal Policy 1997 applies.

The proposal is not considered to be inconsistent with the NSW Coastal Policy 1997, Coastline Management Manual, and North Coast: Design Guidelines. The proposal will not result in public access to the foreshore being impeded not will it result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

The proposed development is considered to be consistent with the NCREP.

State Environmental Planning Policies

SEPP No. 11 - Traffic Generating Developments

In accordance with SEPP No. 11 the proposal is identified as requiring consultation with the local traffic committee. The application was referred to the committee for comment and on 19 October 2006 the local traffic committee resolved:

“The Committee noted that there is a significant problem at the existing Woolworths petrol station on Wharf Street, Tweed Heads, where queuing vehicles regularly obstruct traffic on the service road and there are concerns that the impact of similar queuing at the subject site would be a major safety and traffic flow issue. It was noted that a plan has been submitted showing 38 vehicles queued within the site, however, at least 3 of these are impractical as they are unable to obtain fuel from these positions.

The Committee notes that whilst the traffic generation assessment is based on the RTA's Guide to Traffic Generating Developments, this document would have been based on conventional service stations, not high turnover discount service stations. Given the major disruptions queuing onto Minjungbal Drive could cause, the Committee requests that actual data obtained from similar Woolworths petrol stations be supplied, demonstrating that the traffic generation and associated on site queuing is manageable on site and, the impact of delivery semi-trailers on the capacity for queuing be addressed.

The developer needs to demonstrate that adequate sight distances are provided for pedestrians when vehicles are exiting the property, as the large sign at the exit extends to the ground level and may cause non compliance with the appropriate Australian Standards.

It is noted there is limited street lighting in this vicinity and the driveway should be lit to the appropriate standard to ensure that vehicles' turning movements and pedestrian activity are safe”.

In response to the above issues, the applicant submitted further information. Council’s Traffic and Transport Engineer reviewed the submission and advised “*the information supports the original traffic report that sufficient on-site space exists to ensure traffic does not queue across the cycleway and onto Minjungbal Drive*”.

The officer further recommended that the proposal be supported subject to a condition of consent.

It is considered that the proposal is consistent with the SEPP.

SEPP No 33 - Hazardous and Offensive Development

The proposed development is defined as a potentially hazardous industry as it includes underground fuel tanks. The applicant has addressed the requirements of the SEPP, preparing a Preliminary Hazard Analysis based on the Hazardous Industry Locational Guidelines No. 1 which provides guidance in relation to the design of automotive LPG facilities. The applicant has demonstrated the siting distances have been satisfied.

It is considered that the site is suitable for the proposed development. Council’s Environmental Health Officer assessed the application and recommended conditions of consent.

SEPP No 55—Remediation of Land

In accordance with the SEPP, the applicant submitted a preliminary site contamination investigation of the land. The report found that there are minor levels of TPH and lead in the soil in the vicinity of the rear of the existing metal shed on site. Council’s Environmental Health Officer assessed the proposal and advised that based on the levels recorded and the proposed future use of the site, contamination is not considered to be a constraint for the site. No further investigation was considered necessary.

SEPP No. 64 - Advertising and Signage

Several business identification signs and directional signs are proposed in conjunction with the proposal.

Signage to which SEPP No. 64 applies to must be assessed in accordance with Schedule 1 - Assessment criteria. The applicant has provided a submission in accordance with the assessment criteria, which is considered to be satisfactory and consistent with the assessment criteria.

1. Character of the area

The proposed signage is compatible with the existing and desired future character of the area. The signage proposed is consistent with that of surrounding developments. The proposed signage of high quality and is appropriate.

2 Special areas

The proposed signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways and rural landscapes. The two (2) business identification signs, which are likely to be visible from adjoining residential development, are 2.91m² and 1.77m² respectively. These signs are a minimum of 31m from the nearest residential development. Given the size and the physical separation between adjoining residential development, it is considered that the signage will result in an acceptable level of impact on residents.

3 Views and vistas

The signage does not obscure or compromise views nor does it dominate the skyline. As a result of the primary signage being consolidated the proposal respects existing advertising.

4 Streetscape, setting or landscape

The signage does not detract from the streetscape. It is considered that it is appropriate for the area and proposed development.

The proposed consolidated sign does protrude above the proposed petrol station building. However as this sign results in the absence of multiple smaller signs, this is considered to be acceptable.

5 Site and building

The proposed signage is compatible with existing signage within the area and is consistent with the proposed development. The site does not contain any important features which signage must have respect for.

7 Illumination

All signage is proposed to be illuminated. As discussed previously the size and the physical separation between adjoining residential development it is considered that the signage will result in an acceptable level of impact on residents. A condition of consent has been imposed as a precautionary measure to enable the intensity of the illumination be adjusted, if necessary.

8 Safety

An appropriate amount of signage is proposed which is not anticipated to affect the safety of motorists, pedestrians or cyclists. Council's Development Engineer has assessed the proposal in accordance with the standards relating to sightlines and raised no issue with the proposal.

The proposed signage is considered to be consistent with the requirements of the SEPP.

SEPP No. 71 - Coastal Protection

The subject site is not identified as being within a sensitive coastal location as defined by the SEPP. As such the application was assessed in accordance with the matters listed in clause 8 of the SEPP.

The proposed development is not considered to be inconsistent with clause 8 of the SEPP.

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

The proposal is not inconsistent with Draft LEP Amendment No. 21 - Tweed Vegetation Management Plan.

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

Development Control Plan No. 2 – Site Access and parking Code

The proposal is consistent with the requirements for a service station in accordance with the DCP as provided below:

Required	Proposed
Delivery/service vehicle = 1 space Staff parking: 0.5/staff = 1 space Customer parking: 4 spaces per work bay + 3.5 spaces per 100m ² convenience or retail store = 4.34 spaces ESD reduction 5.43 spaces x 0.80 = 4.344 spaces	1 delivery/service vehicle space 5 car spaces (including 1 disable car space)
Total: 4 car spaces 1 delivery/service vehicle space	Total: 5 car spaces 1 delivery/service vehicle space

DCP No. 5 – Development of Flood Liable Land

The subject site is identified as being flood prone. Council’s Infrastructure Engineer reviewed the proposal and advised as the proposal is not residential, Council’s requirements relate to grading of fill to the street and the flood compatibility of building materials, electricals and storage only. The officer has advised these requirements can be addressed via conditions of development consent.

DCP No. 15 – Advertising Signs Code

In accordance with the signage definitions within the DCP the signage proposed is best defined as a pole sign and fascia sign.

The proposed signage is consistent with the acceptable advertising area and height permitted within the DCP. The proposed signage is consistent with the maximum number and area of signs permitted per premises. It should be noted that directional signage such as that proposed for the entry and exit have not been included within the calculation.

The proposed signage is consistent with DCP No. 15.

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

NSW Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Demolition

Council's Building Surveyor has reviewed the proposal and recommended appropriate conditions of consent. The proposal is therefore not inconsistent with the provisions of AS 2601.

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

In addition to the likely impacts as previously discussed in this report, the following have been identified:-

Noise

Due to the nature of the proposed development, the main noise impacts expected are to be generated include vehicular movements, car door closures, unloading of delivery vehicles, fuel deliveries, mechanical plant and waste collection. The noise assessment report submitted by the applicant concludes the proposal will generally comply with the noise criteria subject to the recommended acoustic treatments and management principles being integrated into the design, construction and operation of the petrol station. Council's Environmental Health officer has assessed the proposal with regards to the likely noise impact and recommended the proposal be supported subject to conditions of consent.

Light

As discussed previously all signage is to be illuminated. As the petrol station is proposed to operate 24 hours a day, the proposal will be lit appropriately. Due to the physical separation between the subject site and adjoining residential it is considered the development will result in an acceptable level of impact on residents. Conditions of consent has been recommended requiring the light spill or glare associated with the development does not create a nuisance to any adjoining or neighbouring premises.

(c) Suitability of the site for the development

The proposed design and mitigation measures proposed in conjunction with the proposal are considered to be consistent with the desired land use character. The suitability of the site for the proposed development has been demonstrated by way of general consistency with the environmental planning instruments and development control plans.

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

The development application was advertised and placed on public exhibition for a period of 30 days. One (1) submission has been received to date regarding the application and is summarised below. The applicant addressed the matters raised in the objection. This submission was then forwarded to the landowner.

Issue	Comment	Assessment
Impacts	<i>“As this application is for a 24 hour service station my objection is to the noise, fumes and light this will generate”.</i>	The proposed development is consistent with the Tweed Local Environmental Plan 2000. The likely impacts associated with the proposal have been discussed in the impacts section of this report. Given the location of the subject site, it is not considered that the area will be significantly affected by increased vehicle emissions as a result of the petrol station. Conditions of consent have been recommended with regards to noise and light spill. This matter does not warrant refusal of the application.
Fencing	It is not clear what type and extent of fencing is proposed.	The section of fencing applicable is proposed to be a 2.6m high double lapped timber fence. This matter does not warrant refusal of the application.
Vegetation	Trees within the subject site may in the future cause damage to the adjoining property and structures on the property.	The existing vegetation on the subject site within close proximity to the proposed development footprint is proposed to be removed. This matter does not warrant refusal of the application.

(e) Public interest

Despite the issues raised in the submission, it is considered that the proposal is not contrary to the wider public’s interests.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right to appeal in the Land and Environment Court should he/she be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is generally considered to be suitable for the proposed development. The proposed development is considered to be generally consistent with the applicable planning instruments and development control plans.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

5 [PD-PC] Development Application DA06/0705 for a 2 Lot Subdivision and Erection of Dwelling and Swimming Pool on Each Lot at Lot 3 DP 214331, No. 13 Moss Street, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA06/0705 Pt2

SUMMARY OF REPORT:

Council at its meeting of 23 January 2007 resolved to defer the report to the meeting of 13 February 2007 to allow a site inspection to take place. On 1 February 2007 Council officers undertook an inspection of the site. The applicant and two (2) objectors attended the inspection to further discuss the issues raised in their submissions. The majority of the issues raised were resolved with the exception of side setbacks. Consequently, the objectors were advised the Administrators would be consulted and should they consider it necessary, a further site inspection would be arranged. The objectors were advised copies of the current plans would be forwarded for their consideration.

RECOMMENDATION:

That Development Application DA06/0705 for a 2 lot subdivision & erection of dwelling on each lot at Lot 3 DP 214331, No. 13 Moss Street Kingscliff be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos:**
 - o SD01 Issue D, prepared by Neylan Group and dated 23/11/2006,
 - o SD02 Issue D, prepared by Neylan Group and dated 23/11/2006,
 - o SD03 Issue D, prepared by Neylan Group and dated 23/11/2006,
 - o SD04 Issue D, prepared by Neylan Group and dated 23/11/2006,
 - o TPO 4 prepared by Neylan Group and dated 04/05/06,
 - o TPO 5 prepared by Neylan Group and dated 04/05/06,except where varied by the conditions of this consent.

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

[GEN0005]

[GEN0045]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
4. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications. [GEN0125]
5. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]
6. The Section 94 and Section 64 contributions applicable to this development, must be paid prior to the issue of a Subdivision Certificate or Construction Certificate for any dwelling construction, which ever occurs first. Payment of these contributions is not required prior to the issue of a Construction Certificate which covers civil works (ie - sewer and inter-allotment drainage works). [GENNS01]
7. Prior to commencement of work pursuant to this consent, a Construction Certificate shall be obtained for the following civil infrastructure works, which are NOT to be included with any Construction Certificate for dwelling construction;
 - a) Construction of sewer main infrastructure to service the subdivision.
 - b) Construction of an inter-allotment stormwater drainage and ancillary On-site Stormwater Detention system to service the subdivision.
 - c) Provision of a water service connection for the new property.
Construction of driveway access within the Right-of-Carriageway. [GENNS02]
8. The overall height of the fence situated on top of the retaining wall on the northern and southern boundaries shall be a maximum of 1.2m in height.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided. [PCC0285]

10. 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.

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.

Heavy Haulage Component

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

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

where:

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

and:

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

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

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

[PCC0225]

11. 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]

12. 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) Construction of a new footpath crossing servicing the development.
- b) Removal of the redundant footpath crossing and replacement with kerb and gutter to match existing.
- c) Provision of full width concrete path paving for the full frontage of the site to Hungerford Lane.

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]

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

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/pavement design/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works

- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

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

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

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

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

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

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

[PCC1145]

16. 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]

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

All stormwater must initially be directed to the DCP.

[PCC1165]

18. 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]

19. Prior to the issue of any Construction Certificate for dwelling construction, all servicing requirements for the new lots must be completed to the satisfaction of Council. This is particularly relevant to sewer and stormwater provisions, but other services will also need to be addressed.

[PCCNS01]

20. Building works in the vicinity of Council's existing sewer main, and the proposed branch line, are to comply with the following requirements;
- a) All footings are to be located a minimum of 1m horizontally clear of the sewer main, such that the main is outside the zone of influence of all footings. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

- b) Earthworks in the vicinity of the sewer main must maintain a minimum 600mm clear cover over the pipe.
 - c) Any above-ground structures erected over the sewer main shall provide a minimum vertical clearance of 2.4m from finished ground level to the underside of the structure or any associated protrusion.
 - d) Retaining walls are only permitted over the public sewer at the site boundaries. The structure must be designed to provide structural bridging over the pipe, as specified by Council, so as not to impose load on the pipe and to allow excavation of the pipe without adverse affects on the wall's structural integrity and stability.
 - e) Surface treatment over the sewer pipe shall be limited to soft landscaping, non-interlocking paving, asphalt or similar treatments as specified by Council officers, to allow ready access to the pipe for excavation. Council will not be responsible for the reinstatement of plantings, unauthorised structures or decorative surfacing in the vicinity of the pipe in the event of pipe excavation or other maintenance works.
 - f) Any fencing erected across the sewer main shall be designed and constructed with removable panels.
 - g) Any works to the public sewer main and/or sewer manhole located within the development site, including lowering of the manhole to match finished ground level, requires a separate application under s68 Local Government Act 1993 for approval prior to the issue of a Construction Certificate.
- [PCCNS02]
21. Any proposed On-site Stormwater Detention (OSD) system shall be separate to any stormwater quality treatment device intended for the site, unless specific approval is granted by Council for a combined system, prior to the issue of a Construction Certificate.
- [PCCNS03]
22. Prior to the issue of a Construction Certificate, the commitments as specified within the submitted Basix certificates shall be demonstrated on the DA plans. This is to be submitted to Council and be completed to the satisfaction of the Director of Planning and Development or his delegate.
- [PCCNS04]
23. A detailed plan of landscaping is to be submitted and approved by Council's Director of Planning & Development, or their delegate, prior to the issue of a Construction Certificate.
- [PCCNS01]
24. A comprehensive colourboard, detailing the materials and colours to be utilised for the external treatment of the building is to be submitted and approved by Council's Director of Planning & Development, or their delegate, prior to the issue of a Construction Certificate.
- [PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

25. 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]

26. 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]

27. 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]

28. 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]

29. 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]

30. 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]
31. 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]
32. 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]
33. 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]
34. 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]
35. 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]

36. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed. [PCW0005]
37. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans. [PCW0015]
38. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve. [PCW0705]
39. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work. [PCW0815]
40. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier shall be erected and maintained in a prominent position entry to the site in accordance with Councils adopted Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued. [PCW0825]
41. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]

DURING CONSTRUCTION

42. 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]

43. 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]

44. 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]

45. 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]

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

[DUR0415]

47. 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 Council's road reserve.

[DUR0435]

48. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.
Please note timber retaining walls are not permitted.
[DUR0835]
49. 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]
50. **Swimming Pools (Building)**
(a) The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
(b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
(c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
[DUR2075]
51. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
[DUR2085]
52. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
(a) internal drainage, prior to slab preparation;
(b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
(c) external drainage prior to backfilling.
(d) completion of work and prior to occupation of the building.
[DUR2485]
53. **Plumbing**
(a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
(b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
[DUR2495]
54. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
[DUR2515]
55. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
[DUR2535]

56. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

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

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

- * 50⁰C in all other classes of buildings.

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

[DUR2555]

58. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

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

[DUR0255]

60. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

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

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

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

[DUR0225]

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

[DUR0235]

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

[DUR0265]

65. 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]

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

[DUR0815]

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

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

[DUR1005]

68. The 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]

69. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

70. 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]

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

[DUR2405]

72. All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

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

[DUR2645]

74. Construction of the right of carriageway with widths varying from 3m to 6.5m serving lots A and B, to a concrete standard, in accordance with the provision of DCP16 - Subdivision Manual and Councils Development Design and Construction Specification.

[DUR0055]

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

Such to specifically include the following:

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

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

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

- [DUR0065]
76. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
[DUR0785]
77. 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]
78. A full width reinforced concrete footpath is to be constructed along the entire road frontage of the development to Hungerford Lane, from the property line to the back of the existing kerb in accordance with Councils adopted Development Design and Construction Specification.
[DUR1755]
79. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
[DUR1795]
80. 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]
81. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
[DUR1885]
82. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

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

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

[DUR1895]

83. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

84. 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]

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

[DUR2195]

86. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

87. 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]

88. 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.

89. 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. [POC0265]
90. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC0985]

[POC1055]

USE

91. 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).
92. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like. [USE1295]
- [USE0125]
93. Any mechanically operated pumps, swimming pool pumps, water tank pumps and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises. [USE0235]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

94. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP5: 1 ET @ \$4598 \$4,598

Sewer Kingscliff: 1 ET @ \$6688 \$6,688

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]

95. **Section 94 Contributions**

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

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

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

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

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

- (a) **Tweed Road Contribution Plan:** **\$1,820**
S94 Plan No. 4 (Version 4.0)

Sector6_4

Heavy Haulage Component

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

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

where:

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

and:

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

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

\\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- (b) **Open Space (Structured):** **\$780**
S94 Plan No. 5
- (c) **Open Space (Casual):** **\$167**
S94 Plan No. 5
- (d) **Shirewide Library Facilities:** **\$688**
S94 Plan No. 11
- (e) **Eviron Cemetery/Crematorium Facilities:** **\$131**
S94 Plan No. 13
- (f) **Community Facilities (Tweed Coast - North)** **\$492**
S94 Plan No. 15
North Coast
- (g) **Emergency Facilities (Surf Lifesaving)** **\$200**
S94 Plan No. 16

- | | |
|--|------------|
| (h) Extensions to Council Administration Offices
& Technical Support Facilities | \$1,268.80 |
| S94 Plan No. 18 | |
| (i) Cycleways | \$352 |
| S94 Plan No. 22 | |
| (j) Regional Open Space (Structured) | \$2,327 |
| S94 Plan No. 26 | |
| (k) Regional Open Space (Casual) | \$855 |
| S94 Plan No. 26 | |

[PCC0215/PSC0175]

96. 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]

97. 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 and structures are wholly contained within the drainage 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]

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

- a) Easements for sewer, water supply and drainage over ALL services on private property.
- b) A Right of Carriageway and Easement for Services (for water) varying from 3m to 4m wide, burdening Lot A and benefiting Lot B.
- c) A reciprocal Right of Carriageway totalling 6.5m in width and covering the area across the rear of both lots, for access and vehicular manoeuvring space.

- d) An Easement to Drain Sewerage a minimum 2m wide, over the proposed new line, burdening Lot B and benefiting Lot A.
- e) An Easement to Drain Sewerage 3m wide, over the existing 225mm dia. sewer main within Lot B, benefiting Council.
- f) An Easement for Drainage 1.5m wide over Lot B and favouring Lot A, covering IAD requirements.
- g) An Easement for Drainage and companion Restriction on Title over any stormwater quality treatment device or OSD system, with reciprocal rights for access and common maintenance requirements being shared by both lots.

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]

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

[PSC0855]

100. 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]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

102. 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 - Water Reticulation**
- (b) Compliance Certificate - Sewerage Reticulation**
- (c) Compliance Certificate Drainage - covering interallotment drainage works and On-site Stormwater Detention.**

Note:

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

[PSC0915]

103. The six (6) months Defects Liability Period commences upon the registration of the Subdivision Certificate.

[PSC0925]

104. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the public infrastructure sewerage system including joints and junctions will be required to demonstrate that the standard of the sewerage system is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

105. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with DCP16 - Subdivisions Manual, Councils adopted Development Design and Construction Specifications and the Construction Certificate approval.

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.

[PSC1115]

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

[PSC1165]

107. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and**
- (b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.**

[PSC1185]

108. The proposed lots shall be depicted numerically and not alphabetically.

[PSCNS01]

REPORT:

Applicant: Zinlap Pty Ltd
Owner: Zinlap Pty Ltd
Location: Lot 3 DP 214331, No. 13 Moss Street, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$1523500

BACKGROUND:

The subject site is presently occupied by a dwelling house and associated structure.

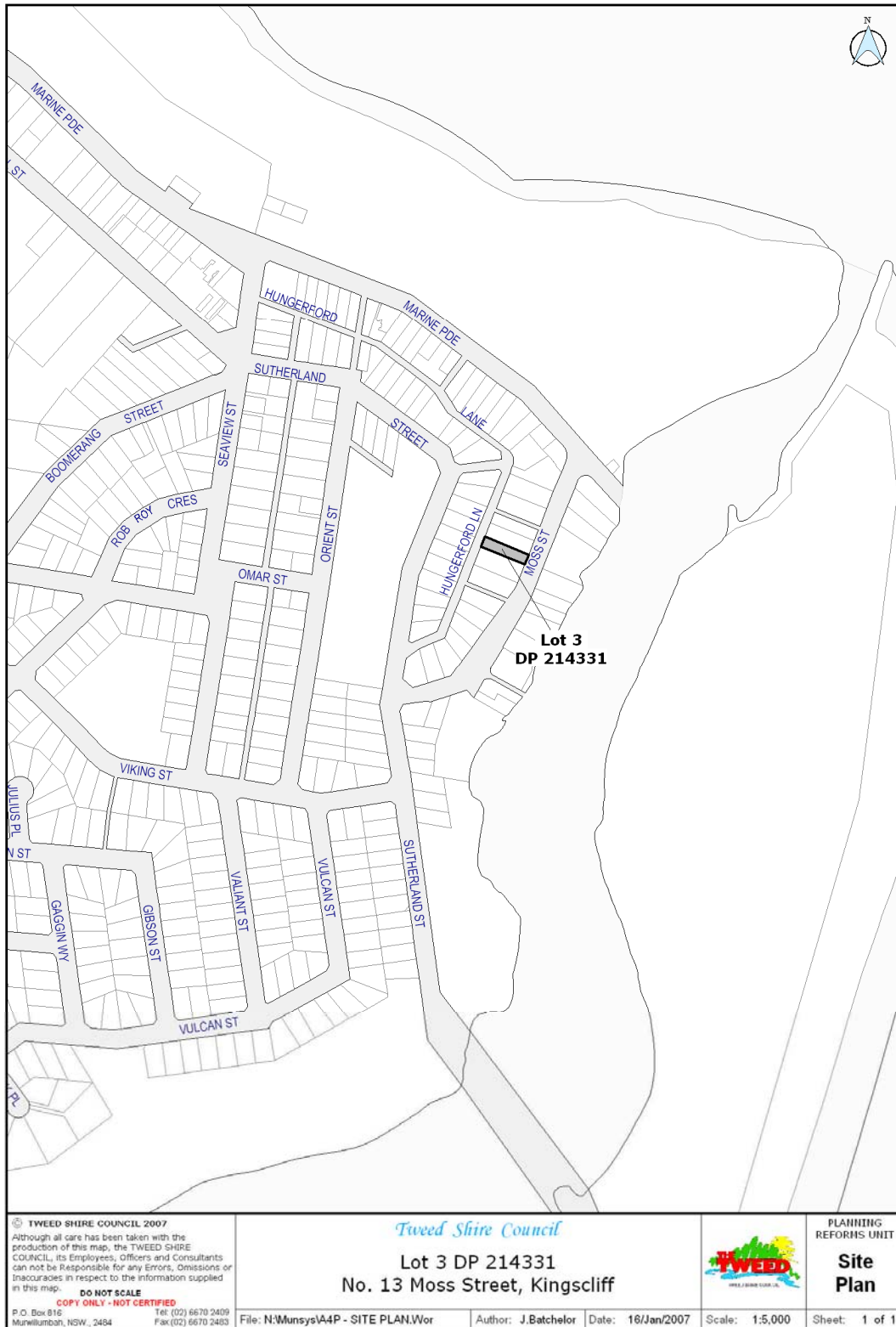
The submitted survey plan of the site demonstrates it has an area of 612.8m² with 12m road frontages to Moss Street and Hungerford Lane. The survey plan of the site demonstrates that it slopes from the western boundary (Hungerford Lane) at approximately 49m AHD down to the eastern boundary (Moss Street) at approximately 39m AHD. Vehicular access is only available to the site via Hungerford Lane. A sewerage main traverses the site and is situated approximately 8m from the eastern boundary.

On 14 January 2005 the Development Assessment Panel resolved to refuse a proposal for a multi dwelling housing development comprising of three (3) dwellings (DA04/0173) on the subject site. Council subsequently resolved at a meeting on 21 September 2005 to refuse the Review of Determination. The amendments to the development were considered to be excessive in bulk, form, scale and site coverage with insufficient setbacks and landscaping.

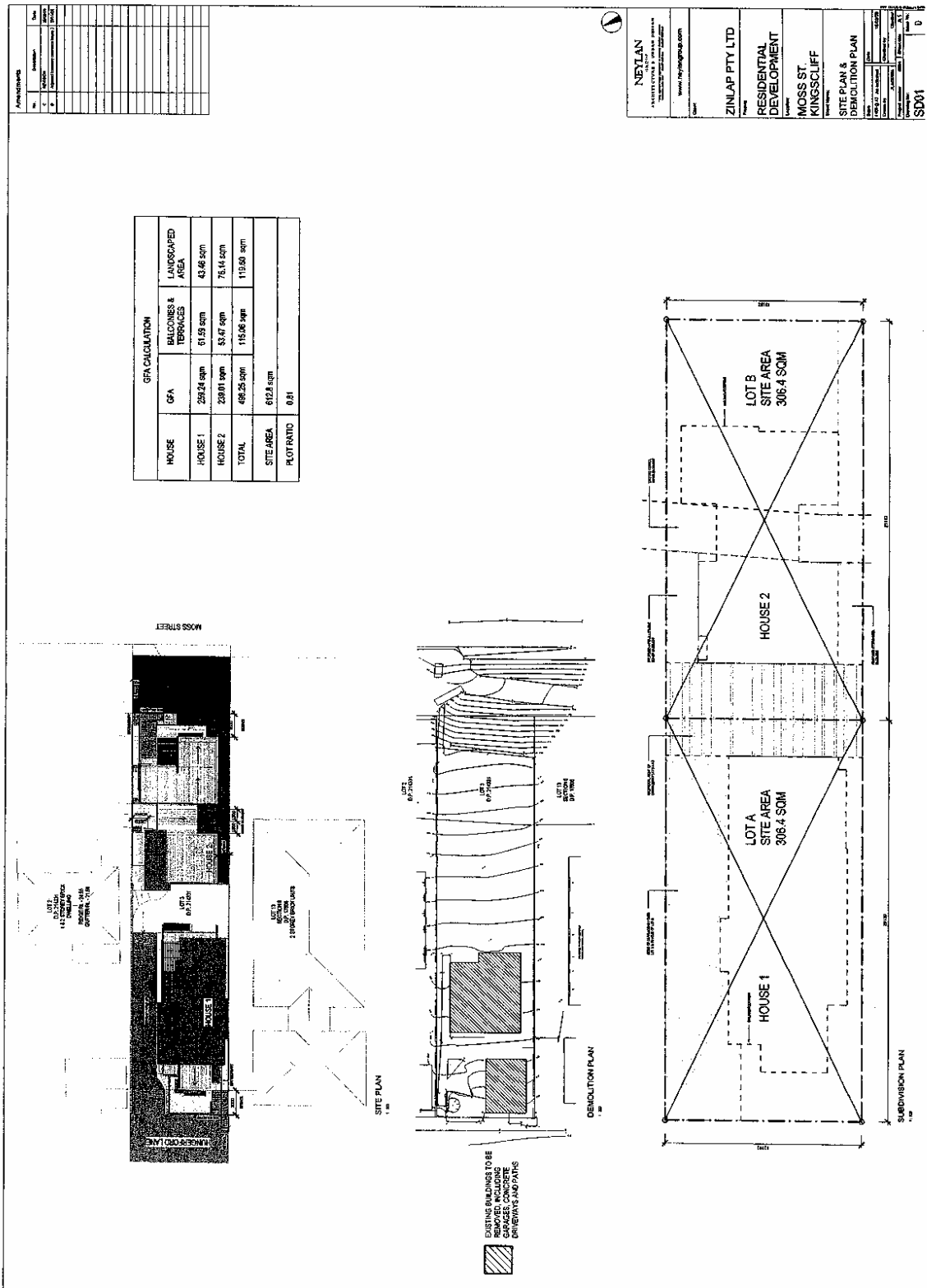
The application currently before Council seeks consent for the demolition of all structures on-site; a two lot torrens title subdivision; the erection of a three bedroom dwelling house and swimming pool on each allotment. House No. 1 is proposed to be part two and part three storeys and House No. 2 is proposed to be two storeys.

Vehicular access to the proposal is via a driveway from Hungerford Lane. The driveway leads to two partially excavated basement car parks, which can accommodate at least four cars.

SITE DIAGRAM:



SITE & DEMOLITION PLAN:



SECTIONS/ELEVATIONS:

APPENDIX 1

No.	Description	Rev.
1	1.1.1.1	1
1	1.1.1.2	1
1	1.1.1.3	1
1	1.1.1.4	1
1	1.1.1.5	1
1	1.1.1.6	1
1	1.1.1.7	1
1	1.1.1.8	1
1	1.1.1.9	1
1	1.1.1.10	1
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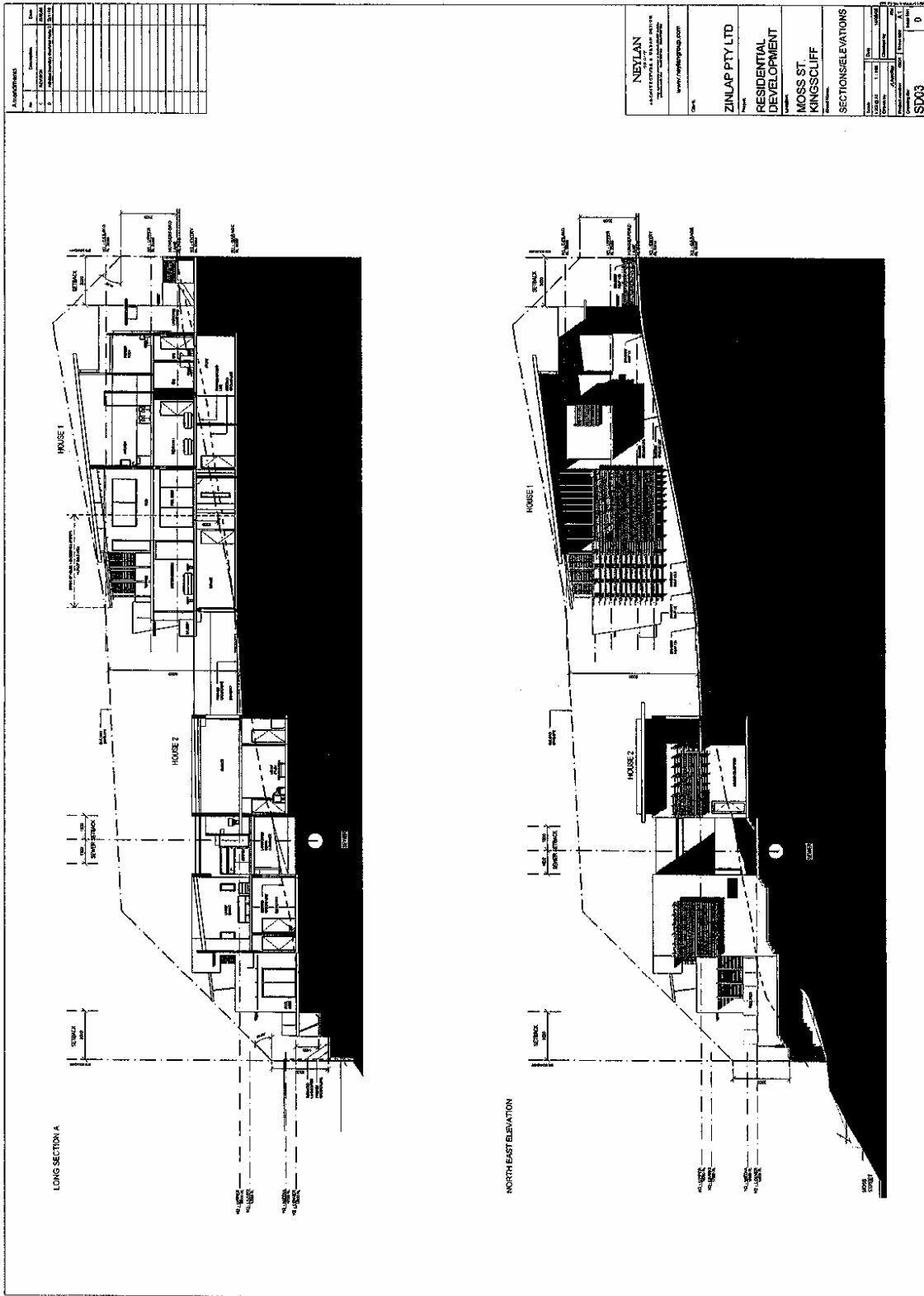
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ZINLAP PTY LTD
PROJECT
RESIDENTIAL DEVELOPMENT
MOSS ST KINGSCLIFF

SECTIONS/ELEVATIONS

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Date	0

SD04



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

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

Tweed Local Environmental Plan 2000

The subject site is zoned 2(b) Medium Density Residential. Subdivision and dwelling houses are permissible in the zone with consent.

The primary zone objective relates to the provision of medium density housing which achieves good design outcomes. The applicable secondary objective refers to discouraging the under-utilisation of land for residential purposes.

The applicant has provided the following in relation to the objectives of the zone:-

1. *"The proposal involves the construction of two dwellings on a small, constrained, sloping, narrow allotment.*
2. *The development has an overall density of 1 dwelling per 306 m².*
3. *The property is also constrained by easements required for sewer and stormwater.*
4. *Surrounding development consists of a range of development including single dwelling houses, dual occupancies and residential flat buildings. Many of the higher density residential developments with the area were approved and constructed when Council's Planning controls were way more flexible in relation to height, density, landscaping and car parking. (that is prior to Tweed LEP 2000 and DCP 6 and current version of DCP 2) The proposal in its form and scale being two detached dwellings is consistent with the mixed residential densities on surrounding allotments, and the evolving character of the Hungerford Lane/ Moss Street Residential Precinct.*
5. *The applicable two storey height limit and narrow width of the allotments severely restrict the ability to design a development with a higher density.*
6. *Council refused DA 04/0173 for a three unit development upon the site. The development attracted substantial objection from neighbours and surrounding landowners arguing this development was out of character with the area. Lucy Turnbull at the Council meeting when the application was refused stated words to the effect that the development was "too big and bulky" as reasons why she could not support the proposal.*
7. *The proposal in its detached form of two dwelling houses ensures the development is not too big and bulky or overbearing on the neighbourhood.*

8. *The proposal also has been designed by a highly qualified architect and the style of the development will not detract from the amenity of the area in terms of streetscape or visual appearance. In this regard please refer to the plans submitted for assessment”.*

“With reference to the above, the proposed development is considered to be consistent with the objectives of the zone”.

“The proposal complies with the objectives of the zone, ensures that the site is not underutilised and” in “terms of design provides a positive response to the urban environment in terms of good urban design outcome”.

Comment:

The applicant’s response in relation to the objectives of the zone are supported in this instance. The site has been maximised and developed efficiently given the physical constraints affecting the site.

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

Clause 16 of the TLEP requires development to be carried out in accordance with the height of buildings map. The subject site is affected by a 2 storey limitation. Proposed House No. 1 is part 2 storeys and part 3 storeys. A State Environmental Planning Policy No. 1 objection has been lodged to vary the development standard and is discussed later in this report. Proposed House No. 2 is consistent with the height of buildings map.

North Coast Regional Environmental Plan 1988

Clause 43 of the North Coast Regional Environmental Plan 1988 (NCREP) provides guidelines for Council when considering residential development. These controls include density, the environmental constraints on the land and road widths. The density of the proposed development has been maximised without adversely affecting the environmental features of the land.

State Environmental Planning Policies

SEPP No. 71 – Coastal Protection

The site is identified as being within a sensitive coastal location as defined by the SEPP. As such the application was referred to the Department of Planning for the Director-General’s consideration. The Department advised that the need for a master plan in this instance was not required and Council could determine the application provided the matters listed in clause 8 of the SEPP were considered.

The proposed development is not considered to be inconsistent with clause 8 of the SEPP.

State Environmental Planning Policy No. 1 – Development Standard

SEPP No. 1 enables Council to assume the Director's concurrence to a variation to a development standard where it is considered that strict adherence is both unnecessary and or unreasonable in the circumstances of the case.

A SEPP No. 1 has been lodged to vary from the permitted height limitation, which is as follows:

1. *Dwelling No. 1 – A three (3) storey element is evident in the context of the terrace area at the forward edge of Dwelling No. 1. This area encompasses an enclosed terrace area that combines as an indoor/outdoor area. This component stretches (as a 3 storey form) for a maximum of 5.6m only and as indicated above, incorporates permeable or operable/openable building elements.*
2. *This area is nominated as three (3) storeys due to the distance from NGL that exceeds 1.5m in length prior to intercepting the ground floor”.*

“The horizontal extent of the building that can be statutorily defined as 3 storeys. The latter indicates a horizontal length of 5.6m only. This represents approximately 25% of the upper dwellings external length”.

The applicant has based their justification for the variation on the judgements supported by the Land and Environment Court, particularly the judgement of Lloyd J in Winten Property Group Limited v North Sydney Council (2001):

“Is the development appropriate to its location and surrounding development?”

“It is noted that the site is located within the 2(b) zone and has therefore been identified for the purposes of medium density development – that is development of the site over and above the characteristics typical to a single dwelling house. Evidence of this is proffered by way of the nature and form of surrounding developments, a significant majority of which incorporate a building height exceeding two (2) storeys (refer to comments below also) and an actual height exceeding 8m.

The future character of the area will largely be dictated by both continued development of medium density forms, however in terms of scale, the future character will more commonly be defined by the provisions of DCP 48. In this regard, future development will largely incorporate a maximum height of 8.0m only. The latter is considered more relevant to the future character of the area than actual definition of a storey (or number of storeys requirement), as the provisions of DCP 48 are a more accurate and translatable measure of scale than the number of storeys.

Other matters of note in relation to the suitability of the development within the character of the area are as follows:-

- 1. Compliance has been demonstrated with the setback requirements of Hungerford Lane, which is the primary visual interface for the development with adjacent public areas;*
- 2. The proposal presents as a two (2) storey form to both Hungerford Lane and Moss Street;*
- 3. The proposed three (3) storey area is centrally constrained and hidden behind the Hungerford Lane façade;*
- 4. The proposal will appear as two (2) useable storeys only, with the lay person unlikely to be able to decipher whether the proposal is three (3) storeys in part;*
- 5. The proposal steps down the slope and adopts urban design principles such as are promoted within DCP 43;*
- 6. There are a significant number of existing buildings, inclusive of adjacent structures, that incorporate a form incorporating three (3) storeys and more. The latter has a significant bearing on the character of the area as it currently stands and can only lead to the conclusion that the proposal, with its minor 3 storey elements, will not be inconsistent with the current character.*

Is the development appropriate to the environmental characteristics of the land?

The form of the proposed development and indeed the introduction of three (3) storey elements is directly related to the slope of the land. In this regard, the proposed development is constrained by acceptable driveway gradient requirements adopted by Council and confirmed within its own policies. If the 3 storey element was to be pushed in to the ground further such that a compliant two (2) storey scheme resulted, then the driveway gradients proposed would provide for a slope that far exceeds council's requirements and renders internal access to the garage areas as unworkable.

Comment:

The three storey component is a result of the partially excavated basement. It is not possible to redesign this section of the basement as the grades required for vehicles to access the basement would be unacceptable.

The three storey section of House No. 1 will not be visible from Hungerford Lane and is not considered to result in an unreasonable amount of overshadowing on adjoining properties.

In this instance it is recommended that the SEPP No. 1 objection be supported.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Basix certificates were submitted demonstrating that the proposal meets the required targets. The certificates nominate a range of measures, which are required to be nominated on the DA plans such as a rainwater tank with a capacity of 2000L for each dwelling house. Not all nominated commitments are not evident on the submitted plans and will therefore be required as a condition of consent.

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

Draft State Environmental Planning Policy (Application of Development Standards) 2004

The draft SEPP was exhibited in June 2004. To date no further advice from the Department of Planning has been received regarding the progress of this document. As such, the assessment of the current SEPP No. 1 as detailed above is considered to be applicable.

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

DCP No. 2 – Site Access and Parking Code

The DCP does not nominate parking rates for dwelling houses. The applicant has provided double garages for each dwelling house, which is considered to be appropriate. Council's Development Engineer has reviewed the proposal and raised no objection to the proposal.

DCP No. 16 – Subdivision Manual

The DCP states for dwelling houses, the minimum allotment size is 450m², with a building platform of (min) 10m x 15m. The DCP further states that low density single dwellings are not encouraged.

The proposal seeks consent for the creation of two 306.4m² allotments. It is noted that the 2(b) zone does not stipulate a minimum allotment size and therefore the proposed subdivision can be considered on merit. The allotments are consistent with the building platform requirement.

Access to the site is only physically possible from Hungerford Lane due to the slope of the site and adjacent road reserve.

Council's Development Engineer has reviewed the proposal and recommended applicable conditions of consent.

DCP No. 43 – Kingscliff

The subject site is situated within the Kingscliff Hill precinct and is identified as requiring a Type 5 Building.

The DCP requires the setbacks for type 5 buildings to be established in accordance with the building height plane and setbacks requirements of DCP No. 6. Due to the steepness of the site, access from Moss Street as such Hungerford Lane is considered to be the primary street frontage.

Standard	Acceptable Solutions	Proposed
Building Envelope	45° from 3.5m above finished ground level at the side and rear boundary (excluding eaves and the like)	Minor encroachment into the roof areas of House No. 1 and 2.
Setbacks	Hungerford Lane - 6m Sides – 900mm Moss Street – 3m	3m 900mm to 4m Minimum 3m (including allowable encroachments)

The encroachments into the building envelope are minor consisting of roof areas of the dwelling houses. An assessment of the impacts associated with the height of the proposal is discussed later in this report. The assessment resolves that the height does not contribute to an unacceptable amount of overshadowing or loss of privacy for adjoining properties.

Despite the setbacks above, the strategic policy for Hungerford Lane as per DCP No. 43 requires that new developments should address the lane with low fences, landscaping, and should respect the existing low key and imposing character of development in the laneway.

The proposal has been designed to be sympathetic to the existing and approved developments. The proposed front courtyard fence and associated landscaping are consistent with the aims for the laneway. Existing developments within the area are setback at a range of approximately 1m to 6m. Developments immediately adjoining the subject site are setback approximately 1m to 1.5m. It is therefore considered that the proposed 3m setback will not impose on the character of development in the laneway.

The proposal is considered to be consistent with the DCP.

DCP No. 47 – Cut and Fill of Residential Land

Council’s Development Engineer has reviewed the proposal and accompanying geotechnical report and raised no matters of concern. The proposal is considered to be consistent with the DCP.

DCP No. 48 – Tweed Coast Building Heights

In determining the application consideration must be given to the acceptable solutions and performance provisions within the DCP. An assessment of the proposal is provided below:

Standard	Acceptable Solutions	Proposed	Consistent with Acceptable Solutions
Building Height	Height of the building from finished ground level to the uppermost ceiling or top plate of the highest external wall: 2 storey residential development: 6m 3 storey residential development: 9m	House 1: 7.2m (2 storey section) House 1: 7.6m (3 storey section) House 2: 5m (2 storey)	Refer to Performance Criteria Assessment below
	Maximum height of the building from finished ground level to the highest point on the ridge of the roof: 2 storey residential development – 8m 3 storey residential development – 11m	House 1: 7.6m (2 storey section) House 1: 7.8m (3 storey section) House 2: 6.2m (2 storey)	✓
Building Setbacks	Front setback (Hungerford Lane) is to be within a range plus or minus 25% of existing adjoining and nearby setbacks, provided that the <u>minimum setback is 6m.</u>	3m	Refer to Performance Criteria Assessment below
	Secondary front setback (Moss Street) is to be a <u>minimum of 3m</u> For dwelling houses side & rear minimum setbacks 900mm	3m 900mm	✓

Roof Design	Articulate roof structures Use of non-reflective. Screen or position ancillary structures. Suitable orientation and roof pitch. Admit winter sun and exclude summer sun from main living areas.	The roof design elements used in the proposal are a combination of flat and skillion. The SEE states that non-reflective materials are to be used on the roofs.	✓
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Building Height

The height of the proposed development is consistent with the performance criteria of the DCP. The potential impacts associated with the proposed development regarding overshadowing, privacy and views are discussed later in this report. The assessment concludes that the height of the proposal will not have an adverse impact on surrounding development.

Building Setbacks

As previously discussed the Hungerford Lane frontage is considered to be the primary street frontage. The proposed setbacks are consistent with the performance criteria.

The proposed setback is sympathetic to the existing surrounding developments and is consistent with the strategic policy for the laneway. The scale and bulk of the proposed development has been minimised by progressively increasing the setbacks of the proposal. The design of the proposal also relates to the slope of the land. The potential impacts on adjoining properties as a result of the proposal are considered to be minimal and are discussed later in this report.

DCP No. 39 – Energy Smart Homes

As discussed previously in this report, BASIX certificates have been submitted indicating the proposal will achieve the target requirements.

Building line variation

The portion of House No. 1 consists of an open courtyard area and landscaping and a section of the building. The encroachments are restricted to less than 50% of the frontage to Hungerford Lane. The proposal has been designed to incorporate the proposal being constructed over the sewer main which traversing the site. In order to develop the site efficiently and to enable the required setback from Moss Street, a 3m setback from the laneway is required. The impacts associated with this setback are discussed later in this report and concludes that it will not unreasonably impact upon adjoining properties.

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

NSW Coastal Policy

The subject land is affected by the coastal policy. The proposed development is not considered to be in conflict with the policies and strategies of the policy.

Demolition

Council's Building Surveyor has reviewed the proposal and recommended appropriate conditions of consent. The proposal is therefore not inconsistent with the provisions of AS 2601.

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

Overshadowing

Due to the nature of the proposed development and the site's characteristics, the proposal will result in some overshadowing being experienced by adjoining properties.

The submitted shadow plan demonstrates that 9am and 3pm mid winter the property to the site's immediate south, 15 Moss Street will be partly in shadow. A marginal amount of shadow will affect the property to the site's immediate north, 11 Moss Street during this time.

At 9am and 3pm mid summer the shadow plan demonstrates that 11 and 15 Moss Street will be subject to a marginal amount of overshadowing.

Existing adjoining developments are already affected by shadow as a result of the slope of the surrounding land and existing developments. It is considered that the proposed development will not unreasonably increase the amount of shadow affected by adjoining properties.

Visual privacy

The proposal has been designed to minimise the impact on adjoining properties. The internal driveway has been positioned along the site's northern boundary, which results in an increased setback from the adjoining residential development. The placement of windows and private open space areas are situated in areas of the site, which result in minimal impact on adjoining properties.

Views

It is likely that the construction of the proposed development will result in some loss of views currently enjoyed by surrounding residents. Views from adjoining properties towards the south-east and south-west, are possible as a result of the configuration and design of the proposal though these will not be as substantial as those currently available. Immediately adjoining properties will retain substantial views towards the east.

In order to retain all existing views available to adjoining properties, future development within the subject site would need to be limited to a maximum of one storey and have a small building platform situated within close proximity to Hungerford Lane. This is inconsistent with the permitted building height and objectives of the Tweed Local Environmental Plan 2000.

(c) Suitability of the site for the development

The proposed design and configuration of the development is considered to be consistent with the desired land use character and pattern. The suitability of the site for the proposed development has been demonstrated by way of general consistency with the environmental planning instruments and development control plans.

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

The proposal was advertised for a period of fourteen (14) days. During this time six (6) submissions were received. The matters raised in the submissions are outlined below. One submission refers to a separate development being built within Moss Street/Hungerford Lane this has not been included summary of the submissions.

Issue	Comment	Assessment
Inconsistencies with Council's controls	The proposal should be compliant with the setbacks specified in DCP No. 6 – Multi Dwelling Housing.	The assessment of the proposed setbacks concluded they were acceptable. This matter does not warrant refusal of the development application.
	The proposal is inconsistent with DCP No. 16.	This matter has been addressed previously in this report. This matter does not warrant refusal of the development application.

Issue	Comment	Assessment
Impact on amenity	The development and associated landscaping will block views, light and breezes enjoyed by adjoining properties to the south.	<p>The assessment of these matters found that the impacts associated with the proposal are acceptable.</p> <p>These matters do not warrant refusal of the development application.</p>
Integrity of retaining wall	The proposed internal driveway results in the need for a substantial concrete retaining wall erected on the footpath and roadway. The integrity of the wall is questioned as it may cause damage to adjoining properties if it fails.	<p>Council's Development Engineer has reviewed the proposal and raised no concern regarding the retaining wall.</p> <p>This matter does not warrant refusal of the development application.</p>
Construction of the proposal	The plans do not indicate the location of electricity supply to adjoining properties nor have they addressed how this would be maintained during construction.	<p>This matter has been considered in the assessment of the application. A condition of consent has been imposed requiring any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) must be repaired in accordance with Councils Specifications.</p> <p>This matter does not warrant refusal of the development application.</p>
	The integrity of adjoining developments should not be affected as a result of the proposal.	<p>Council's Development Engineer has reviewed the proposal and raised no concern regarding the integrity of adjoining development as a result of construction.</p> <p>This matter does not warrant refusal of the development application.</p>
	How will Council ensure that the proposal will be built as per the plans submitted?	<p>It is a condition of development consent that the proposal shall be undertaken in accordance with the approved plans.</p> <p>This matter does not warrant refusal of the development application.</p>

Issue	Comment	Assessment
Errors in the development application	Various errors have been identified within the Statement of Environmental Effects (SEE) including adjoining development descriptions, the direction of vehicular movements within Hungerford Lane and incorrect photographs within the demolition plan.	<p>It is acknowledged that there are errors within the development application including adjoining development descriptions, the direction of vehicular movements within Hungerford Lane and incorrect photographs within the demolition plan.</p> <p>Since exhibition, amended plans regarding vehicular movements into the site have been received. These plans show vehicles travelling into the site from the southern section of the lane only.</p> <p>Various site inspections have been undertaken by assessing officers to establish the existing character of the area and of the site.</p> <p>These matters do not warrant refusal of the development application.</p>
Details missing from the SEE and plans	The development does not contain any details of proposed fencing.	<p>Fencing details for the Hungerford Lane boundary only are included within the application.</p> <p>These matters do not warrant refusal of the development application.</p>
	The plans do not detail where garbage bins will be stored on-site.	<p>A condition of consent has been recommended requiring the applicant to provide a garbage storage area in accordance with Council's Code for Storage and Disposal of Garbage and Other Solid Waste.</p> <p>This matter does not warrant refusal of the development application.</p>

Issue	Comment	Assessment
Support of the proposal	We have no objection to the applicant's proposal.	This matter has been considered in the assessment of the application.
	The variation to the 3 storey height limit is considered to be acceptable. The internal driveway minimises the impact of the height on adjoining properties. This section of the House will also not affect views from adjoining properties.	

(e) Public interest

Despite the issues raised in the submissions, it is considered that the proposal is not contrary to the wider public's interests.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right to appeal in the Land and Environment Court should he/she be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is generally considered to be suitable for the proposed development. The proposed development is considered to be generally consistent with the applicable planning instruments and development control plans.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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