



AGENDA

PLANNING COMMITTEE MEETING Tuesday 23 January 2007

Chairman: Ms Lucy Turnbull

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

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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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

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

MATTERS FOR CONSIDERATION

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

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P1 [PD-PC] Development Application DA06/0282 for a Child Care Centre at Lot 12 DP 830659, Chinderah Road, Chinderah

ORIGIN:

Development Assessment

FILE NO: DA06/0282 Pt 1

SUMMARY OF REPORT:

Council at its meeting of 19 December 2006 resolved to defer the report to the meeting of 23 January 2007 to allow an additional condition of consent regarding a barrier along the sites frontage to prevent trucks and other vehicles accidentally entering the site. Subsequently, the following new condition has been incorporated into the recommendation:

"A physical barrier on the north-bound highway exit shall be erected in the vicinity of the proposed development to the satisfaction of Council's Traffic and Transport Engineer prior to issue of a certificate of occupation for the premises."

RECOMMENDATION:

That Development Application DA06/0282 for a Child Care Centre at Lot 12 DP 830659, Chinderah Road, Chinderah be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos:**
 - **G2402 Sheets 1-7 prepared by Gavin Duffie and dated 1/3/2006**
 - **Plan Nos. P.15.2 prepared by Cozen Regan Williams Prove Drawing Nos.**
 - (a) SK1 Erosion and Sediment Control Plan dated 01/06 Issue A**
 - (b) SK2 Stormwater Management Plan dated 01/06 Issue A**
 - (c) SK3 Bulk Earthworks Plan dated 01/06 Issue A**
 - (d) SK4 Bulk Earthworks Sections dated 20/7/2006 Issue A**
 - (e) SK5 Water & Sewer Reticulation Layout dated 24/7/2006 Issue A**

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. Prior to commencement of work pursuant to this consent, a Construction Certificate shall be obtained for the following civil works:

a) Extension of water and sewerage infrastructure to service the development.

[GENNS01]

6. The premise shall be constructed and operated in accordance with the Acoustic Report, Craig Hill & Associates, 16 January 2006 (including requirements for shielding of air conditioners, provision of laminated glass, carpeting external balconies). Prior to issue of an occupation certificate or use of the centre Council shall be provided with a statement from a suitably qualified person which confirms that the centre has been constructed in accordance with the recommendations and requirements of the Acoustic Report.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC1115]

8. **Section 94 Contributions**

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

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

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

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

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

Stage 1

(a) **Tweed Road Contribution Plan:** **\$36,568**
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:-

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

where:

$\$Con_{TRCP - Heavy}$ 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

Stage 2

(a) **Tweed Road Contribution Plan:** **\$37,296**
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:-

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

where:

$\$Con_{TRCP - Heavy}$ 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

[PCC0215/PSC0175]

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

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

Stage 1

Water DSP5:	58.2 ET @ \$4598	\$267,604
Sewer Kingscliff:	9.7 ET @ \$6688	\$64,874

Stage 2

Water DSP5:	58.2 ET @ \$4598	\$267,604
Sewer Kingscliff:	9.7 ET @ \$6688	\$64,874

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]

10. The developer shall provide 44 parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11. A mini bus parking area and bicycle parking for at least 7 bikes, are also required to be provided.

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 entire parking area shall be constructed as part of the Stage 1 works.

[PCC0065]

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

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

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

[PCC0455]

12. 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]

13. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

Please note timber retaining walls are not permitted.

[PCC0475]

14. a) 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.

- b) Maximum batter slope shall be 1:2 (vertical:horizontal)
- c) Filling shall be minimized in the "Play Ground and Activities Area", to provide a smooth level transition between the filled building pads of the two buildings and existing levels in the Ozone Street Road Reserve to the south. Stormwater runoff from this area may discharge to the Ozone Street Road Reserve, and need not be graded or otherwise diverted to the Chinderah Road Reserve to the east. Batter height on the Ozone Street Road Reserve boundary should not exceed 300mm, to account for local variability in existing ground levels. This batter height limit does not apply in the 6m wide setback areas around "Stage 2" building.
- d) All site filling and bulk earthworks shall be completed as part of the Stage 1 works.

[PCC0485]

15. 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.

[PCC0585]

16. 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]

17. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) The floor area of both buildings shall be at a level no less than the design flood level of RL 3.3m 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. [PCC0705]
18. 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]
19. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- a) The access driveway to Chinderah Road requires roadworks to manage ingress and egress movements in accordance with Austroads Guide to Traffic Generating Developments Part 5. Such work to include;
 - i) Widening of the pavement on the northern side of Chinderah Road to provide a right turn bay (for entry into the site) and overtaking lane for southbound through traffic, plus provision for southbound egress.
 - ii) Left turn deceleration lane on the western side of Chinderah Road for northbound traffic entering the site.
 - b) Further to the above requirements, construction of kerb and guttering and shoulder seal is required for the full frontage of the site to Chinderah Road, plus splays. This work shall include all ancillary stormwater drainage works, footpath area works and adjustments to services where necessary.
 - c) Provision of all ancillary linemarking and signposting, as well as "No Standing" signage, for both sides of the road in the vicinity of the development.
 - d) The roadworks requirements are encouraged to be designed utilising Water Sensitive Urban Design principles and Council's relevant standard road cross-sections, in lieu of standard kerb and gutter works.
 - e) Construction of a vehicular footpath crossing 6m wide at the property boundary and splaying out to 8m wide at the kerb, with a uniform taper.
 - f) Provision of concrete path paving for the full frontage of the site.
- 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
 - Sediment and erosion control plans

- Location of all services/conduits
- Traffic control plan

Note: The above requirements for road and ancillary works can alternatively be included as part of the Construction Certificate application to Council for water and sewerage works.

[PCC0895]

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

(a) copies of compliance certificates relied upon

(b) four (4) copies of detailed engineering plans and specifications.

The detailed plans shall include but are not limited to the following:

- earthworks
- stormwater drainage
- water supply works
- sewerage works
- landscaping works
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

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

[PCC0985]

21. 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]
22. 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]

23. 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]

PRIOR TO COMMENCEMENT OF WORK

- 24 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]
25. 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]
26. 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]
27. 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]

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

[PCW0665]

29. 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]

30. 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]

31. 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]

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

[PCW0705]

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.

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.

34. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate. Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works

[PCW0985]

[PCWNS01]

DURING CONSTRUCTION

35. 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]

36. 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]

37. 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]

38. 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]

39. 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]
40. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]
41. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
42. 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]
43. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.
Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified. [DUR1275]
44. Building materials used below Council's adopted design flood level of RL 3.3m AHD shall be flood compatible. [DUR1405]
45. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. [DUR1685]
46. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428. [DUR1695]

47. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
[DUR1705]
48. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.
[DUR1715]
49. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]
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. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
[DUR2505]
53. 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]
54. 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]

55. 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]

56. 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]

57. 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]

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

[DUR0825]

59. 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]

60. 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]

61. 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]

62. 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]

63. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Chinderah Road in accordance with Councils adopted Development Design and Construction Specification.
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.
- [DUR1735]
64. 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]
65. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
- [DUR1805]
66. During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.
- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.
- [DUR1825]
67. The footpath area is to be graded to the kerb and turfed for the full frontage of the site, exclusive of any other path paving or infrastructure requirements.
- [DUR1865]
68. 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]

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

[DUR2355]

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. 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]

72. Construction of water and sewerage infrastructure in Chinderah Road shall be carried out in accordance with the requirements of DCP 16, including all nominated testing procedures.

[DURNS01]

73. 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]

74. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0805]

75. 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]
76. 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]
77. 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]
78. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
79. All works shall be completed in accordance with Council's adopted Acid Sulfate Soil Management Plan for Minor Works. [DURNS02]
80. 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 50 mg/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. [DURNS03]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

81. 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]
82. 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]
83. Prior to the issue of an occupation certificate,
(a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and
(b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
(i) the method of protection; and
(ii) the date of installation of the system; and
(iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
(iv) the need to maintain and inspect the system on a regular basis. [POC0235]

84. 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]
85. 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]
86. Work as executed plans are to be provided to Council in accordance with Councils adopted Development Design and Construction Specification.

The plans shall be endorsed by a registered surveyor and must verify;

- a) The finished floor level of the building(s).
- b) Completion of the extension of public infrastructure water and sewerage systems.
- c) All road and public infrastructure stormwater works.

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

- [POC0765]
87. 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]
88. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

- [POC1055]
89. Prior to the issue of an Occupation Certificate or Interim Occupation Certificate and also prior to the end of the defects liability period, a CCTV inspection of all public infrastructure sewerage and stormwater pipes including joints and junctions will be required to demonstrate that the standard of the infrastructure works 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.

[POCNS01]

90. Prior to issuing a an Occupation Certificate or an Interim Occupation Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to the site in accordance with the relevant requirements of 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.

[POCNS02]

91. 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.

[POCNS03]

92. 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.

[POCNS04]

93. A physical barrier on the north-bound highway exit shall be erected in the vicinity of the proposed development to the satisfaction of Council's Traffic and Transport Engineer prior to issue of a certificate of occupation for the premises.

USE

94. 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]

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

[USE0175]

96. Hours of operation of the business are restricted to the following hours:-
* 6.30am to 6.30pm - Mondays to Fridays
* No operations are to be carried out on Sundays or Public Holidays
* All deliveries and pickups relating to the business are to occur within the approved hours
[USE0185]
97. 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]
98. The premises shall be maintained in a clean and tidy manner.
[USE0965]
99. All car park lighting shall not be permitted to spill beyond the boundaries of the site.
100. All activities within the centre shall be "managed activities" as indicated in the Acoustic Report, Craig Hill & Associates, 16 January 2006, such that they do not unreasonably impact the amenity of any other premise. Noise from outdoor play areas shall be managed in accordance with the "Noise Management Plan" dated 3 November 2006 (Craig Hill Acoustics).
[USENS01]
101. Noise from the premise shall not be permitted to unreasonably impact the amenity of any premise.
[USENS02]
102. Children shall only be permitted to access or play in the outdoor activity areas between the hours of 8.30am and 4.30pm.
[USENS03]
103. Kitchen areas shall be used for staff meals only and shall not be used for preparation of food for the children.
[USENS04]

REPORT:

Applicant: Redback Enterprises
Owner: Redback Enterprises Pty Ltd
Location: Lot 12 DP 830659 Chinderah Road, Chinderah
Zoning: 2(a) Low Density residential
Cost: \$990,000

BACKGROUND:

The subject site is legally described as Lot 12 DP 830659 and is located in Chinderah Road Chinderah. The land is low lying and will require the importation of fill to achieve a RL of 3.0m resulting in the ultimate importation of no more than 1.5m in fill across the site.

As part of this development it is also proposed to extend the sewer line to accommodate the development, and strata the site at a future time. In this regard Council's Development Engineer raised no objection to the Strata as the amended plan now fully includes the car parking area within common property.

The surrounding properties are primarily zoned 2(a) low density residential with some 4(a) industrial land further from the site. The adjacent allotment to the north accommodates a caravan park containing approximately 30 sites. While to the south the site is adjoined by the unconstructed road reserve of Ozone Street. Opposite the site is the Chinderah Scout Association, which is located on land zoned for Community Purposes.

This application proposes the establishment of a child care centre that will ultimately accommodate 180 children. The proposal will be developed in two stages. Each stage involves a separate stand-alone building that will cater for a total of 90 children each. Each building will have its own reception, offices, staff room and kitchen totalling 581.3m² each. Each building will be able to accommodate 48 pre-school age children, 32 toddlers, and 10 babies.

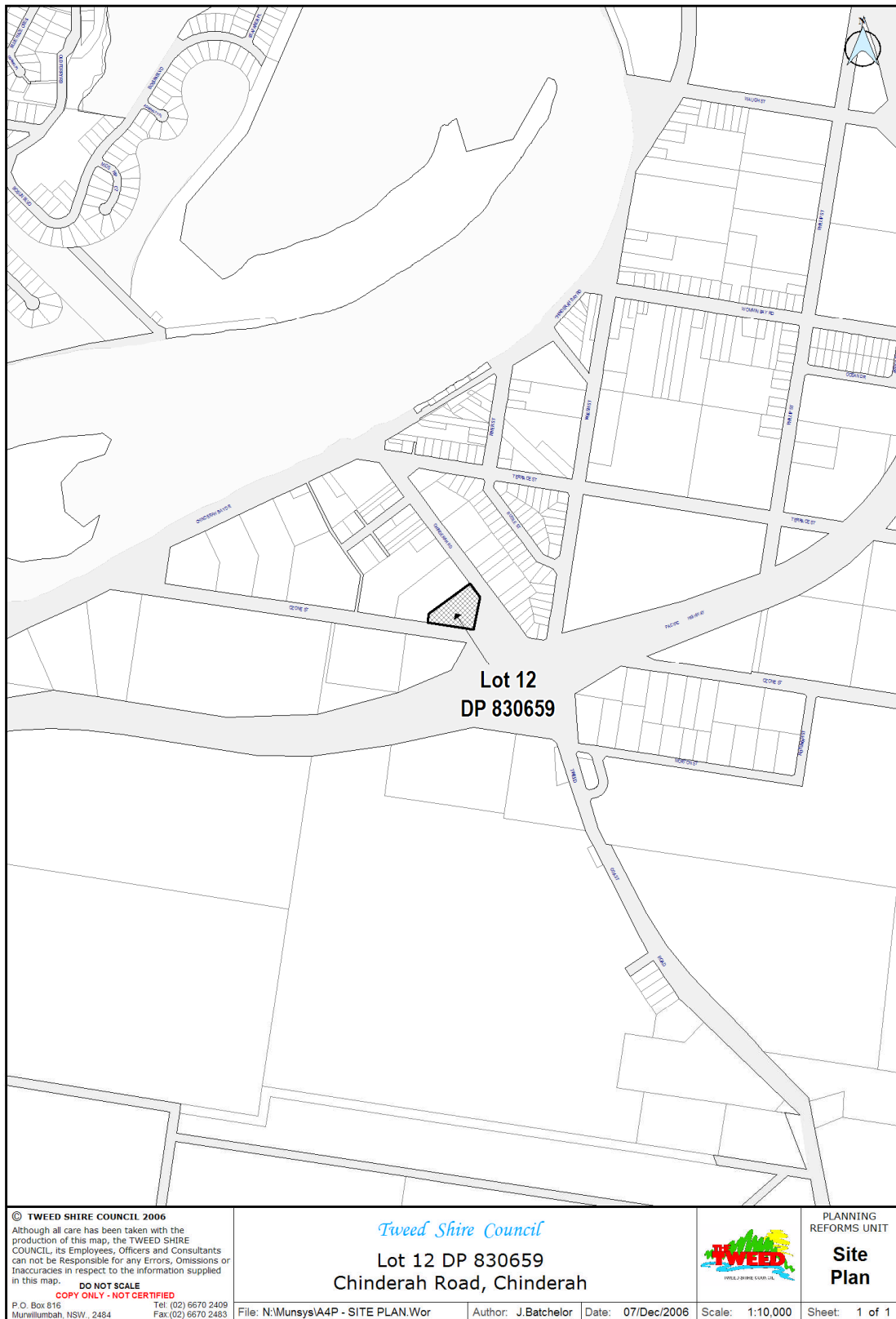
The proposal will have a total of 44 onsite parking spaces, which are all proposed as part of Stage 1.

A maximum of 14 staff are proposed with each stage incorporating no more than seven staff members.

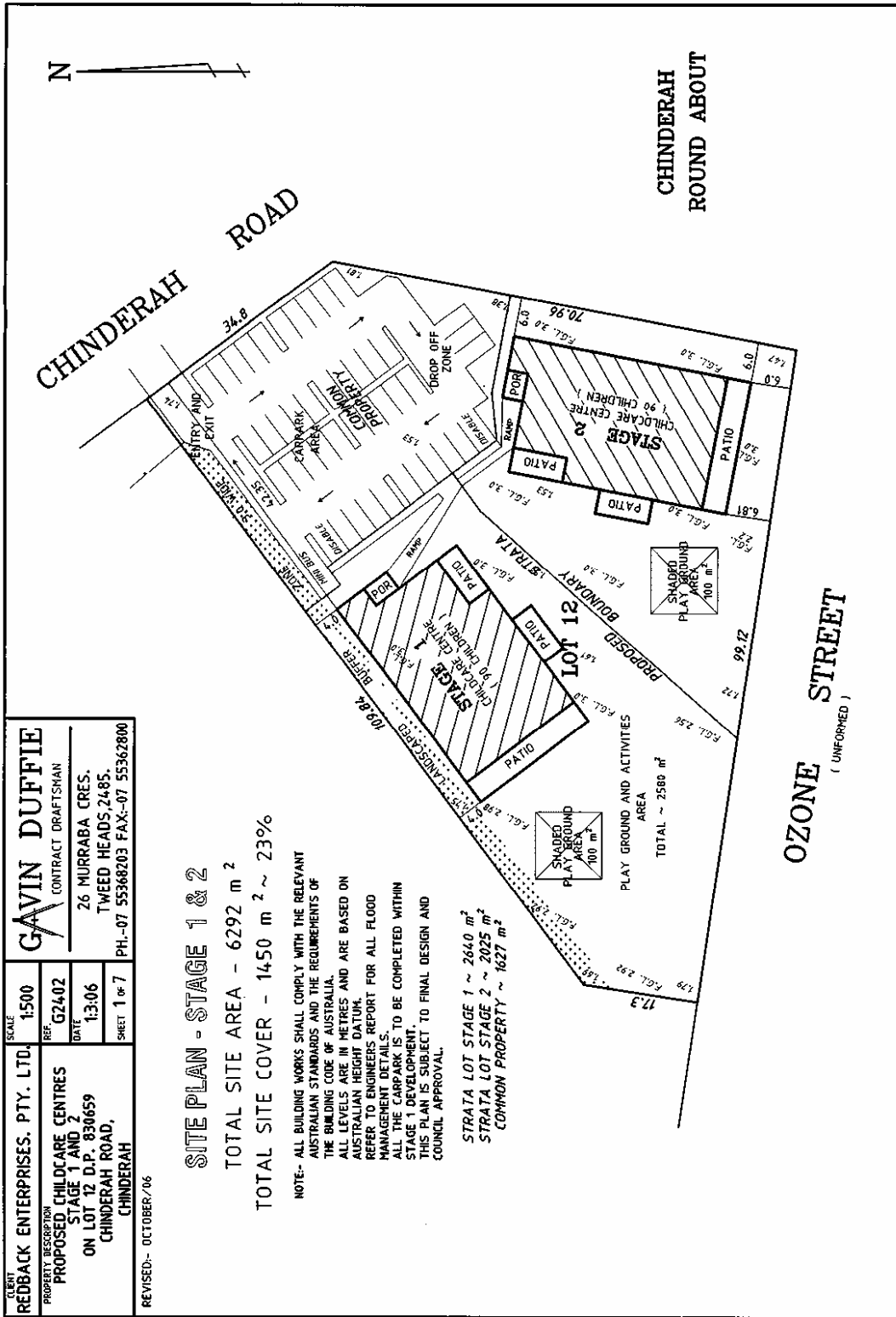
The applicant proposes that the child care centre will operate between the hours of 6.30am and 6.30pm.

The proposed development was notified to surrounding properties and submissions could be received within a period of two weeks. During this period 6 written submissions were received with issues of concern in regards to traffic, noise, safety and lawfulness. Despite these objections the application is considered to warrant conditional approval.

SITE DIAGRAM:



SITE LAYOUT PLAN:



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

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

Clause 11 - The subject land is zoned 2(a) – Low Density Residential under the provisions of the Tweed Local Environmental Plan 2000. The objectives of the 2(a) zone includes:

- *To provide for and maintain a low density residential environment with a predominantly detached housing character and amenity;*
- *To allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale, and height is compatible with the primary objective;*
- *To allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone*

The proposal is defined as a 'childcare centre' under the TLEP 2000 and permissible with development consent in the 2(a) zone. The proposal is considered consistent with the aims and objectives of the 2(a) zone and is seen to satisfy the provisions of Clause 11.

Clause 15 of the TLEP requires Council to ensure adequacy of services prior to determining the application.

The site is not serviced by Council's water mains, which ends at the front of the adjoining property, approximately 74m away from the northern corner of the site. However, the main can be extended to service the site. Standard Sec.64 charges will apply, with no initial credit applicable.

The site is not currently serviced by Council's sewer main infrastructure, which ends at the front of the adjoining property, approximately 74m away from the northern corner of the subject site. The invert level at this manhole has been checked and is 3.1m below ground level. A gravity sewer line extension from this manhole will be able to service the site, as indicated by the reticulation plan provided after the first request for further information. A construction certificate will be required for this work, with inspections and testing to be carried out as per DCP16 requirements. Works As Executed plans also required. Standard Sec.64 charges apply, with no initial credit applicable.

Connection to telecommunications would be readily available, even though the site itself would not currently be connected, as it adjoins a long established residential area and there is existing infrastructure in the street frontage.

A garbage collection service, and mail delivery service is also available to the area.

Appropriate conditions of consent are recommended to ensure the sewer and water is extended. Therefore, all essential services will be available to the subject site.

Clause 16 of the TLEP requires Council to ensure that the height and scale of development is appropriate to the site and the surrounding built and natural environment. The subject land has a height limitation of 3 storeys with the proposal comprising single storey development.

Clause 22 of the TLEP requires Council to protect and improve the capacity, efficiency and safety of designated roads. Chinderah Road is a Council Designated Road. The proposal is considered generally in accordance with the provisions of Clause 22 and has been reviewed by Council's Traffic and Transport Engineer, and Council's Development Engineer. Based on consideration of all this input the application is considered appropriate having regard to its potential impacts on Chinderah Road and its capacity to act as a Designated Road. Clause 22 is considered satisfied.

Clause 34 of the Tweed LEP 2000 requires Council to minimise future potential flood damage. Council Infrastructure Engineer has reviewed the proposal and provided the following comments:

The land is currently vacant and lightly vegetated, with existing ground levels between RL 1.4 and RL 1.8m AHD. The design flood level for the subject land is RL 3.3m AHD, and as such, the site is flood liable and the provisions of DCP5 apply. According to the Tweed Valley Flood Study 2005, main flood flows in the vicinity of the site travel parallel to the motorway south of Ozone Street. Low velocity flood flows also traverse the site towards the north, at less than 0.05m/s.

As the proposal is non-residential, Council's Infrastructure Engineer reconsidered his initial requirement for the floor level to have 0.5m freeboard, and has accepted a floor level of RL 3.3m AHD.

Appropriate conditions of consent have been recommended.

Clause 35 - The site is affected by Class 3 Acid Sulfate Soils. Council's Environment & Health Unit advises that the submitted ASS Management Plan for minor works is satisfactory and appropriate conditions of consent have been applied.

Clause 47 of the TLEP requires Council to ensure advertisers' messages and images are conveyed whilst, complementing and conforming to the character of the locality, does not adversely affect the locality in terms of appearance, size, illumination, overshadowing or proliferation of signs, and does not detract from the scenic qualities of the area of Tweed. The proposal does not involve any signs and therefore all signage will need to be subject to a separate application.

North Coast Regional Environmental Plan 1988

Clause 32B of NCREP applies as the subject land is located within the NSW Coastal Policy. The proposal is unlikely to create any overshadowing to beaches or waterfront open space or impede public access to the foreshore area, nor does the proposal contradict the strategic aims and objectives of The New South Wales Coast Government Policy, The Coastline Management Manual and, The North Coast: Design Guidelines.

State Environmental Planning Policies

State Environmental Planning Policy No. 11 Traffic Generating Development

On advice from the RTA the proposed child care centre is defined as an education establishment for the purposes of SEPP11.

Subsequently the application was forwarded to the Regional Traffic Committee in accordance with Schedule 1 (i) of SEPP 11, which catches the subject application as detailed below;

- (i) *Educational Establishments accommodating 50 or more students or the enlargement or extension of existing educational establishments to accommodate an additional 50 or more students.*

The Regional Traffic Committee met on 18 May 2006 and discussed the project. No objection was raised provided Council addressed the following points:

- *Provision for safely managing right and left turning traffic into and out of the development;*
- *Demonstration that this development will not have an adverse impact on the peak time operation of Chinderah Road round about;*
- *The car park can not be dedicated to a single centre and must allow common use;*
- *Adequate off street parking is provided to cater for the peak expected arrival times; and*
- *Adequate off street servicing of the development.*

Council's Traffic and Transport Engineer advised that

"The site should be provided with safe access as Chinderah Road will become busier in terms of traffic.

It is requested that the following condition be included on any approval:

1. *The applicant is to construct upgrading of Chinderah Road at the driveway access to include widening for right turning vehicles into the development and a left turn lane into the site, such upgrading to be completed prior to use of the centre.*

Prior to construction, detailed engineering plans are to be submitted and approved by Council for the upgrading works in compliance with Austroads Guide to Traffic Generating Developments Part 5 and relevant Council standards. The plans are to include:

- a) *Widening of the pavement on the northern side of Chinderah Road to enable through traffic to pass vehicles turning right onto the site;*
- b) *Left turn lane on the southern side of Chinderah Road into the site.”*

Council's Traffic and Transport Engineer further provided that

“Chinderah Road has adequate capacity to absorb traffic generated by the development... “

All other RTA requirements have been addressed through amended plans and conditions of consent.

State Environmental Planning Policy No. 71 – Coastal Protection

The proposal has been assessed having regard to Clause 8 of the Policy. In this regard the proposal is considered satisfactory with respect to attaining the clause 8 matters.

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

There are no draft EPIs of significance to this proposal.

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

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

The car parking requirements for childcare facilities are based on the number of children and staff attending the centre. The proposal involves 180 children and 14 staff members. With a requirement of 1 space per 10 children and 0.5 spaces per staff, the parking requirement under DCP 2 is **25** spaces. The proposed development also requires 1 delivery space, bringing the total parking requirement to **26** spaces (without any applicable reductions being applied). In addition, DCP 2 requires seven (7) bicycle spaces to be provided. The proposed development incorporates a total of **44** off-street vehicle spaces, with adequate room for bicycle parking.

Council's Development Engineer raised no objection to the onsite parking provided it was all constructed within Stage 1. An appropriate condition of consent has been recommended.

Development Control Plan No. 5 – Development of Flood Liable Land

Council's Infrastructure Engineer has noted that the subject site is flood liable. DCP 5 specifies the design flood level as RL 3.3m. Ground floor levels of the buildings are proposed at RL 3.3m. The development is for a commercial purpose, with DCP 5 requiring building materials and electricity supply to be flood compatible. Appropriate conditions of consent have been applied in this regard.

Development Control Plan No. 26 – Childcare Centres

DCP 26 contains specific controls for Child Care Centres, particularly within residential zones. The criteria of DCP 26 and the applicants response is discussed as follows:

2.1 Residential Areas

- (a) *In residential zones Council shall strongly favour the location of child care centres adjacent to non-residential uses such as retailing uses (neighbourhood shopping centres), schools, community facilities and the like.'*

The site is located in the vicinity of detached housing and immediately adjoins a caravan park containing 30 sites. It is opposite non-residential uses comprising a Scout Hall. It appears from the assessment undertaken that with appropriate design characteristics in place a childcare facility could be an satisfactory land use for the site.

The DCP states:

- (b) *The development of child care centres on "infill" sites within low density residential areas shall not be favoured unless:*
- (i) *The lot has a minimum area of 800m², a 3.0 metre perimeter landscape buffer with adjacent properties and a minimum 1.8 metre high intervening fence. If the proposed building and play areas comprising the Child Care Centre are 10 metres or more from any adjacent dwelling, then the 3.0 metre landscape buffer and 1.8 metre high fence is not required. Some landscaping and fencing will still be required, however, each application will be treated on its own merits;*
 - (ii) *The applicant can demonstrate that noise emanating from the use of the child care centre will not be detrimental to the amenity of adjacent residents;*
 - (iii) *Car parking is provided in such locations that will minimise disturbance to adjacent neighbours by the frequent arrival and departure of cars; and*

- (iv) *The overall traffic impact to the immediate neighbourhood is not detrimental to the amenity.*

The site has an area of 6292m² and includes a minimum 3-metre setback to all boundaries, which can accommodate landscaping and fencing on residential boundaries.

Council's Environment and Health Unit have reviewed the proposal and provided the following comments regarding amenity and DCP 26:

Part 2.1 of the DCP stipulates certain minimum considerations or requirements for the child care centres. In my assessment, the application initially proposed certain variations to those minimum requirements without reasonable justification.

*Part 2.1(b)(i) requires a minimum 1.8m high fence on the boundary - submission complies. This part also requires a 3.0m wide perimeter landscape buffer. To achieve this requirement it may have been necessary to modify the location of one building. Given that noise sources need to be managed and various construction elements are required to manage noise (and the fact that the adjacent premise is a caravan park where residents are likely to be sensitive - note possible child drop offs occurring at 6.30am and 6.30pm) the placement of a 3.0m wide vegetative buffer may be advisable (to improve visual amenity and the perception of noise exposure). The Acoustic Report proposes to 'manage' activities rather than provide the buffer. **The applicant's specific comment (and acoustic consultant support if necessary) is sought to justify this variation from the DCP. A variation to the DCP buffer requirement may not be advisable in this case.***

*Part 2.1(b)(iii) requires carparking to be provided 'in such locations that will minimise disturbances to adjacent neighbours'. It is noted that the car parking is immediately adjacent to the boundary and the adjacent dwelling (caravan park office/dwelling). **Part 6.5 of the Acoustic Report does not justify this proposal. Note the comment above that the Acoustic Consultant is to provide further comment. This is necessary to justify the variation to DCP 26 requirements, if they are approved.***

The following amendments have been made by the applicant in response to the above.

Plans have been amended - one building moved 1m to facilitate provision of a 3m wide boundary landscape buffer as per DCP 26. Also, the car park layout has been modified to relocate the drop-off area furthest from the adjacent caravan park site. The acoustic report also originally required an acoustic fence and certain building elements to reduce noise impacts.

Further, an 'Activities Management Plan' was submitted which basically indicates the time when children will be permitted outside. The Plan does not include provision for contingencies, direct supervision, contact details or any other aspect of site management which may be necessary to ensure impact on local amenity. On the positive side, the Plan does restrict children play activities external to the building to 8.30am to 4.30pm (a condition can be applied regarding this restriction).

The applicant also advised, with respect to car parking noise that the 'acoustic consultant cannot confirm or deny that the levels from the car park will comply with the relevant criteria'.

I have subsequently contact the acoustic consultant, Craig Hill, directly and discussed the development. He has provided further comment - refer to the attached information dated 3 November 2006. It indicates that noise from the car park will be 'within recommended levels'. It also indicates that noise from the outdoor play area will be 'within recommended levels'. A 'Noise Management Plan' has also been provided which includes basic details of additional management measures.

No objection, subject to conditions.

Based on the above assessment the proposed development is considered to comply with the provisions of DCP 26.

Development Control Plan No. 42 – Public Notification

The proposed development was notified for a period of 14 days, during which six submissions were received. These are discussed later in this report.

(a) (iv) 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. It is not considered that the proposed administration, training and playgroup facility contradicts 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

Noise Impact

Council's Environmental Health Officer has reviewed the application and provided the following comments:

An Acoustic Report has been provided (Craig Hill & Associates, January 2006). The report considers potential impacts of the proposed centre on adjoining premises and potential impacts of road traffic noise on the centre.

The centre is proposed to be operated between the hours 6.30am to 6.30pm Monday to Friday. These seem reasonable hours for the location.

With respect to the potential for the centre to impact other premises, the report indicates that subject to certain conditions, 'noise from managed activities would be within the required criteria'.

The applicant was requested to advise what is meant by the term 'managed activities' and confirm their intention to achieve same.

Further, the statement under Part 6.5 regarding car park noise is very brief and initially failed to indicate that noise levels will comply.

With respect to the potential for road traffic noise from the freeway to impact the centre, the report indicates that subject to certain conditions, noise levels will be within 'acceptable maximum standard requirements'. Conditions to be applied

With respect to managed activities, the applicant now advises managed activities refers to managed external play times. These will generally include co-ordinated outdoor activities within the play area or on the external balconies. Managed activities are different from general open play activities where children's activities are unsupervised.

I have discussed this with the applicant and he advised that it is the applicants intention that relevant activities will be conducted or managed accordingly. It is my opinion having regard for the comments in the Acoustic Report, that appropriate management of play activities is required to prevent unreasonable impacts on the adjacent premise. Therefore the applicant is requested to submit a specific management plan for all relevant play areas, which details measures proposed to manage play activities. Compliance with this management plan will be a condition of consent.

Based on the recommended conditions of consent noise from the proposed development is considered to be capable of management within acceptable levels.

Contributions

The proposed development is considered to generate Section 64 and Section 94 Contribution fees in relation to Water, Sewer, Council Administration and TRCP. These fees have been calculated giving 1ET credit for the land parcel only which has been credited to Stage 1.

(c) Suitability of the site for the development

Allotment Drainage

The site is flatly graded with the southeastern corner being the lowest spot on the site. Existing ground levels range between RL 1.4m to RL 1.8m AHD which is marginally below the level of Chinderah Road, being at approx. RL 1.7 to RL 1.9m AHD.

Council's Infrastructure Engineer has provided comments as follows;

"The proposed stormwater system relies on piped stormwater services to convey roof and hardstand carpark runoff to an open drain in Chinderah Road. At the time of inspection, the roadway verge was overgrown and there was little evidence that an adequate stormwater service exists along this frontage to cater for the development. Discharge to the open drain within Ozone Street road reserve would therefore be preferred."

The subsequent submission of an amended stormwater plan prompted the following response from Council's Infrastructure Engineer;

"The piped roof and carpark drainage systems shown in the engineering plans are generally supported, and may discharge to either the Chinderah Road or Ozone Street road reserves"

The proposal to pipe all roofwater and car park runoff to the eastern boundary and openly discharge in the direction of the Chinderah Road table drain, will not work due to the required road and K & G works along this frontage. These roadworks will probably include stormwater drainage works, thus enabling a direct connection to Council infrastructure.

It is considered that stormwater requirements can be satisfactorily addressed by way of conditions of consent, instead of requesting further amended plans.

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

The application was advertised and notified to adjoining neighbours who were given 14 days to make a submission on the proposal. During this period Council received six objections including representation from the Roads and Traffic Authority. The issues raised are detailed below:

ISSUE	ASSESSMENT
<i>This would have to be the worst corner/roundabout in the Tweed because of the number of near misses and accidents. To place children in this location would be dangerous.</i>	<p>An application is sought for a childcare facility catering for babies, toddlers and pre-school age. Children will not be arriving at the site unaccompanied but rather will need to be signed and signed out for at time of departure.</p> <p>Subject to the recommended conditions of consent to improve site access, the site is considered capable of accommodating the traffic associated with the development in a safe manner.</p>
<i>Chinderah Road is busy and dangerous.</i>	<p>As detailed above subject to the recommended conditions of consent to improve site access, the site is considered capable of accommodating the traffic associated with the development in a safe manner.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
<i>You will have people leaving the site going over double lines, and creating greater congestion on the round-a-bout.</i>	<p>Council's Traffic and Transport Engineer has provided conditions of consent to ensure that the following works occur to</p> <ul style="list-style-type: none"> a) widening of the pavement on the northern side of Chinderah Road to provide a right turn bay (for entry into the site) and overtaking lane for southbound through traffic, plus provision for southbound egress; and b) left turn deceleration lane on the western side of Chinderah Road for northbound traffic entering the site. <p>Subject to the recommended conditions of consent the site is considered capable of accommodating the traffic associated with the development in a safe manner.</p>

<p><i>The back of Ozone Street is unformed and contains an open drain that is full of mosquitos, snakes and mice. This is not a suitable location for children from a health perspective.</i></p>	<p>The issue of vermin (snakes and mice) as well as mosquitoes was discussed with Council's Entomologist. He has responded to similar notifications at the adjacent caravan park in the recent past. He advised that the site is seasonally subject to mosquitoes however the risk of spread of disease would be no greater than any other area. He also mentioned that diseases such as Ross River Fever do not tend to impact children, and are more prevalent in the adult population.</p> <p>Furthermore, the subject site will be filled and will have retaining walls and batters to support the filled envelope. With fencing, landscaping and supervision the proposed site is considered suitable as a place of education for early childhood.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
<p><i>You would have to re-zone the land for this development and this would not be supported by the community.</i></p>	<p>The subject site is currently zoned 2(a) Low Density Residential. In this zone a child care centre is permissible with consent subject to compliance with the zone objectives. As detailed in the above report the application is considered to be capable of conditional consent as it is considered a suitable location. No re-zoning is required given the flexibility within the existing zone.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
<p><i>It is our understanding that the land has no pre-existing development rights for business as the land is zoned low density residential.</i></p>	<p>As detailed above the 2(a) zone permits childcare centres without the need for a pre-existing development rights for business.</p> <p>Subject to the recommended conditions of consent the site is considered capable of accommodating the development in a safe manner.</p>

<p><i>We are concerned about the safety issues involved in locating a child care centre this close to the Pacific Highway and on a major collector road. Road traffic noise and the impact of a possible Service Centre being placed on adjoining and need to be considered. The proposed development is located very close to a major round-a-bout and it also appears as if this development does not provide for adequate off-street parking which will encourage additional on street parking.</i></p>	<p>Council's Traffic and Transport Engineer has reviewed the submission received from the RTA and has specially provided that the site parking, access and standard of Chinderah Road is suitable for the proposed development subject to the recommended conditions of consent.</p> <p>Specifically Council Traffic and Transport Engineer provided that Chinderah Road has adequate capacity to absorb traffic generated by the development.</p> <p>Subject to the recommended conditions of consent the site is considered capable of accommodating the development in a safe manner.</p> <p>This objection does not warrant amendment or refusal of the application.</p>
<p><i>A childcare centre would not be compatible with the adjoining caravan park which mainly caters for over fifty and elderly retirees. A childcare centre would impact on their health through noise and an increase in traffic.</i></p>	<p>As detailed in the above report Council's Environmental Health Officer has reviewed the application specifically in regard to noise and the appropriateness of the development and its potential impact on adjoining properties.</p> <p>Based on the recommended conditions of consent regarding noise and acoustic treatment the proposed development is considered acceptable.</p>

Despite these objections the application is recommended for conditional approval as the application is considered to comply with the requirements of Council's Policies and zone objectives.

(e) Public interest

The proposed development is generally considered to reflect the provisions of all applicable development control plans and intended development for the locality. It will provide a much needed service to the local community and should be supported.

OPTIONS:

1. Approve the application in accordance with the recommendations
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with the determination of Council they have a right of appeal to the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

An amended version of the proposed development has been able to achieve acceptable access and traffic provisions for the local road network. Therefore, approval for proposed childcare centre should be supported.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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P2 [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:

The proposed development with the exception of part of the building being three (3) storeys, is consistent with the Tweed Local Environmental Plan 2000 and is generally consistent with the applicable Development Control Plans.

A State Environmental Planning Policy No. 1 objection has been lodged for a variation to the building height. It is supported in this instance as the development presents as two (2) storeys to both Hungerford Lane and Moss Street.

Six submissions have been received to date regarding the proposed development and the issues raised are addressed in this report.

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 C, prepared by Neylan Group and dated 18/05/06,**
 - o **SD02 Issue C, prepared by Neylan Group and dated 18/05/06,**
 - o **SD03 Issue C, prepared by Neylan Group and dated 18/05/06,**
 - o **SD04 Issue C, prepared by Neylan Group and dated 18/05/06,**
 - 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**

[GEN0005]

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. **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]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0285]

9. **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]

10. 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]

11. 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]

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

- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications.

The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/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]

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

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

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]

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

[PCC1155]

16. 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]
17. 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]
18. 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]
19. 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]
20. 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]
21. 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]
22. 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]
23. 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

24. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.
 - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. [PCW0080]
25. 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.
26. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0215]
- [PCW0225]
27. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - in the name and licence number of the principal contractor, and
 - the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - the name of the owner-builder, and
 - if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- [PCW0235]
28. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]
29. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- [PCW0255]
30. 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]

31. 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]

32. 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]

33. 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]

34. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

35. 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]

36. 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]

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

[PCW0705]

38. 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]

39. 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]

40. 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

41. 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]

42. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

46. 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]

47. 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]

48. 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]

49. 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]

50. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

51. 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]
52. 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]
53. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
54. 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]
55. 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]
56. 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]
57. 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]

58. 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]

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

[DUR0645]

60. 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]

61. 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]

62. 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]

63. 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]

64. 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]

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

[DUR0815]

66. 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]

67. 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]

68. 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]

69. 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]

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

[DUR2405]

71. 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]

72. 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]

73. 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]

74. 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]

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

[DUR0785]

76. 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]

77. 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]

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. 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]

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

[DUR1885]

81. 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]

82. 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]

83. 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]

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

[DUR2195]

85. 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

86. 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]

87. 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]

88. 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]

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

[POC1055]

USE

90. Swimming Pools (Building)

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

[USE1295]

91. 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]

92. 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

93. 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]

94. **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)

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

Admin. Administration component - 5% - see Section 6.5

- (b) Open Space (Structured): \$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: S94 Plan No. 13	\$131
(f) Community Facilities (Tweed Coast - North) S94 Plan No. 15 North Coast	\$492
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$200
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$1,268.80
(i) Cycleways S94 Plan No. 22	\$352
(j) Regional Open Space (Structured) S94 Plan No. 26	\$2,327
(k) Regional Open Space (Casual) S94 Plan No. 26	\$855

[PCC0215/PSC0175]

95. 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]

96. 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]

97. 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]

98. 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]

99. 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]

100. 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]

101. 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]

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

[PSC0925]

103. 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]

- 104. 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]

- 105. 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]

106. 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]

- 107. 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.

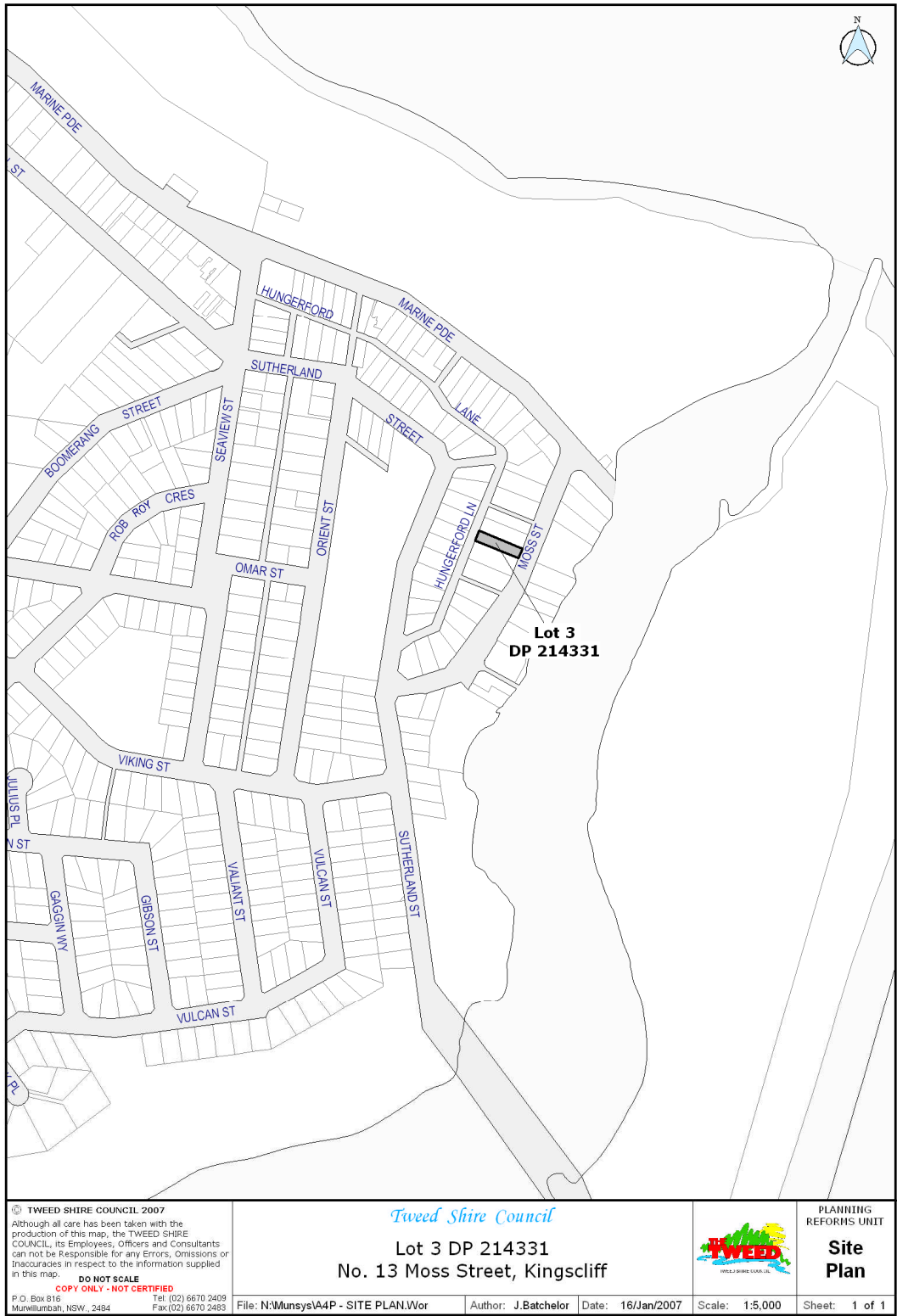
The submitted survey plan of the site demonstrates it has an area of 612.8m² with 12m road frontages to Moss Street and Hungerford Lane. The survey plan of the site demonstrates that it slopes from the western boundary (Hungerford Lane) at approximately 49m AHD down to the eastern boundary (Moss Street) 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:



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 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 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 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.

Impact on amenity	The development and associated landscaping will block views, light and breezes enjoyed by adjoining properties to the south.	The assessment of these matters found that the impacts associated with the proposal are acceptable. These matters do not warrant refusal of the development application.
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.	Council's Development Engineer has reviewed the proposal and raised no concern regarding the retaining wall. This matter does not warrant refusal of the development application.
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.	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. This matter does not warrant refusal of the development application.
	The integrity of adjoining developments should not be affected as a result of the proposal.	Council's Development Engineer has reviewed the proposal and raised no concern regarding the integrity of adjoining development as a result of construction. This matter does not warrant refusal of the development application.
	How will Council ensure that the proposal will be built as per the plans submitted?	It is a condition of development consent that the proposal shall be undertaken in accordance with the approved plans. This matter does not warrant refusal of the development application.

<p>Errors in the development application</p>	<p>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>	<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>
<p>Details missing from the SEE and plans</p>	<p>The development does not contain any details of proposed fencing.</p>	<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>
	<p>The plans do not detail where garbage bins will be stored on-site.</p>	<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>
<p>Support of the proposal</p>	<p>We have no objection to the applicant's proposal.</p> <p>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.</p>	<p>This matter has been considered in the assessment of the application.</p>

(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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P3 [PD-PC] Development Application DA06/1023 for a transportation of water at Lot B DP 953668, No. 308 Numinbah Road Kynnumboon

ORIGIN:

Development Assessment

FILE NO: DA06/1023 Pt 1

SUMMARY OF REPORT:

Council is in receipt of a development application for the transportation of water from the subject site to a property in Boonah Queensland. The company is known as 'Pristine Water Supplies Pty Ltd'. Development approval was given through DA05/1507 for tanks and numerous small demountable structures associated with the site. The water is to be removed from the existing tanks on the site and transported by two semi trailers along Cane Road and Tweed Valley Way to the state border. There would be a total of four truck movements per day.

A condition (20) was also incorporated into DA05/1507, which stated the following:

'The water from the bore and the tanks is purely for the use on the subject land being Lot B DP 853668. No water from the tanks or bore is to be transported from the land. A separate development application will need to be submitted and approved by Council prior to any water being transported from the land'.

The applicant has satisfied this condition by submitting this application.

It should be noted that the applicant submitted a S96 application (DA05/1507.02) for the deletion of Condition No. 20 of the consent. This S96 application was refused.

The subject land has an area of 32.37 Hectares and is located along Numinbah Road. Surrounding land consists of small to large rural agricultural land holdings with scattered dwellings and structures. The site does not accommodate any further structures. Access to the site is via a well-constructed gravel based road.

Two submissions were received to the advertising of the development proposal.

RECOMMENDATION:

That Development Application DA06/1023 for a transportation of water at Lot B DP 953668, No. 308 Numinbah Road Kynnumboon be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
2. No commercial operations are to occur on site. [GENNS01]
3. Trucks are to travel along the submitted and approved truck route. [GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. 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: \$4,367
S94 Plan No. 4 (Version 4.0)

Sector12_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

[PCC0215/PSC0175]

USE

- 5. 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]
- 6. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.**

[USE0145]
- 7. Trucks are only to enter and leave the site during the hours of 7am to 7pm Mondays to Fridays and are limited to four (4) truck movements per day ie. 2 in 2 out.**

[USENS01]

REPORT:

Applicant: Mr P Walmsley, Mr S Brown, Lykapa Pty Ltd, Mr A Mack and Mrs JC Mack
Owner: Mr PN Walmsley, Mr SD Brown, Lykapa Pty Ltd, Mr AN Mack and Mrs JC Mack
Location: Lot B DP 953668, No. 308 Numinbah Road Kynnumboon
Zoning: 1(a) Rural
Cost: \$5000

BACKGROUND:

An application has been received for the transportation of water from the subject site to a property in Boonah Queensland. The company is known as 'Pristine Water Supplies Pty Ltd'. Development approval was given through DA05/1507 for tanks and numerous small demountable structures associated with the site. The water is to be removed from the existing tanks on the site and transported by two semi trailers along Cane Road and Tweed Valley Way to the state border. There would be a total of four truck movements per day.

The applicant through DA05/1507 obtained the relevant licences from the Department of Natural Resources for a bore under Part 5 of the Water Act 1912 Licence No. 30BL183384. The applicant is restricted to 45 Megalitres of extracted water annually as a condition by the Department of Natural Resources.

A condition was also incorporated into DA05/1507, which stated the following:

'The water from the bore and the tanks is purely for the use on the subject land being Lot B DP 853668. No water from the tanks or bore is to be transported from the land. A separate development application will need to be submitted and approved by Council prior to any water being transported from the land'.

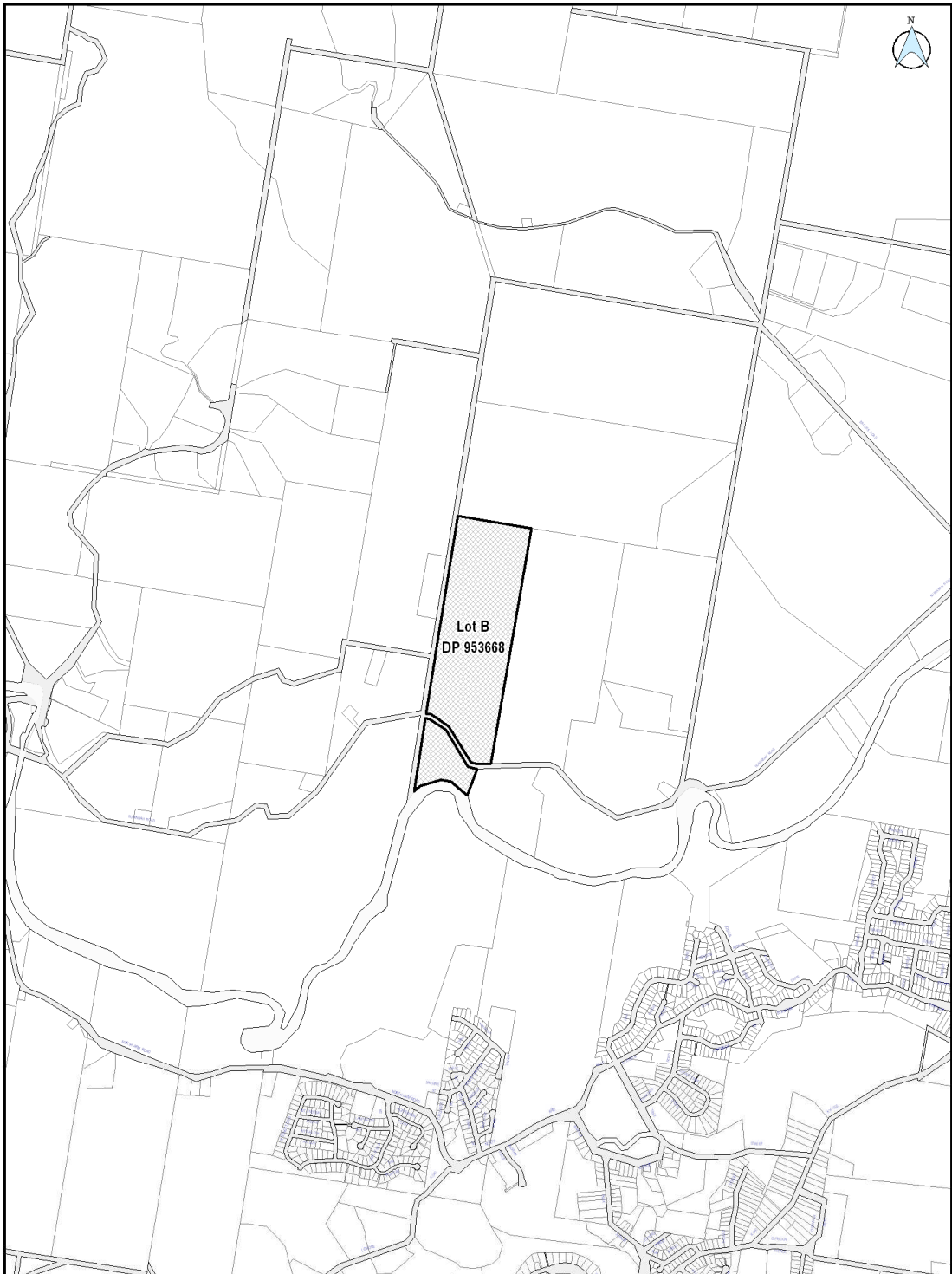
The applicant has satisfied this condition by submitting this application.


It should be noted that the applicant submitted a S96 application (DA05/1507.02) for the deletion of Condition No. 20 of the consent. This S96 application was refused.

The site presently extracts certain amounts of water for the purpose of watering crops on the applicant's property in Boonah, Queensland. The applicant further currently transports water from the site. It was determined that no action was to be taken, as the applicant has since lodged a Development Application in accordance with Condition No. 20 of DA05/1507.

The subject land has an area of 32.37 Hectares and is located along Numinbah Road. Surrounding land consists of small to large rural agricultural land holdings with scattered dwellings and structures. The site does not accommodate any further structures. Access to the site is via a well-constructed gravel based road.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2007 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot B DP 953668 No. 308 Numinbah Road, Kynnumboon</p>		<p>PLANNING REFORMS UNIT Site Plan</p>
<p>File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Batchelor Date: 16/Jan/2007</p>		<p>Scale: 1:20,000</p>	<p>Sheet: 1 of 1</p>

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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 1(a) Rural. The primary objectives of the zone are:

- To enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource purposes and associated development.
- To protect the rural character and amenity.

The initial assessment of the application for the storage tanks and the bore took into account the zone objectives in relation to the extraction of water. DNR and Council have approved the extraction of water, therefore the zone objectives have been satisfied.

Clause 17 of TLEP makes reference to a Social Impact Assessment. A Social Impact Assessment was not required as part of this application. The site currently operates to extract water. To date the applicant has spent \$1.5 million on the site, and local contractors are also used to service and maintain the complex equipment.

Clause 35 of TLEP makes reference to Acid Sulfate Soils. The subject site is ASS Class 3. Consent was given to bore water, taking into account ASS. For the purpose of this application, the proposal is for the transportation of water, which will not impact upon ASS.

North Coast Regional Environmental Plan 1988

There are no clauses applicable under the NCREP.

State Environmental Planning Policies

There are no SEPP's applicable to this application.

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

There are no current draft planning instruments applicable to this application.

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

Development Control Plan No. 2 – Access and Car Parking

For the purpose of this application there is no specific DCP2 requirements for this application. The only issue is that of access. As part of DA05/1507 site access was assessed and approved through the relevant driveway application (DWY05/0524).

Development Control Plan No. 42 – Public Notification Policy

The application was publicly notified for a period of 14 days from Wednesday 4 October 2006 to Wednesday 18 October 2006. During this period 2 submissions were received and are detailed further within this report.

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

There are no matters applicable to this application.

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

The development is not likely to create any adverse environmental impacts on the locality. The proposal is only for the transportation of water from approved bores. No further physical works are proposed or likely.

It is considered that the development should provide a positive economic benefit to the local economy by employment to local contractors and other economic benefits.

(c) Suitability of the site for the development

Context and Setting

The subject property is set within a rural environment incorporating tanks for the storage of water extracted from underground bores. The activities occurring are typical of a rural industry, however no specific operations of this nature occur. The transportation of water in normal operating hours during the day, and the limit on trucks entering and leaving the site will be placed as per a condition of consent.

Access, Transport and Traffic

The application was forwarded to Council's Traffic Engineer for comment in relation to access and traffic. A section 138 application was approved and issued as part of the previous application. A further information request was sent in relation to additional information demonstrating the proposed access has adequate sight distance as specified in Austroads Guide to Traffic Generating Developments and also pavement widening for each side of the access point.

This information was received and forwarded to the Traffic Engineers. The information provided was sufficient and a S138 Application was approved and issued. Trucks will enter and leave in a forward direction alleviating any safety concerns. There are no further traffic implications.

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

The application was publicly notified for a period of 14 days from Wednesday 4 October 2006 to Wednesday 18 October 2006. During this period 2 written submissions were received. The issues raised were:

1. *Unknown effect to the local water table due to the extraction;*
2. *Original application was for fibreglass water tanks, however a shed has now been constructed;*
3. *Applicant is already transporting water off site;*
4. *More trucks entering and leaving the site than that proposed; and*
5. *The long-term effects by removing large quantities of water.*

Response:

1. The applicant has the relevant bore licences from the Department of Natural Resources. The impact upon the water table was addressed within the initial assessment of the bore by DNR. If the watertable were to be significantly impacted upon DNR would not have issued a licence to bore water. Furthermore only 45 Megalitres of water per year is to be extracted.
2. The original application sought Council approval to construct a shed and fibreglass tanks for the water extraction business. Site inspection revealed that the existing structures are in accordance with the approved development application.
3. The applicant was originally transporting water from the site on a daily basis. A condition was incorporated into the original consent stating that any transportation of water off site is to be subject to a separate development application, which the applicant has now submitted. A site inspection was carried out and it was noted that a semi trailer was currently on site. The applicant was requested by phone call to cease any transportation of water from the site. To date the applicant has not transported any further water from the site until the consent is issued.

4. The applicant has stated that 4 truck movements are to occur on a daily basis. The applicant will be conditioned to only 4 truck movements per day and is to travel along the submitted and approved truck route.
5. The Department of Natural Resources assessed the likely impact of the bores and raised no specific concerns subject to strict conditions within their licence. At this point the application is only for the transportation of water and is not deemed a major concern.

With regards to the issues raised, most are very relevant, however, for the purpose of this application are not deemed to warrant refusal of the application.

(e) Public interest

The application is deemed to be within the public's interest and satisfies all relevant planning controls.

OPTIONS:

1. Approve the Development Application.
2. Refuse the Development Application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

It is not envisaged that any policy implications will arise as a result of this application being approved.

CONCLUSION:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P4 [PD-PC] Development Application DA06/0964 for the demolition of dwelling and erection of multi dwelling housing comprising six residential units at Lot 8 Section 5 DP 758571, No. 43 Kingscliff Street Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA06/0964 Pt1

SUMMARY OF REPORT:

Council is in receipt of a Development Application for the demolition of an existing dwelling and the erection of a residential flat building consisting of 6 residential units with basement carparking for 12 vehicles in a three-story configuration.

Access to the basement car park will be via Kingscliff Street, with 2 visitor spaces and 1 car wash bay located to the rear of the site gaining access off Kingscliff Lane.

Each of the units will incorporate 3 bedrooms, generous living and dining areas, large kitchen and bathrooms and balconies to the front, sides and rear.

Landscaping is provided to the site and a 1.1m rendered fence is to run along the front boundary. The existing dwelling is to be demolished as part of this application.

The application was notified for a period of 14 days. During that period no submissions were received.

The proposed development application is recommended for conditional approval.

RECOMMENDATION:

That Development Application DA06/0964 for the demolition of dwelling and erection of multi dwelling housing comprising six residential units at Lot 8 Section 5 DP 758571, No. 43 Kingscliff 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 Plan Nos 1088/06 Sheets 1-4 and 1088/03 Sheet 5 prepared by Planit Consulting and dated July 2006, except where varied by the conditions of this consent.**

[GEN0005]

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.
[GEN0015]
3. 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]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
5. 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]
6. 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]
7. All car parking spaces including visitor and car wash bay are to be identifiable by way of signage.
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. The developer shall provide a minimum of 9 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]
9. 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]
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: S94 Plan No. 4 (Version 4.0) Sector6_4	\$4,732
(b) West Kingscliff - Drainage: 0.0308 ha @ \$32708 DCP No. 9 S94 Plan No. 7	\$1,007.41
(c) West Kingscliff - Open Space: DCP No. 9 S94 Plan No. 7	\$7,599
(d) Shirewide Library Facilities: S94 Plan No. 11	\$2,012
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$409
(f) Community Facilities (Tweed Coast - North) S94 Plan No. 15 North Coast	\$2,460
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$586
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$3,708.45
(i) Cycleways \$1,028 S94 Plan No. 22	
(j) Regional Open Space (Structured) S94 Plan No. 26	\$6,799

(k) **Regional Open Space (Casual)** **\$2,499**
S94 Plan No. 26

- [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 DSP5: 3.8 ET @ \$4598	\$17,472
Sewer Kingscliff: 5 ET @ \$6688	\$33,440

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. **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]

13. **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.**

[PCC0585]

14. **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]

15. 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 3.8m 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]
16. 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 Section 138 approval. Safe public access shall be provided at all times.
- [PCC0865]
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) Construction of a 1.2m wide concrete footpath along the Kingscliff Street frontage. These plans must show how the footpath and driveway crossover will be constructed to Council's minimum standards. Details of the footpath transition at the eastern property boundary must also be provided.
- [PCC0895]
18. 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]

19. 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 at the entry point to the proposed development.

[PCC1105]

20. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. 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.

[PC C1165]

21. 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]

22. 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]

23. 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".
24. 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.
25. Where water is to be drawn from Councils reticulated system, the proponent shall: -
- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
 - Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
 - Payment of relevant fees in accordance with Councils adopted fees and charges.
26. In accordance with Section 68 of the Local Government Act, application shall be made to Council for any proposed sewerage drainage system. Details shall include as a minimum hydraulic drawings, pipe sizes, details of materials and agreement from adjoining property owners to enter onto their land if necessary.
27. 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.

[PCC1155]

[PCC1185]

[PCC1205]

[PCC1225]

[PCC1235]

28. Prior to issue of the S138 application and the Construction Certificate for the building works the applicant shall submit engineering details showing the driveway width at the kerb as 6.5m in accordance with Section 5.1 of DCP No. 2 and that the lines of sight at the boundary comply with Section 4.1.2 of DCP No. 2.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

29. 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]

30. 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]

31. 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]

32. 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]
33. 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]
34. 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]
35. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or

- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

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

[PCW0705]

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

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

[PCW0765]

39. 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]

40. 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]

41. 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]

DURING CONSTRUCTION

42. 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]

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

[DUR0015]

44. 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]
45. The driveway is to be constructed 3.5 metres wide at the property boundary and 6.5 metres wide at the kerb line with a uniform taper.

[DUR0075]

46. The provision of a minimum 9 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]

47. 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]

48. 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]

49. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

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

[DUR0395]

51. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0405]
52. It is the responsibility of the applicant to restrict public access to the 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]
53. 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]
54. 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]
55. 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]
56. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
57. 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]
58. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning. [DUR0915]
59. Provision of an adequate turfed area, or other suitable media, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area. [DUR0965]
60. 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]

61. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Occupation Certificate.
[DUR0995]
62. 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]
63. 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]
64. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.
[DUR1045]
65. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Kingscliff Street in accordance with Councils adopted Development Design and Construction Specification.
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.
[DUR1735]
66. 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]
67. 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]

68. 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]
69. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
[DUR1885]
70. 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]
71. The written consent of the registered proprietors of adjoining land, where the said works encroach thereon is to be submitted to Council prior to works commencing.
[DUR2005]
72. 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]
73. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.
[DUR2025]
74. 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]
75. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]
76. 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]
77. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils adopted Design and Construction Specification.
[DUR2355]

78. 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]
79. 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]
80. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
81. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate. [DUR2425]
82. All waters that are to be discharged from the site 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]
83. 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]
84. 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]
85. 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]
86. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]

87. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
88. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged. [DUR2525]
89. 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]
90. 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.
91. 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]

92. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*). [DUR2615]
93. No Acid Sulfate Soils are to be disturbed or exposed during construction. [DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

94. 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]
95. 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]
96. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]
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. 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]

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

[POC1045]

USE

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

[USE0125]

101. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0135]

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

[USE0175]

103. 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]

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. 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]

106. The premises shall be operated in accordance with the *Public Health (Swimming Pools and Spa Pools) Regulation 2000* and the current NSW Health Public Swimming Pool and Spa Pool Guidelines.

[USE0985]

REPORT:

Applicant: Fairlane Pty Ltd
Owner: Sauber Pty Limited and Fairland Developments Pty Limited
Location: Lot 8 Section 5 DP 758571, No. 43 Kingscliff Street Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$1200000

BACKGROUND:

The application currently before Council seeks consent for the erection of a multi dwelling housing development comprising of 6 units within a three-storey building. All units will contain 3 bedrooms.

The subject site is presently occupied by a single story dwelling known as 43 Kingscliff Street. The existing dwelling has been in place for a considerable time and is quite run down.

The land has a total area of 822m² with a Kingscliff Street road frontage of 22.169m and backs onto Kingscliff Laneway. The site is relatively flat.

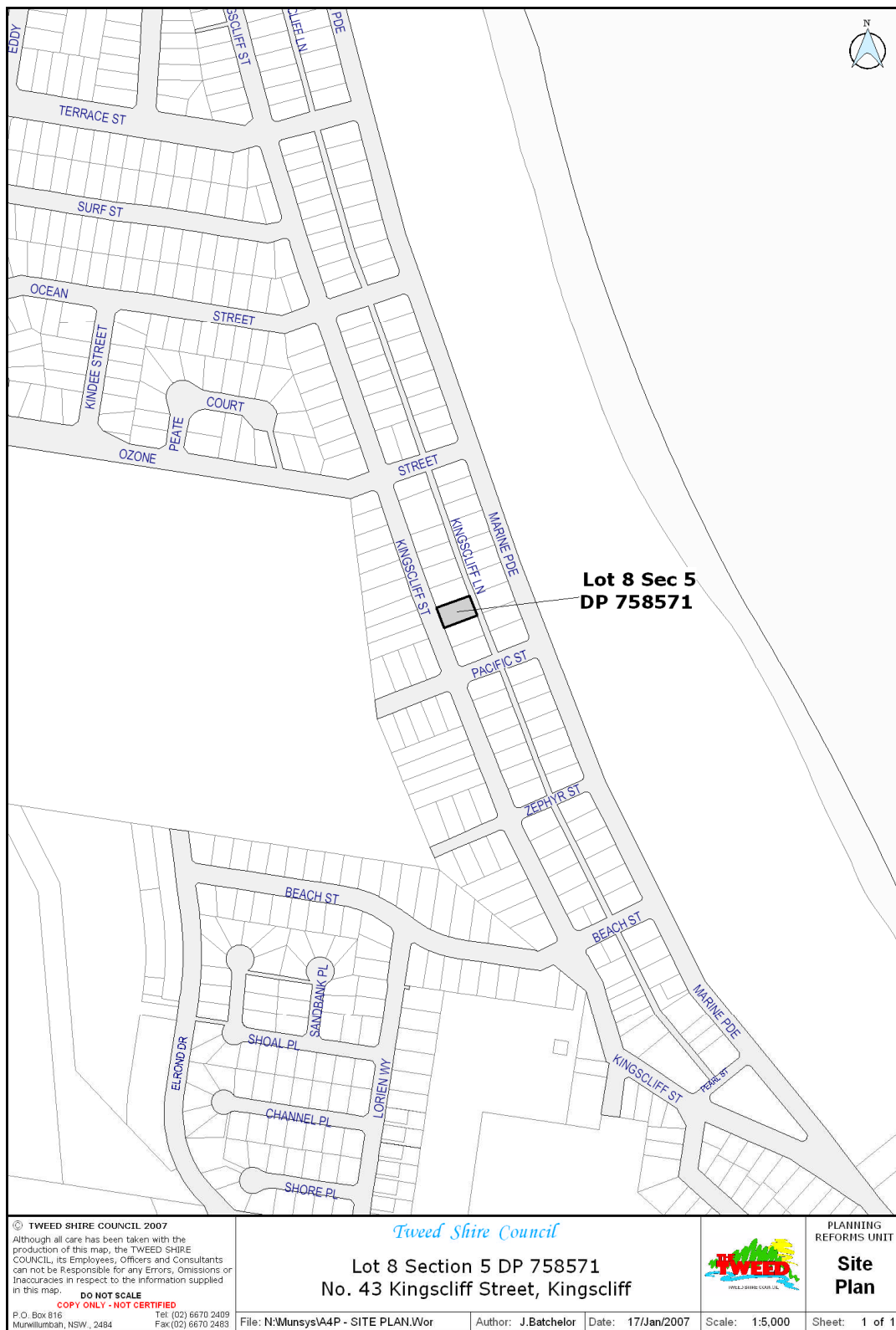
Vegetation on site includes various species of trees and shrubs. The information available indicates that this vegetation is not of ecological significance and does not contain rare or threatened species. All existing vegetation is to be removed as part of this application.

The application also involves the demolition of the existing structure on site.

Vehicular access to the site is via a driveway off Kingscliff Street. The driveway leads to a partially excavated basement car park, which accommodates 12 car spaces in total. One car wash bay and two visitor spaces are to be situated to the rear of the property with access off Kingscliff Lane.

The proposal incorporates generous balconies for each unit. The ground floor units will have balconies that run from the front of the site, along the side boundaries and extending to the rear with associated landscaping.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The subject site is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary zone objective relates to the provision of medium density housing, achieving good design outcomes. The proposed development is permissible with the consent of Council and is considered to be consistent with the primary objective of the zone.

Clause 15 – Availability of essential services

The subject site is situated within an established residential area. All essential services such as water, sewer and telecommunications exist in Kingscliff Street and are able to be connected to the subject site.

Clause 16 – Height of Buildings

A three-storey height limit affects the subject site. The proposal is for a three-storey development, which satisfies this height limitation.

Clause 22 – Development near designated roads

Clause 22 applies to the proposed development as the site has frontage to Kingscliff Street, which is a Council designated road. The proposal is not considered to have an adverse impact on the capacity, efficiency and safety of Kingscliff Street. The proposed development is not considered to detract from the scenic attractiveness of the area it is considered that the development would make a positive contribution to the streetscape. Vehicular movements associated with the proposal will not significantly increase the impact of traffic noise on surrounding development adjoining Kingscliff Street.

In accordance with TLEP Council must consider Clause 22(4), which are matters for consideration including the likely impact on the designated road in terms of impacting on the efficiency of the road, possible restrictions for future improvements to the road, adequate measures have been implemented to ameliorate any potential noise impact, the development does not detract from the scenic qualities of the locality and where possible alternate access to the site has been provided. It is considered that the proposal is consistent with Clause 22(4). The proposal will not adversely impact upon the efficiency of Kingscliff Street. The development is not considered to restrict future improvements to Kingscliff Street and will not detract from the scenic qualities of the locality.

Clause 34 - Flood prone

The subject site is nominated as being flood affected. Council's records indicated that the design flood level is 3.3m AHD, with the minimum floor level being 0.5m above this level, which is proposed at RL3.8m AHD. It is considered that the proposal would not increase the risk or severity of flooding of other land in the vicinity

Clause 35 - Class 2 ASS

The applicant provided an Acid Sulfate Soils Report as part of this application. No ASS was identified on site.

Clause 39 – Remediation of Contaminated Land

The subject property accommodates an existing beach cottage on piers. It is estimated the cottage has been in place for some 60 years. With regard to the NSW Contaminated Land Planning Guidelines, the site has not been subject to a use that would contradict the guidelines nor give rise to any concerns regarding contaminated land. The Environment and Health Unit did not raise any concerns.

North Coast Regional Environmental Plan 1988

Clause 32B - Coastal Lands

Clause 32B applies to this development application as the site is affected by the NSW Coastal Policy 1997. The proposed development is considered to be consistent with the strategic actions and principles of the Coastal Policy. The proposal is consistent with the Coastline Management Manual and the North Coast: Design Guidelines. The proposal will not affect access to or overshadow the foreshore.

Clause 43 - Residential Development

The density of the development has been maximised without adversely affecting the environmental features of the land. The application achieves good urban design and provides for a development that satisfies the primary objective of the zone and principles of residential development.

State Environmental Planning Policies

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

This Policy applies to development including the erection of a new residential flat building. In accordance with a residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and

- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops).

The proposal is consistent with the definition of a residential flat building as it is three storeys in height.

The design quality principles are not design solutions, they are a guide to achieving good design and the means of evaluating the merit of proposed solutions. The following need to be addressed:

Context

The proposed development is consistent with the desired future character of the area as detailed in Council's Development Control Plans. The proposal is considered to contribute to the quality and identity of the area. The context and setting of the proposed is consistent with the changing nature of developments along Kingscliff Street. The proposal is modern in design and demonstrates general compliance with the planning policies applying to the land.

Scale

The precinct is undergoing change through redevelopment. The land accounts for a three-story height limit, which this development satisfies. The proposed development is consistent with the bulk, scale, height and form that Council has established for the area.

Built form

The applicant has stated that the submitted incorporates variation in the proposed building lines, materials utilized, substantial articulation and distribution in form across the site. Council's review of the application determines that the development clearly defines the public domain and makes a positive contribution to the street. The building itself has been designed in a way that does not present as obtrusive to neighbouring developments and has been designed to incorporate attractive architecture.

Density

The proposed density is considered to be acceptable. The proposed densities are desirably sustainable and consistent with the design capacity of essential service infrastructure within the area, inclusive of public transport, retail and recreational opportunities, educational establishments and community services.

Resource, energy and water efficiency

A BASIX report was submitted as part of this application. The report indicated compliance with the BASIX requirements.

Landscape

The proposed landscaping is generally acceptable, however falls short by 50m² or 8.3m² per unit. On assessment of the landscaping to the site it is concluded that the development is sufficient. Landscaping is provided to all boundaries of the site. The side boundaries of the proposal provide areas that are highly useable and provide the opportunity for deep plantings adjacent to the southern boundary of the site.

Amenity

Amenity is not seen to be adversely affected as part of this application. 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 restrict the ability of adjoining parcels to be re-developed.

Safety and security

The use of balconies on all elevations ensures casual surveillance of entries and open space areas. The building has been designed in such a way that balconies are provided on all elevations. The depth of the balconies ensures that there is a physical separation between the public and private domain. Garden lighting is proposed for the driveway, footpaths and visitor spaces to the rear. The building provides clear and direct paths to entries to the building. Access to the building is via the basement car park and entry foyer, which are both fitted with an intercom system.

Social dimensions

The proposed development is situated within a predominant area of Kingscliff. The development is close to the main area of the Kingscliff and will provide for social access for future residential occupants.

Aesthetics

Initial concerns were raised regarding the similarity of the development to 21 Kingscliff Street. The applicant was provided the opportunity to specifically amend the front façade of the building and the colours and materials used. Amended plans were received and changes included altered aluminium framed doors and windows, a break-up of more glass to the centre of the front façade, stained glass balustrades, altered entry point and larger style balcony and terrace tiles.

The design and variety of materials now proposed in the buildings façade, balcony, and terrace areas are consistent with the desired future character of the area. The contemporary design of the development will make a positive contribution to the streetscape.

Designer's verification in accordance with SEPP No. 65 has been submitted.

State Environmental Planning Policy No. 71 – Coastal Protection

The subject site is not located within a sensitive coastal location. As such an assessment in accordance with Part 2 Clause 8 Matters for consideration was necessary. Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The site is surrounded by residential development, including dwelling houses and multi dwelling housing. The proposal is consistent with the desired future character of the area.

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

There are no draft Environmental Plans applicable to this application.

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

Development Control Plan No. 2 – Car Parking

Required	Proposed	Complies
1.5/dwelling = 9 on-site spaces	The application proposes 12 basement car spaces, 1 car wash bay to the rear and 2 visitor spaces to the rear.	Yes

The proposed three visitor and car wash bays are to gain access off the Kingscliff Laneway. The three external spaces will be aligned parallel to Kingscliff Lane and provide easy access for visitor vehicles. The positions of these three spaces are considered to be appropriate and are unlikely to significantly affect traffic flow along Kingscliff Lane. Vehicles will also enter and leave the spaces in a forward direction limiting manoeuvrability concerns.

DCP No. 5 – Flood Liable Land

Subject site is identified as being flood affected. DCP No. 5 prescribes a design flood level of RL 3.3m AHD. Therefore the minimum floor level must be 0.5m above this level and is RL3.8m AHD. Council's engineers recommended appropriate conditions of consent.

Development Control Plan No.6 – Multi Dwelling Housing

The following table assesses the proposed development in relation to the provisions of DCP6:

Standard	Requirement	Proposal	Complies
<p>Floor Space Ratio Performance Criteria: <i>The scale of new development is compatible with and sympathetic to the scale and bulk of existing developments in the locality.</i></p>	0.5:1	0.98:1	See assessment below
<p>Landscaped Area Performance Criteria <i>Site design that minimises site disturbance and where possible preserve existing landscape, use appropriate vegetation and improve privacy and streetscape.</i></p>	30% of site area or 80m ² per large dwelling (whichever is greater) therefore equates to 6 x 80m ² = 480m ²	Approximately 430m ² of landscaping is to be incorporated.	See further assessment below
<p>Setbacks Performance Criteria <i>Buildings are sited and are of such length and height that there is no significant loss of amenity to adjacent dwellings and land.</i></p>	Kingscliff Street – 6m North, south and east (rear) 3m	Kingscliff Street – 6m North and South – 3m East (rear) – 4m	Complies
<p>Streetscape Performance Criteria <i>The scale of new development is compatible with and sympathetic to the scale and bulk of existing developments in the locality or development site has some heritage significance or distinctive character.</i></p>	The maximum width of the garages should be 50% of the frontage width and garage shall not dominate the street.	4m	Complies

<p>Building Envelope Performance Criteria <i>Buildings that are sited and designed to provide adequate daylight to habitable rooms and winter sunlight to ground level open space.</i></p>	<p>45° from 3.5m high at the side and rear boundary (excluding eaves and the like)</p>	<p>Encroachments to the building height plane on side elevations and encroachments on the front and rear</p>	<p>See assessment below</p>
<p>Minimum Private Open Space Performance Criteria <i>Open space areas are of dimensions to suit the projected requirements of the dwelling occupants, and to accommodate some outdoor recreational needs as well as providing space for service functions.</i></p>	<p>20% of site area (164.4m²) with minimum dimension of 3m One part min 25m² with min dimension of 4m</p>	<p>Unit 1 – 134m² Unit 2 – 182m² Unit 3 – 33m² Unit 4 – 33m² Unit 5 – 33m² Unit 6 – 33m² Total = 448m²</p>	<p>Complies</p>
<p>Front Fences & Walls Performance Criteria <i>Enable positive outlook and surveillance for the building, match existing building materials and are visually pleasing</i></p>	<p>1.2m maximum if solid</p>	<p>1.1m solid high fence</p>	<p>Complies</p>
<p>Car Wash Areas and Site Facilities Performance Criteria <i>An identifiable car wash area in conjunction with the development with water runoff not directed to the stormwater system</i></p>	<p>1 per 10 dwellings for a car wash bay and 1 per dwelling for garbage bin</p>	<p>1 car wash bay to the rear and 1 garbage bin per unit.</p>	<p>Complies</p>

<p>Views, Visual and Acoustic Privacy Performance Criteria <i>Views shared by all occupants of the units, visual and acoustic privacy is maintained with main entertainment areas positioned to minimise noise and overlooking</i></p>	<p>Direct views between living area windows of adjoining dwellings should be screened/obscured where ground floor and first floor windows are within a 9m radius from any part of the window of the adjoining dwelling and other windows within a 12m radius. Direct views from living rooms of dwellings into the principle open space area of another dwelling should be screened/obscured within a 12m radius.</p>	<p>Screening is proposed along the northern and southern elevations. The building is positioned in order to provide physical separation between existing developments.</p>	<p>Complies</p>
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Floor Space Ratio

The FSR of 0.5:1 is specified under the provisions of DCP6, it is rather more appropriately applicable to dual occupancy developments. For the assessment of multi dwelling developments a FSR of 1:1 is more appropriate which this application comes close to satisfying at 0.98:1. FSR is therefore satisfied.

Landscaping

The shortfall in landscaping proposed represents a shortfall of 50m² or 8.3m² per unit when assessed using the acceptable solutions of DCP No.6. The applicant has stated the following:

'It is evident to the author that almost no Residential Flat Buildings submitted to Tweed Shire Council within recent times have fully complied with the required quotient of landscaping at the ground level, with the large majority relying upon the inclusion of 1st and 2nd level balconies to demonstrate or even get close to numerical compliance. With the inclusion of the ground level and upper storey balconies a total in excess of the required 480m² is provided.

It is pertinent to note that the proposal when viewed from adjacent areas is not imposing and that the proposal provides for a significantly greater level of landscaped and genuine 'green' area than that of the majority of existing medium density developments within the Kingscliff locality, and indeed within Tweed Shire. Areas have been set aside for deep soil planting within the setbacks to Kingscliff Street and adjacent to the southern and rear boundary'

The proposed landscaping is deep soil planting which can facilitate on-site infiltration. The landscaping areas provided are useable and functional. The proposed landscaping is considered to be acceptable.

Building Envelope

The applicant provided the following justification:

"The proposed development encroaches on the Building Height Plane on the two side elevations, with minor encroachments through the eaves on the front and the rear. It is submitted these encroachments will not have an adverse impact upon neighbours in terms of privacy and overshadowing. It is requested that Council assess this component of the development against the performance criteria".

The objectives of this Design Element are as follows:-

- O1. To ensure that the height, scale and length of new developments is not excessive and relates well to the local context.**
- O2. To encourage design, which creates desirable living conditions and ensures that the amenity of surrounding properties is properly considered.**
- O3. To allow flexibility in the siting of buildings and the provision of side and rear setbacks.**
- O4. To allow adequate natural light and ventilation between dwellings.**

'It is considered the height, scale, bulk and length of the development is not excessive having regards to the 2(b) Medium Density Zoning of the land and surrounding area, the type of medium density developments already constructed and recently approved in Kingscliff, and the applicable three storey height limit.

Of note the proposal involves substantial articulation along the side elevations avoiding long monotonous walls so readily evident in the residential flat buildings constructed during the 1970's and 80's. In particular the setbacks to the northern and southern boundary vary from 3.2 metres to 4.5 metres. In terms of the encroachment on the eastern and western street boundaries the building overlooks Kingscliff Lane and Kingscliff Street and will have no impact upon neighbours amenity'

The Performance Criteria for this element are as follows:

Amenity and Character

P1. Buildings are sited and are of such length and height that there is no significant loss of amenity to adjacent dwellings and land".

"Daylight and Sunlight

P2. Buildings are sited and designed to provide adequate daylight to habitable rooms and winter sunlight to ground level open space.

"The proposed encroachments are a direct result of the overall height of the building. To limit the impact of the development, the building has been designed with substantial articulation and provides increased spatial separation to side boundaries and the nearest residence. Hence the development will not generate significant impacts upon the neighbours' residential amenity to the north and south. In particular the building will overlook a driveway to the north, a laneway to the east, a rented holiday residence to the south and Kingscliff Street to the west.

Shadow diagrams have been prepared for the development for mid winter and mid summer. It is clear that during midwinter the development will not significantly affect the property to the south, and is consistent with Council's Acceptable Solution A6 under Section 3.3.1 of the DCP.

It is concluded the proposal although not compliant with the acceptable building height plane solution, the encroachment is minor in nature, and satisfies both the objectives and the performance criteria under pinning Section 3.3.1 of DCP 6 with no adverse impacts anticipated upon adjacent properties. It is submitted the proposed development complies with Section 3.3.1 – Building Envelope and Siting".

The applicant has put forward a strong justification as to why the encroachments should be approved. The encroachments are mainly associated with the uppermost corners of the building and the eaves. It is considered that the proposed encroachments into the building envelope are acceptable.

Summary

In all other aspects the proposed development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within DCP6. Car Parking, landscaping, FSR, private open space and site coverage are essential components of a multi residential development, however all are satisfied in this instance.

DCP No. 9 – West Kingscliff

The site is able to be connected to the existing sewer main in the street frontage.

Sewer works will be assessed under a Section 68 application.

DCP No. 39 – Energy Smart Homes

A BASIX Certificate was submitted with the development application demonstrating that the development as a whole satisfies the requirements under BASIX.

DCP 43 – Kingscliff (Coastal)

The subject site is situated within the Kingscliff North Precinct. The proposed development is situated within an area, which is experiencing redevelopment. The proposal is consistent with the desired future character of the area and respects adjoining lower density development thorough the use of increased setbacks, articulation, orientation of balconies and open space areas.

The proposal provides an active street frontage, through the incorporation of balconies, windows, aluminium panel glass doors and the front entrance.

The proposed development is considered to be consistent with the vision for Kingscliff, the precinct objectives, and the design guidelines of the DCP.

Draft DCP No. 47 – Cut and Fill on Residential Land

Council's Engineer has assessed the application with regard to the DCP. The proposal is consistent with the DCP and conditions of consent have been incorporated.

DCP No. 48 – Tweed Coast Building Heights

The proposal's height from the podium level to the wall plate is 8.35m, which satisfies the 10m-height limit for 3-storey residential development. However, the lift run proposed in the centre of the building exceeds 11m in overall height. It is concluded that for this application the minor encroachment can be supported due to the similar height variations for surrounding developments. It is important to note that the bulk of the building excluding the roof and lift run in under the required 10m.

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

Clause 92(a) Government Coastal Policy

The proposed development does not contravene the objectives contained within the coastal policy for the following reasons:

- The proposal is landward of any defined erosion zones;
- The development will not overshadow foreshore open space or the like; and
- Public access to the foreshore reserves and parks will not be affected.

Clause 92(b) Applications for demolition

Council's Building Surveyor did not raise an objection to the proposed demolition of dwellings on the subject site and recommended appropriate conditions of consent.

Clause 32B – Coastal Lands

The proposal is consistent with Clause 32B and will not result in beaches or open space areas being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).

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

It is considered that the development will not create any significant adverse impacts on both the built and natural environments in the locality. Some substantial earthworks are likely when the block is excavated for the basement carparking however, conditions have been put in place to ensure the safe practice.

It is considered that the development in regard to its design and appearance is acceptable and will create a positive contribution to the existing and desired future character of the area, particularly Kingscliff Street.

(c) Suitability of the site for the development

The site has been zoned for 2(b) Medium Density Residential with developments such as the proposed deemed an appropriate development for the site. Taking into consideration the size, scale and architectural merits of the application it is not envisaged the development will impact significantly on surrounding developments. The proposal is consistent with the desired future character of the area and is suitable for the subject site.

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

The application was publicly advertised for a period of 14 days from Wednesday 20 September 2006 to Wednesday 4 October 2006. During this period no submissions were received.

(e) Public interest

The proposed development is deemed to be within the wider public's interests.

OPTIONS:

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

It is not envisaged that any policy implications will arise as a result of this application being approved.

CONCLUSION:

Having regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P5 [PD-PC] Development Application DA06/0988 for an upgrade of Murwillumbah swimming pool and associated multi-storey car park at Lot 1 DP 863851; Lot 701 DP 1054065; Lot 11 Section 16 DP 758739, Queen Street and Ferryview Lane Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA06/0988 Pt1

SUMMARY OF REPORT:

An application has been received seeking approval for the upgrade of the existing Murwillumbah swimming pool and construction of a multi-storey car park, the application requires the demolition of existing structures within the pool complex.

The proposal involves the demolition of the following existing structures and removal or relocation of existing vegetation;

- Entry/kiosk/reception/plant building
- Meeting room
- Change rooms
- Pool plant room
- Barbeque area
- Diving pool shell and infill
- Learners' pool shell and infill
- Toddlers' pool shell and infill
- Teaching pool shell and infill
- Slide landing pool shell
- North and east grandstands
- Sheds/stores
- Steel fencing
- Paths and paved areas
- Retaining walls at boundaries
- Kerbs and gutters
- Trees, removal/relocation

The proposed upgrade of the swimming pool consists of the following;

- Existing 50metre to pool (817m²) is to remain, with general upgrading being removal of the old tiles and retiling, new lighting to enable night competition, activities.
- New Indoor 25 metre Lap Pool (210m²), consisting of 5 lanes and heated to 27-28°C.

- New Indoor Hydrotherapy Pool (120m²), heated to 33-34°C.
- New Indoor Teaching Pool (96m²), heated to 33-34°C.
- New Out door Leisure Pool (250m²).
- New Diving Pool (98m²).
- New Water Slide Landing Pool (40m²), no heating required. The existing slide is to remain and no upgrade is proposed.
- New Plan Rooms (198m²).
- New Male and Female Amenity/Change Area (198m² and 23m² unisex).
- New Reception/Administration (staff facilities: 104m², pool stores: 17m²).
- New First Aid Room (7.2m²).
- New Spectator seating (475 seating capacity), located parallel to the existing 50m pool on the south eastern side.
- New Kiosk/Café (Kitchen: 44m², outdoor seating: 36m²).
- New Barbeque Area (62m²), containing a gas plate and two electric plates and a picnic shelter with 6 picnic tables seating approximately 40 people

The existing on site parking consists of approximately 140 car parking spaces, which are used by pool staff, pool users, Council staff and general public. This figure includes car spaces adjacent to the access road between the Northern and Southern intersection of Tumbulgum Road and the access road and the parking area located between the pool to the north and the commercial premises to the South. The proposal does not involve the existing car parks parallel to Tumbulgum road adjacent to the cenotaph or the parking in front of the entrance to the Council office.

The proposed multi-storey car park consists of the following;

- New Multi Storey Car Park (ground level: 2573m²; level 1: 2692m² level 2: 2692m²; Total 7957m²) comprising a total of 305 spaces. Access is provided to 5 spaces of disabled parking with three internal stairs and internal lift access to all levels. Pedestrian access to and from parked vehicles is from either Queen Street or the Access road off Tumbulgum Road. Vehicle access can be from Queen Street on to level one and also from the Access Road off Tumbulgum Road at ground level. Vehicles entering from Queens Street on to level one can gain access to level two via a ramp on the north-eastern side of the car park with the return access to level one via a ramp located on the north-western side of the car park.
- The total number of car spaces provided by the car park upgrade, including spaces adjacent to the access road amounts to 310 car spaces.

RECOMMENDATION:

That Development Application DA06/0988 for an upgrade of Murwillumbah swimming pool and associated multi-storey car park at Lot 1 DP 863851; Lot 701 DP 1054065; Lot 11 Section 16 DP 758739, Queen Street & Ferryview Lane Murwillumbah be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No EH06003 prepared by Tweed shire Council dated 12.2006 and Plan No's 0515 A 201, 0515 A 202, 0515 A 203, 0515 A 204, 0515 A 205, 0515 A 206, 0515 A 300, 0515 A 500, 0515 A 501, 0515 A 502, 0515 A 600, 0515 A 601 and 0515 A 602 prepared by TOMPKINS MDA ARCHITECTS and dated 17/08/06, 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. 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]
4. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. 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]
6. 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]
7. Prior to the issue of a construction certificate, the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-
 - (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
 - (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
 - (c) WorkCover Regulations 2000
[PCC0015]

8. 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]

9. 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]

10. 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]

11. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate. [PCC1195]
12. 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]
13. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Stormwater runoff from the multi-storey carpark requires treatment to remove oil and sediment pollutants prior to discharge to the public realm. Permanent stormwater treatment devices shall be sized in accordance with Section D7.12 of *Development Design Specifications D7 - Stormwater Quality*. Engineering details of the proposed devices shall be submitted with a S68 stormwater application for approval prior to the issue of a Construction Certificate. [PCC1105]
14. **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: \$5,725
S94 Plan No. 4 (Version 4.0)

Sector9_4

[PCC0215/PSC0175]

15. 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 DSP2:	5.2 ET @ \$4598	\$23,910
Sewer Murwillumbah:	7.8 ET @ \$2863	\$22,331

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]

16. That the existing water trunk main located under the proposed carpark should be shown on all construction drawings.

[PCCNS01]

17. Prior to the issue of a construction certificate a Car Parking Management Plan is to be provided to cater for the loss of car parking during construction.

[PCCNS02]

18. Prior to the issue of a construction certificate an amended landscaping plan is to be approved by Council's landscape architect.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

19. 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]

20. 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]

21. 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]

22. 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]

23. 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]

24. 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]
25. 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]
26. 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]
27. The location of any onsite treatment area for potential or actual ASS must be nominated and approved by Councils Environmental Health Officer prior to the commencement of works.
- [PCWNS01]
28. The existing water main is to be taken off line prior to construction.
- [PCWNS02]

DURING CONSTRUCTION

29. 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]
30. 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]
31. 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]
32. 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]

33. 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]
34. 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]
35. 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]
36. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.
[DUR1685]
37. Where a building of part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.
[DUR1695]
38. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
[DUR1705]
39. 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]
40. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]

41. 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]
42. 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]
43. 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]
44. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged. [DUR2525]
45. 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]
46. 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]
47. 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]

48. 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]

49. 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]

50. 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]

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

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

[DUR1005]

52. 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]

53. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be coved to a radius of not less than 25 millimetres.
[DUR1495]
54. 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]
55. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned.
[DUR1605]
56. All hazardous and/or dangerous goods shall be handled and stored in a designated area away from stormwater drains. The designated area is to be: -
(a) Roofed;
(b) Provided with a sealed floor; and
Bunded so as to hold 110% of the total quantity of goods stored. Bunded area(s) shall not be flood-liaible and shall be provided with pump out facilities.
[DUR1635]
57. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
[DUR2085]
58. 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]
59. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
60. All excavation works are to be carried out in strict compliance with the ASS Management Plan prepared by Butler Partners (Project No.04163A) dated 7 July 2006.
[DURNS01]
61. The treatment of excavated soils is not to be limited to the treatment of only natural soils. All excavated natural or fill materials regardless of depth shall be treated at a liming rate of 10 kg of agricultural lime/tonne or alternative to the satisfaction of DECS.
[DURNS01]
62. No dewatering is permitted onsite without prior approval from Council's DECS.
[DURNS01]

63. The offsite treatment of potential or actual ASS is not permitted without prior approval from Council's DECS.

[DURNS01]

64. Erosion and sediment control devices should be installed to the satisfaction of Council's DECS and maintained throughout the duration of construction.

[DURNS01]

65. A shake down area is required at the site entry/exit and must comply with Tweed Shire Council's Design Specification D7 - Stormwater Quality.

[DURNS01]

66. The existing water main should be protected during construction by distinct markings over the main to avoid heavy construction traffic and pile driving impact.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

67. 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]

68. 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 the construction certificate.

[POC0865]

69. 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.

[POCNS01]

70. Details of the internal fit out of the food premises are to be provided and approved prior to the release of the construction certificate.

[POCNS01]

71. Detailed plans outlining the design of chemical receiving and storage areas shall be submitted prior to release of the construction certificate.

[POCNS01]

USE

72. 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]

73. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0135]

74. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

75. 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]
76. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements. [USE0845]
77. The premises shall be maintained in a clean and tidy manner. [USE0965]
78. Erosion and sediment control devices should be installed to the satisfaction of Council's DECS and maintained throughout the use of the facility. [USENS01]
79. Any premises used for the storage, preparation or sale of food are to comply with the Food Act 2003, ANZFA Food Safety Standards 3.1.1, 3.2.2 & 3.2.3 and AS 4674-2004 Design, Construction and Fit-out of Food Premises. [USENS01]
80. NSW Workcover requirements shall be implemented and any approvals gained for the storage of hazardous chemicals and waste. [USENS01]
81. Amusement devices as defined under the meaning of Section 135 of the *Occupational Health and Safety Act 2000* or any small amusement devices shall comply with WorkCover NSW requirements. [USENS01]
82. The operation of the facility must be conducted in accordance with the Public Health (Swimming Pools and Spa Pools) Regulation 2000. [USENS01]
83. Waste material generated by the development shall be disposed of in accordance with the Waste Management Plan submitted by Tompkins MDA Architects (2006). [USENS01]
84. Hours of operation of the business are restricted to the following hours:-
- * 5.30am to 10.00pm - Mondays to Fridays
 - * 6.00am to 8.00pm - Saturdays
 - * 8.00am to 8.00pm Sundays and Public Holidays
 - * All deliveries and pickups relating to the business are to occur within the approved hours
- [USE0185]

REPORT:

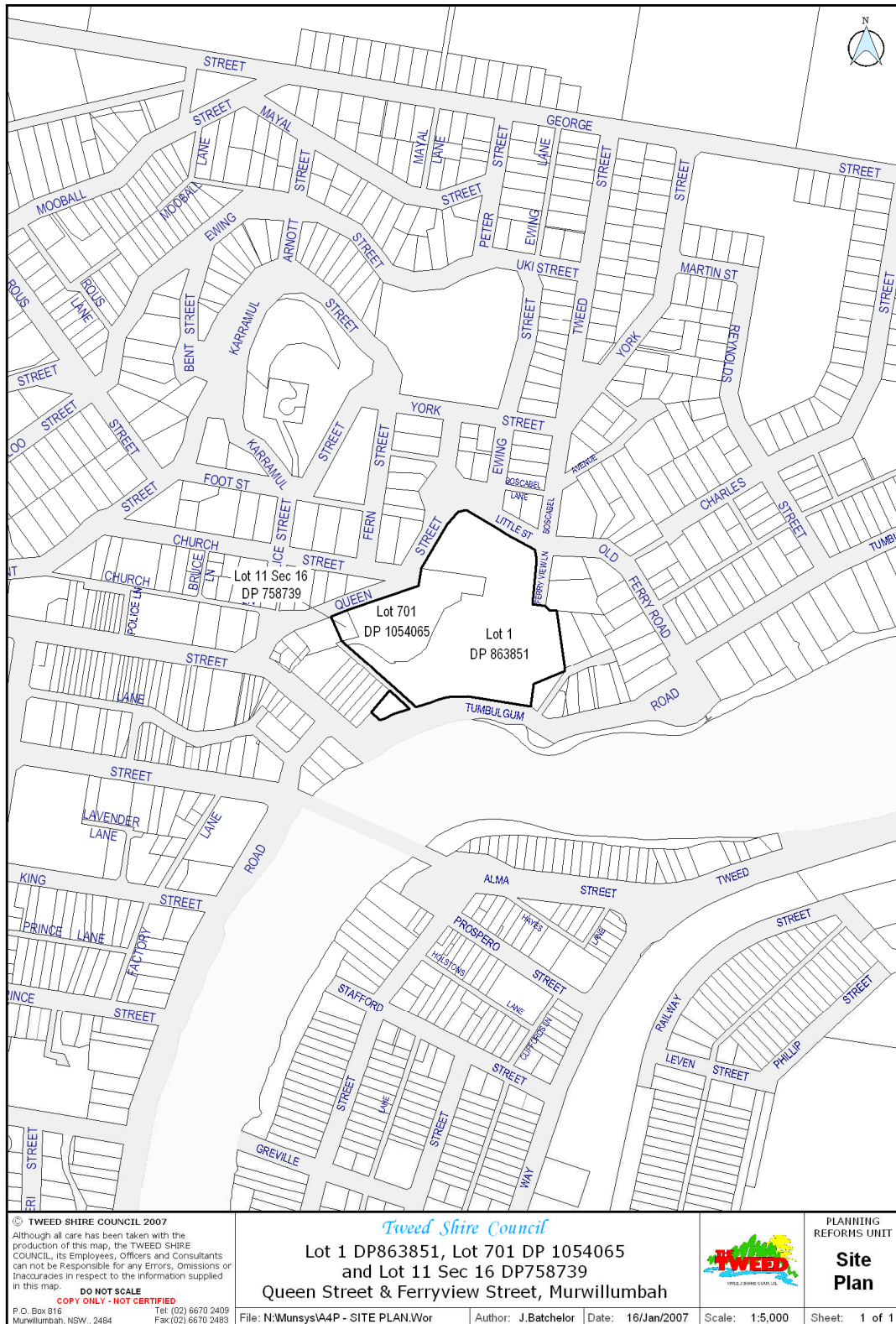
Applicant: Tweed Shire Council
Owner: Murwillumbah (R81328) Reserve Trust, Tweed Shire Council and Department of Lands
Location: Lot 1 DP 863851, Lot 701 DP 1054065, Lot 11 Sec 16 DP 758739, Queen Street & Ferryview Lane Murwillumbah
Zoning: 5(a) Special Uses (Civic Centre) and 6(b) Recreation
Cost: \$8400000

BACKGROUND:

The original pool was constructed in 1938 and was changed in 1961 to accommodate the toddlers' pool now occupying the southern end of the original pool and the diving pool at the northern end the same time the existing 50metre pool was constructed. The slide landing pool and slide flume was constructed in approximately 1985. The existing buildings consisting of Entry, Kiosk, Control, Pool Plant Building, Change Room Facilities and Meeting Room were constructed as they were required from the date the original pool.

The existing Murwillumbah Memorial Swimming Complex facilities include an entry building with a kiosk, amenities, a meeting room, a 50 metre Olympic outdoor pool, a diving pool, a learners' pool, a toddlers' pool, a heated teaching pool, two grandstands, a water slide and slide landing pool, a pool plant room and barbeque areas. There are shade shelters over the learners', toddlers' pool, part of the teaching pool and the spectator seating.

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 located within the 6(b) Recreation and 5(a) Special Uses Civic Centre in accordance with the provisions of Tweed LEP 2000. The objectives of the zones are:-

Zone 5 (a) Special Uses

Zone objectives

Primary objective

- *to identify land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things.*

Secondary objective

- *to provide flexibility in the development of the land, particularly if it is not yet or is no longer required for the relevant special use.*

Zone 6 (b) Recreation

Zone objectives

Primary objective

- *to designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.*

Secondary objective

- *to allow for other development that is compatible with the primary function of the zone.*

The proposed development is defined under the Tweed LEP as 'car park' and 'recreation area', as such the proposal is permissible with consent and is consistent with the primary objective of the zones.

Clause 15 of the Tweed LEP 2000 requires Council to be satisfied that essential services are available to the site(s) or satisfactory arrangements have been made for the provision of those services. The subject site(s) are serviced by water, power and telecommunications and facilities for the removal or disposal of stormwater, sewage, waste collection and drainage are available. The proposal is consistent with the provisions of this clause.

Clause 16 of the Tweed LEP 2000 requires Council to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The subject site(s) are affected by a 3-storey height limit. The proposal has a maximum height of 3 storeys as such the proposal is considered to comply with the objectives of this clause.

Clause 17 of the Tweed LEP 2000 requires Council proper consideration of a development that may have a significant social or economic impact. The applicant has provided an acceptable socio-economic impact assessment. The proposal is considered to create a positive social impact by providing improved facilities consisting of additional car parking and upgrade to the existing swimming centre for the general public.

Clause 34 of the Tweed LEP 2000 requires Council to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land. The proposed car park and upgrade to the existing swimming pool is considered consistent with the objectives as the proposal is considered compatible development that will not increase the affect of flooding on the community.

Clause 35 of the Tweed LEP 2000 requires Council to ensure disturbance of Acid Sulphate Soils be managed accordingly to minimise impacts on water quality, ecosystems, infrastructure and agricultural and urban activities. The southern side site is partially affected by Class 3 Acid Sulphate Soils excavation between depths of 0.7metres – 1.5metres is proposed for stormwater works in this area. A geotechnical and acid sulphate soils investigation report was submitted with the application and assessed by Council's environmental health and services unit, which recommended standard conditions to be added to the consent.

Clause 39A of the Tweed LEP 2000 requires Council to minimise bushfire risk to built assets and people. The subject site(s) are located within land identified as bush fire prone land. The proposed upgrade to the existing car park and swimming pool is considered not increase the risk to bush fire, and is therefore considered to comply with this clause.

Clause 45 of the Tweed LEP 2000 requires Council to take into consideration the likely effect of a proposed development on the heritage significance of a heritage item. The proposal is located opposite the 'Former Salvation Army Building', which has a regional significance level. The heritage item is located on the northern side of Queen Street, with the proposal located on the southern side. The proposal development is considered not to adversely affect the heritage significance of the 'Former Salvation Army Building'. The proposal was designed by Tompkins MDA Architects to be sympathetic to the existing Queen Street streetscape. The proposed upgrade to the swimming complex and car park is not significantly closer to the 'Former Salvation Army Building' than what is currently experienced. The car parking decks provide screening by being enclosed by using anodised aluminium perforated metal panel façade system. A landscaping plan has been prepared to assist in providing an aesthetically pleasing development. Any impact from the proposed development is considered negligible.

North Coast Regional Environmental Plan 1988

Clause 36F Development in the vicinity of heritage items

The proposed development is located adjacent to 'Former Salvation Army Building', which is a heritage-listed item within the Tweed LEP 2000 as having regional significance. The proposal development is considered not to adversely affect the heritage significance of the heritage listed item.

Clause 81 Development adjacent to ocean or to the waterway

The proposal is located within 100 metres of the ocean or waterway, but it is considered that there is sufficient foreshore open space accessible to the public. The development will not detract from the amenity of the waterway.

State Environmental Planning Policies

State Environmental Planning Policy No. 11 – Traffic Generating Developments

The application is listed within schedule two sub-clause (q) of SEPP No. 11 – Traffic Generating Developments. As such, the application was referred to the Local Traffic Committee. The Local Traffic Committee raised no issues or concerns in regards to traffic management and safety.

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

There is no draft Environmental Planning Instruments (EPI) applicable to this application.

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

Development Control Plan 2 – Site Access and Parking Code

The proposed upgrade of the swimming pool requires an approximately 146 car parking spaces. This was calculated using a combination of Clause 13 and Clause 18 of DCP No. 2 – Site Access and Parking Code being 'Outdoor Sports Ground' and 'Swimming Pool' refer to table 1.0.

Table 1.0

Item	Area & seating	Customer Car parking	Staff Car Parking	Bicycle parking
D10 – indoor sport and recreation facility	1614 sq.m	6 /100 sq.m GFA	0.5/staff	1/5 car spaces
8 staff		97 spaces	4 spaces	19 spaces
D13 – outdoor sports ground		1/5 participant & spectator capacity	0.5/staff	1 car park
8 staff			4 spaces	
Spectators	475 people	95 spaces		95 spaces
Participants	95 people	19 spaces		19 spaces
D18 – Swimming pools		1/50 sq.m of water surface		1/25 sq.m of water surface
Existing 50m pool	817 sq.m			
New 25 m pool	210 sq.m			
Hydrotherapy pool	120 sq.m			
Leisure pool	250 sq.m			
Teaching pool	96 sq.m			
Diving pool	98.4 sq.m			
Slide landing pool	40 sq.m			
Total	1631.4	33 spaces		66 spaces
Total spaces required under DCP No. 2		147 spaces	4 staff spaces	180 spaces

The proposed upgrade to the swimming pool is considered to satisfy the provisions contained within DCP no. 2, as the application also seeks to upgrade the adjacent car park to accommodate 305 cars spaces.

The existing car park currently provides approximately 140 car spaces, which caters for pool staff, pool users, Council staff and the general public.

The surplus car spaces are to be utilised by the general public to ease the current car parking shortage experienced within the Murwillumbah CBD.

Council's Transport and Traffic Engineer reviewed the proposal and raised the following concerns;

- 1 The existing 90° parking adjacent to the Council Civic and Cultural Centre should be retained if possible thus providing approximately 15 spaces.
2. The provision of a bus parking space located within the access road adjacent to the Council Civic and Cultural Centre that may obstruct the traffic lane on the access road when in use.
3. The pedestrian crossing on the access road is to be deleted unless RTA compliance is demonstrated. Speed bumps are an alternative method of traffic control.

A revised plan has been provided by the applicant addressing the points raised above. The revised plan demonstrates that two buses can use the nominated bus parking spaces without obstructing though traffic, also the pedestrian crossing has been removed and replaced with a speed hump. The approximate loss of 15 spaces due to the provision of the two bus parking spaces and adjustments to the access road is considered acceptable and compensated by the additional spaces provided by the multi-storey car park.

The amended plan No. EH06003 was referred to Council's Transport and Traffic Engineer and was considered to be satisfactory.

Development Control Plan No. 5 – Development of Flood Liable Land

The subject site(s) are identified as being affected by flood. The application was assessed by Council's Engineers', which provided the following comments'.

'The ARI 100 year flood relative to the site is predicted to be RL6.75. The 1 in 20 year flood level is RL 5.62. The application proposes that a flood pump starts to operate when flood water reach RL 3.76. The floor level of the car park is at RL 4.80 and the level of the pool hall is at RL 6.30.

The proposal is considered to comply with the aims and objectives of the DCP by providing mitigating techniques in the form of a flood pump.

Development Control Plan 42 Public Notification Policy

The proposal required notification in accordance with the Public Notification Policy. The application was advertised for a period of 14 days from Wednesday 27 September 2006 to Thursday 12 October 2006. Three objections were received during the notification period and will be addressed in Section (d) of this report.

Development Control Plan 45 – Social Economic Impact Assessment

The proposal required a Social-Economic Impact Assessment under Section 5.1 of DCP No. 45.

The purpose of Development Control Plan No. 45 – Socio-Economic Impacts Assessment (DCP 45) is to set out Council's requirements for Socio-Economic Impact Assessments and to ensure that development applications for certain developments that are likely to have significant social or economic impact are properly considered in accordance with the Section 79C of the EP&A Act 1979.

The proposed development involves the upgrade of the existing Murwillumbah Swimming Complex Centre and adjoining car park. The upgrade to the swimming complex was identified during a technical audit in November 2001, in which a number maintenance and operational issues were identified. The upgrade to the adjacent car park is required to provide additional car spaces for the swimming complex upgrade and to alleviate the parking short fall currently experienced within the Murwillumbah Shopping Precinct.

The proposed development is considered to make a positive contribution to the social and economic factors that are identified in the Tweed Shire Local Government Area through improving local recreation/leisure and parking facilities.

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

CLAUSE 92 (1) Government Coastal Policy

The proposed site is not located within the Government Coastal Policy. However, the proposed development is considered not to contravene the objectives contained within the coastal policy.

CLAUSE 92 (2) Application for Demolition

The application proposes the demolition of all existing buildings contained within the Murwillumbah Swimming Complex Centre. Council's Building Service Unit assessed the application and appropriate conditions have been added to the consent.

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

The proposed upgrade to the Murwillumbah Swimming Complex Centre and adjoining car park is considered not create any significant adverse impacts on the natural or built environments or create social or economic impacts within the locality.

The proposed works will provide much needed additional services to the community in the form of additional car parking spaces to ease the current shortage within the Murwillumbah CBD. The upgrade to the swimming complex will provide a modern aquatic centre, which will increase the opportunities for social and community interaction including disadvantaged social groups such as the elderly and disabled.

The proposed upgrade requires the removal and relocation of many of the existing trees, which has been addressed within the SEE. A Significance Assessment (Seven Part Test) was undertaken to determine whether the proposal would have a significant affect on the Davidson's Plums a species listed under the NSW Threatened Species Conservation Act 1995. The Davidson's Plums are located in the garden near the existing entrance comprising three individual plants 2 metres in height and three individual plants 3 metres in height, Tweed Shire Council's Recreation Services Unit has planted all affected plants. The six plants are to be translocated by Council staff to a similar microclimate environment within the parkland/garden behind the Murwillumbah Civic Centre. The Significance Assessment concluded that the proposal would not create a significant impact on the Davidson's Plums. As such a Species Impact Statement (SIS) is not required.

A large Hoop Pine near the existing entrance adjacent to the CWA building is required to be removed. A number of similar sized Hoop Pines have been removed over the last five years from the pool complex as somewhere infected with rot. The lone Hoop Pine has been identified as having rot at its base, which could lead to its removal in the future, due to safety concerns.

Visual appearance and proposed landscaping

The entry and exit off Queen Street into the multi level car park is adjacent to the Country Women's Association. The CWA is a single storey building above the level of the footpath. The car park has an approximate RL of 12.8 metres with the CWA having an approximate RL of 14.3 metres. The additional level of the car park above the entry has a low floor-to-floor height and extend only 2.2 metres above the eaves level of the CWA Building and to 1.3 metres below the ridge level. The car parking decks are enclosed in anodised aluminium perforated metal screening and will thus appear as a semi transparent façade contrasting with the solid masonry of the CWA Building.

A landscaping plan has been designed to assist in providing an aesthetically pleasing development, with shrub planting and transplanting of existing trees to assist in screening the car park. A detailed landscaping plan has been designed and referred to Council's landscape architect. Council's landscape architect recommends the following modifications on the submitted landscape plan;

- The final species selection and layout to be approved by the Council Landscape Architect
- The garden bed area should be increased in size (see attached drawing amendments) and used for surface stormwater filtration. The stormwater entry pit for the entry apron could be located in the garden beds for high flow situations.
- Bike racks should be located together.
- The shrub planting identified adjacent to the fence should be located on the other side of the fence, and the fence become the feature element. This would also make the internal grass space outside the dining area more attractive. Instead of hedging plants, more dramatic or less formal species could be used eg. Gynea Lily

This will be addressed by way of condition to ensure that an amended landscaping plan is to be approved by Council's landscape architect prior to the issue of a construction certificate.

Parking provisions during construction

During construction the existing car parking area will not be available for use. The Statement of Environmental Effects suggests that alternative car parking is available nearby at Knox Park, Murwillumbah Railway Station, River Street and Alma Street with a recent car space count indicating that on average approximately 150 spaces are available daily at these alternative sites.

A discussion held with Council's development assessment engineer highlighted the temporary loss of car parking during the construction of the upgrade to the pool and car park should be addressed by way of a condition of consent. A condition requiring a Car Parking Management Plan is to be provided prior to issue of a construction certificate.

(c) Suitability of the site for the development

The site(s) are considered suitable for the proposed works particularly as the site(s) are currently used as a swimming centre and car park, which are centrally located to the Murwillumbah CBD. The site is surrounded by the Murwillumbah Civic Centre (Council Offices and Library), war memorial, commercial premises, a reserve and low-density residential housing, with access provided to the site via Tumbulgum Road and Queen Street.

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

The development application was advertised for a period of 14 days, during this time three (3) submissions were received. The issues raised in the submissions received are detailed as follows:

Issue	Comment	Assessment
Long term (daily) workers using Sunnyside Mall Shopping Centre's car park, which is provided for customers of the shopping centre.	Access to the car park should be available to the wider public and preferably with the capacity to accommodate long-term (daily) users.	The issued raised has been mediated through the provision of limited parking hours within the Sunnyside Mall Shopping Centre and enlargement of the car park adjacent to the Murwillumbah Swimming Complex to alleviate the current shortage within the Murwillumbah CBD.

<p>There should not be an upgrade of the existing car park, rather a new car park should be built in Knox Park.</p>	<p>Placement of the multi-storey car park in Council owned Knox Park.</p>	<p>Recent traffic study in Murwillumbah indicates that there are regularly between 40 and 80 vacant spaces in the Knox Park car park. In the subject car park adjacent to the pool there are as few as 4 vacant spaces available during the day. The upgrade to provide additional car spaces indicates that car parking is being provided where most required.</p> <p>Knox Park is a Crown Reserve owned by the Crown, managed by Tweed Shire Council and is not owned by Council. The current management plan for Knox Park reserve does not include the provision for a multi storey car park.</p> <p>The proposed pool upgrade and civic centre extensions require additional car parking, the most logical location for increased carparking was by upgrading the existing car park adjacent to these facilities.</p>
<p>Is there:</p> <ol style="list-style-type: none"> 1. Passive area for local use outside CWA Hall; 2. Disabled access in Queen Street; 3. Adequate safe ambulance access to main street and hospital; 4. Toilets in Queen Street with disabled access; 5. Time limit on parking hours; 6. Toilet facilities in car park; 7. Security after hours in vicinity of Queen Street, in car park, swimming pool 		<ol style="list-style-type: none"> 1. The current foot paving area (passive area) in front of the CWA will remain. 2. All footpaths constructed, as part of these works will comply with AS 1248.1. A lift is incorporated within the car park to provide for disabled access between the three levels of the car park, five (5) disabled car parking spaces are to be provided within the car park four (4) on the ground floor and one (1) on the level one. These arrangements are a

<p>complex; 8. Impact study for residents from the parking facility in relation to noise.</p>		<p>significant improvement to current arrangements. 3. The proposed upgrade to the car park will not adversely affect the current usage of Queen Street by ambulances, the access to Murwillumbah hospital will not be affected by the proposal. 4. This application does not involve an upgrade to the existing public toilets in Queen Street. Three disabled change rooms, with toilet, shower and washbasin are provided in the pool complex. 5. There are currently no plans to impose timed parking in the proposed car park. 6. There are existing public toilets located in Queen Street. There are no additional public toilets proposed within the car park. 7. The upgraded pool complex includes new security fencing two metres in height and the pool hall will be provided with a security alarm. Tweed Shire Council employs a security company to patrol its facilities in Murwillumbah. 8. Properties fronting Queen Street will not be affected by traffic noise due to the road speed being 50kph. Noise impacts that could be attributed to the upgrade car park are considered negligible.</p>
<p>How will the car park's Queen Street entrance impact: 1. Traffic flow from the East</p>		<p>1. Traffic will enter and exit the car park using a dedicated driveway. The entry would be subject to</p>

<p>from the Hospital Hill and West from the main street (Wharf Street);</p> <p>2. Existing pedestrian crossing in Queen Street (now used as a turning point for up to 60 cars a day)? Need for upgrading of pedestrian crossing in Queen Street;</p> <p>3. Passive drop off area for CWA, vet, local facilities, DRS and existing business;</p> <p>4. Existing complexity of area (including on street car parking, consistent illegal U-turns, Ambulance access, pedestrian crossing, speeding traffic, poor visual to the east).</p>		<p>usual parking restrictions to ensure the road and driveway are not affected.</p> <p>2. There are two pedestrian crossings' in Queen Street, one at the Main Street intersection and a mid block crossing adjacent to the CWA Building. Neither crossing's will be impacted by the car park. Pedestrians using the crossings and vehicles using Queen Street are required to abide by the NSW Road Rules.</p> <p>3. The area identified will not be affected by the car park. It is likely that the area will be utilised less in favour for the formalised upgraded car park.</p> <p>4. The items listed will be reduced by the construction of the multi storey car park. If speeding in the area is a problem the NSW Police Service will be notified.</p>
<p>Impact on Queen Street;</p> <p>1. Aesthetic receptivity to local area;</p> <p>2. Height of proposed 2nd storey of car park in relation to CWA Hall;</p> <p>3. Impact on surrounding commercial buildings and residential houses;</p> <p>4. Removal of existing trees on Northern entrance;</p> <p>5. Angle of entrance and exit;</p> <p>6. Traffic control east and west.</p>		<p>1. The car park and Pool Complex have been designed by Tompkins MDA Architects to be sympathetic to the existing Queen Street streetscape.</p> <p>2. The height of the proposed Car Park facade and Pool Hall will be approximately the same as the CWA building, refer to drawing 0515 A 501.</p> <p>3. Addressed previously.</p> <p>4. Tree removal is dealt with in Part 1 page 16 of the SEE. A 7 Part Test on the Davidson's Plum Trees was undertaken see appendix G of the SEE.</p> <p>5. Addressed previously.</p> <p>6. Addressed previously.</p>

Public Authority Submission

The application was referred to the Department of Environment and Conservation NSW, the Department raised no concerns with the application.

(e) Public interest

The development is generally consistent with all relevant statutory planning requirements and is considered in the public interest.

OPTIONS:

1. Approve
2. Refuse

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed upgrade to the Murwillumbah Swimming Complex Centre and adjacent car park is considered suitable for the site and unlikely to create any significant adverse impacts to the natural or built environments. The proposed works will provide a required recreation facility for the Tweed community, employment opportunities, social interaction for groups within the community and provide additional car parking for the Murwillumbah Shopping Precinct

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.
