



AGENDA

PLANNING COMMITTEE MEETING Tuesday 29 May 2007

Chairman: Mr Max Boyd AM

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

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

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

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

MATTERS FOR CONSIDERATION

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

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P1 [PR-PC] Section 96 Applications DA06/0698.01 & 0770/2000DA.04 for Amendment to Development Consents DA06/0698 & 0770/2000DA for the Expansion of Tavern Fitout & Operations into Tenancies 1 and 2 as Part of Hotel Development & Fitout for Bait & Tackle Sho

ORIGIN:

Development Assessment

FILE NO: DA06/0698 Pt2

SUMMARY OF REPORT:

Council is in receipt of two (2) S96 Applications which seek to extend the trading hours of the Ivory Hotel tavern in Tweed Heads. The need for the two (2) S96 Applications is a direct result of the tavern operating under two separate development consents. Subsequently, both consents need to be amended to reflect the extended trading hours.

The following report assesses the proposed amendments having regard to the Act. The report concludes that the amendments will result in substantially the same development as that approved and that all relevant consultations and submissions have been undertaken.

The current approved trading hours of the tavern under both consents are as follows:

- 10.00am to 10.00pm Sunday to Wednesday
- 10.00am to 11.00pm Thursday to Saturday

By way of Section 96 of the Environmental Planning and Assessment Act 1979, the applicant now seeks consent for extension of the approved trading hours under both the abovementioned consents, in the following manner:

- 7.00am to 11.00pm Monday to Wednesday
- 7.00am to 12 midnight Thursday to Saturday
- 7.00am to 10.00pm Sunday

The applications originally sought approval for extension of night trading hours to 11.00pm Monday to Wednesday and 2.00am Thursday to Saturday. However, after review of the numerous objections submitted and on advice that these later hours would not be supported by either Council or the NSW Police, the applications were amended to the hours shown above.

The applications have been reviewed by Council's Environmental Health Officer, who has no objection to extending approved trading hours in accordance with the current Hotelier's Licence for the premises.

32 submissions were received in objection to the original proposed hours during the initial exhibition period. The main issues raised were disturbance to amenity by way of noise, drunken behaviour of patrons leaving the premises later at night, adverse impact on property value and the existence of alternative licensed premises in the area which provide late night trading of a similar nature. Upon receipt of the amended proposal for trading hours until midnight, the amended application was re-exhibited and all objectors were re-notified. 5 submissions were received during this second exhibition period, all of which were from original objectors and did not raise any additional issues to those identified in the first round of exhibition.

The potential impacts on the amenity of the locality have been considered and although there is a possibility of increased disturbance to nearby residents, given the licence for the premises allows operation until midnight and the NSW Police Licensing Sergeant has no objection to the Ivory Hotel operating in accordance with this existing licence, and also having regard to the fact that the original proposal was for trading until 2.00am, it is recommended the proposed amendments for extended trading hours be approved, subject to the amendment of the relevant conditions of consent.

RECOMMENDATION:

That: -

- 1. Section 96 Application DA06/0698.01 for amendment to Development Consent DA06/0698 for the expansion of tavern fitout and operations into tenancies 1 and 2 as part of hotel development and fitout for bait and tackle shop at Lot 437 DP 755740, No. 156 Wharf Street, Tweed Heads be approved, subject to the following amendments to consent DA06/0698: -**

- Condition No. 2, which reads:**

“Development consent 0770/2000DA is to be amended to be consistent with the provisions of the Noise Level Impact Assessment report prepared by Craig Hill Acoustics dated 31 August 2006 (Reference: Pier 2 310806/1).”

Is to be DELETED.

- Condition No. 26, which reads:**

“All plant and equipment as specified in the Noise Level Impact Assessment report prepared by Craig Hill Acoustics dated 31 August 2006 (Reference: Pier 2 310806/1), is to be mounted on resilient mounts to reduce vibration and the transmission of noise with tonal components.”

Is to be DELETED, and new condition 26A to be INSERTED which reads:

"26a. All plant and equipment as specified in the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3), or subsequent noise report approved in writing by Council's General Manager or his delegate, is to be mounted on resilient mounts to reduce vibration and the transmission of noise with tonal components."

- **Condition 27, which reads:**

"Where plant and equipment is proposed to be provided or is placed different than that used for the basis of the Noise Level Impact Assessment Report prepared by Craig Hill Acoustics dated 31 August 2006 (Reference: Pier 2 310806/1), then such plant and equipment is not to be installed until Council is provided with a Noise Level Impact Assessment from an appropriately qualified Acoustic Engineer which is based upon the manufacturer specified sound pressure level rating for the proposed plant or equipment."

Is to be DELETED and new condition 27A to be INSERTED, which reads:

"27a. Where plant and equipment is proposed to be provided or is placed different than that used for the basis of the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3), or subsequent noise report approved in writing by Council's General Manager or his delegate, then such plant and equipment is not to be installed until Council is provided with a Noise Level Impact Assessment from an appropriately qualified Acoustic Engineer which is based upon the manufacturer specified sound pressure level rating for the proposed plant or equipment."

- **Condition No. 31, which reads:**

"Trading hours of the Tavern are restricted to the following: -

- * **10.00am to 10.00pm - Sunday to Wednesday**
- * **10.00am to 11.00pm - Thursday to Saturday**

Trading Hours of the Bait and Tackle Shop are restricted to the following: -

- * 8.30am to 5.00pm - Monday to Friday***
- * 8.00am to 3.00pm - Saturday and Sunday***
- * All deliveries and pickups relating to the business are to occur within the approved hours”***

Is to be DELETED and new condition 31A is to be INSERTED which reads:

“31a. Trading hours of the Tavern are restricted to the following: -

- * 7.00am to 11.00pm - Monday to Wednesday***
- * 7.00am to 12 midnight - Thursday to Saturday***
- * 7.00am to 10.00pm - Sunday***

The sale of alcohol is prohibited before 10.00am on any day. The Ivory Hotel Hotelier’s Licence shall be amended to allow the restricted areas of the tavern to be open for service of breakfast between the hours of 7.00am to 10.00am seven days a week, excluding the sale of alcohol. A copy of the amended license shall be forwarded to Council for its records.

Trading Hours of the Bait and Tackle Shop are restricted to the following: -

- * 8.30am to 5.00pm - Monday to Friday***
- * 8.00am to 3.00pm - Saturday and Sunday***
- * All deliveries and pickups relating to the business are to occur within the approved hours”***

- Condition No. 38, which reads:**

“Garbage collection shall be limited to between the hours of 8.00am and 10.00am Monday, Wednesday and Friday in accordance with the Noise Impact Assessment report prepared by Craig Hill Acoustics dated 31 August 2006 (reference: Pier 2 310806/1) or to the satisfaction of Council's Director of Environment and Community Services.”

Is to be DELETED, and new condition 38A is to be INSERTED which reads:

"38a. *Garbage collection shall be limited to between the hours of 8.00am and 10.00am Monday, Wednesday and Friday in accordance with the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3) or to the satisfaction of Council's general Manager or his delegate.*"

- Condition No. 43, which reads:

"The premises shall comply with the requirements of The Liquor Administration Board."

Is to be DELETED, and new condition 43A is to be INSERTED which reads:

"43a. The premises shall comply with the requirements of the NSW Office of Liquor, Gaming and Racing."

- Condition No. 47, which reads:

"All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Foods Act 1989 and the provisions of the Food Standards Code as called into force by the Food Regulation 2001."

Is to be DELETED

2. Section 96 Application 0770/2000DA.04 for amendment to Development Consent 0770/2000DA for the establishment of a tavern (pier two development site) at Lot 437 DP 755740, No. 156 Wharf Street, Tweed Heads be approved, subject to the following amendments to consent 0770/2000DA: -

- Condition No. 16, which reads:

"Hours of operation of the tavern are restricted to 10am to 10pm Sunday to Wednesday and 10am to 11pm Thursday to Saturday"

Is to be DELETED and new condition 16A is to be INSERTED, which reads:

"16a.Trading hours of the Tavern are restricted to the following: -

- * *7.00am to 11.00pm - Monday to Wednesday*
- * *7.00am to 12 midnight - Thursday to Saturday*
- * *7.00am to 10.00pm - Sunday*

The sale of alcohol is prohibited before 10.00am on any day. The Ivory Hotel Hotelier's Licence shall be amended to allow the restricted areas of the tavern to be open for service of breakfast between the hours of 7.00am to 10.00am seven days a week, excluding the sale of alcohol. A copy of the amended license shall be forwarded to Council for its records.

Trading Hours of the Bait and Tackle Shop are restricted to the following: -

- * 8.30am to 5.00pm - Monday to Friday*
- * 8.00am to 3.00pm - Saturday and Sunday*
- * All deliveries and pickups relating to the business are to occur within the approved hours"*

- Condition No. 39, which reads:

"All plant and equipment as specified in the Noise Level Impact Assessment Report by Craig Hill Acoustics dated April 2000 is to be mounted on resilient mounts to reduce vibration and the transmission of noise with tonal components."

Is to be DELETED, and new condition 39A is to be INSERTED which reads:

"39a. All plant and equipment as specified in the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3), or subsequent noise report approved in writing by Council's General Manager or his delegate, is to be mounted on resilient mounts to reduce vibration and the transmission of noise with tonal components."

- Condition No. 40, which reads:

"Where plant and equipment is proposed to be provided or is placed different than that used for the basis of the noise level Impact assessment Report by Craig Hill Acoustics dated April 2000, then such plant and equipment is not to be installed until Council is provided with a Noise Level Impact Assessment from an appropriately qualified Acoustic Engineer which is based upon the manufacturer specified sound pressure level rating for the proposed plant or equipment."

Is to be DELETED and new condition 40A is to be INSERTED, which reads:

“40a Where plant and equipment is proposed to be provided or is placed different than that used for the basis of the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3), or subsequent noise report approved in writing by Council’s General Manager or his delegate, then such plant and equipment is not to be installed until Council is provided with a Noise Level Impact Assessment from an appropriately qualified Acoustic Engineer which is based upon the manufacturer specified sound pressure level rating for the proposed plant or equipment.”

- **Condition No. 42, which reads:**

“If levels of internal amplified music are proposed other than that which has been allowed for in the Noise Level Assessment Report prepared by Craig Hill Acoustics dated April 2000, then the recommendations in the report relating to sound shell isolation are to be examined. A report from a suitable qualified Acoustic Engineer is to be provided to Council detailing any sound shell isolation measures proposed for approval prior to installation.”

Is to be DELETED and new condition 42A is to be INSERTED, which reads:

“42a.If levels of internal amplified music are proposed other than that which has been allowed for in the Noise Level Impact Assessment Revision 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (ref Pier2 290107/3), or subsequent noise report approved in writing by the general Manager or his delegate, then the recommendations in the report relating to sound shell isolation are to be examined. A report from a suitable qualified Acoustic Engineer is to be provided to Council detailing any sound shell isolation measures proposed for approval prior to installation.”

- **Condition No. 46, which reads:**

“Garbage collection is to be limited to between the hours and on the days as specified within the Noise Impact Assessment Report prepared by Craig Hill Acoustics dated April 2000. A letter from Solo Waste is to be supplied to Council confirming such arrangements”.

Is to be DELETED, and new condition 46A is to be INSERTED which reads:

“46a. Garbage collection shall be limited to between the hours of 8.00am and 10.00am Monday, Wednesday and Friday in accordance with the Noise Level Impact Assessment Revisions 2, Ivory Hotel Pier 2 Marina, Tweed Heads prepared by Craig Hill Acoustics dated 29 January 2007 (Ref Pier2 290107/3) or to the satisfaction of Council's general Manager or his delegate.”

REPORT:

Applicant: Ivory Hotel Pty Ltd c/ Planit Consulting Pty Ltd
Owner: Pier 2 Marina (NSW) Pty Ltd
Location: Lot 437 DP 755740 No. 156 Wharf Street, Tweed Heads
Zoning: 3(d) Waterfront Enterprise
Cost: Nil

BACKGROUND:

The Ivory Hotel tavern has a complex history comprising numerous development applications and Section 96 modifications approved at varied stages of the development of the site. The tavern currently operates under two separate consents. These are detailed as follows:

- Development Consent No. 0770/2000DA for the “Establishment of a Tavern” was granted approval on 4 October 2000. This consent was subsequently modified on 7 June 2006 to reflect a number of minor internal modifications; however the overall operation of the tavern remained substantially the same.
- Development Consent No DA06/0698 for the “Expansion of tavern fitout and operations into tenancies 1 and 2 as part of hotel development and fitout for bait and tackle shop” was granted approval on 20 October 2006.

The tavern is currently licensed to operate under ‘standard hotel trading hours’ as issued by the Licensing Court of NSW, which are from 10.00am to 12 midnight Monday to Saturday and from 10.00am to 10.00pm Sundays. These hours, however, are further restricted through Council’s conditions of consent, which allow for the following:

- 10.00am to 10.00pm Sunday to Wednesday
- 10.00am to 11.00pm Thursday to Saturday

By way of Section 96 of the Environmental Planning and Assessment Act 1979, the applicant now seeks consent for extension of the approved trading hours under both the abovementioned development consents, in the following manner:

- 7.00am to 11.00pm Monday to Wednesday
- 7.00am to 12 midnight Thursday to Saturday
- 7.00am to 10.00pm Sunday

The application originally sought approval for extension of night trading hours from 7.00am to 11.00pm Monday to Wednesday and 7.00am to 2.00am Thursday to Saturday. The applicant's justification for the amendments as originally proposed was to aim at improving the functional efficiency of the hotel, to cater for the needs of the hotel's patrons and to respond to market forces of supply and demand to open early in the morning to provide breakfast services. Furthermore, they argued that the existing restrictions on night time trading hours are a serious restraint on trade that is affecting the viability of the hotel, especially during the summer months when daylight savings is in force but Queensland patrons are still running on Eastern Standard Time.

The application was discussed with the NSW Police Licensing Officer for Tweed Heads, who responded in writing (12/3/2007) advising "should the licensee, Lincoln Ford, make any application to the Licensing Court of New South Wales for an extension to current trading hours this would be vigorously opposed by Police". The reasons behind this advice highly resemble Council's concerns with extending trading hours beyond those approved under the tavern's current liquor license, and are discussed in greater detail in a later section of this report.

After review of the issues raised in the numerous submissions objecting to the proposed amendments, and on advice that these later hours would not be supported by either Council or the NSW Police, the applicant amended the proposal to seek evening trading hours in accordance with the current Hotelier's Licence. The proposal also seeks to extend trading hours in the morning with the premises opening at 7.00am to provide breakfast service from the bistro area.

SITE DIAGRAM:



CONSIDERATIONS UNDER SECTION 96 AND 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

S96 of the Act specifies that on application being made by the applicant a consent authority can modify the development consent only if it is satisfied that the proposed modified development is substantially the same as the approved development and that all relevant consultations and submissions have been undertaken.

Having regard for this criteria the applicant has provided that the proposed variations result in substantially the same development on the basis that:

- *The development remains a Tavern / Hotel;*
- *The bulk, scale and height of the development remain the same as approved;*
- *The proposed amendments do not raise any environmental issues which have not already been investigated with the previous assessment of the proposal;*

Although an increase in trading hours will potentially result in an increase in amenity impacts, the extent of the impacts arising from the modifications are matters for consideration on the merits of the application. The above comments, which demonstrate that the proposed modifications would result in substantially the same development as that originally approved, are concurred with and the application can therefore be dealt with under S96 (2) of the Act.

In considering an application to modify development consent Council must also have regard to Section 79C of the Act. The matters of relevance are addressed as follows:

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

The proposed modifications do not raise any additional matters for consideration under TLEP2000.

North Coast Regional Environmental Plan 1988

The proposed amendments remain consistent with North Coast REP 1988.

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

There are no draft Environmental Planning Instruments that relate to or that have any significance in the assessment and determination of this application.

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

The proposed amendments do not raise any additional issues with respect to any Development Control Plan.

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

The proposed amendments remain consistent with the provisions of the NSW Coastal Policy. No demolition is proposed as part of this amendment.

(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

Neighbourhood Amenity

The proposed amendments sought are considered to be of scale that will not significantly impact on the built or natural environment, however a number of potential impacts on the social fabric and general amenity of the locality have been identified such as music noise carrying over the water to the Anchorage Islands residential area; intoxicated persons causing a reduction in safety in surrounding streets late at night; increased litter and violence. As discussed in the original application for the tavern, a development of this type is unlikely to operate without any impacts at all, however Council has the ability to restrict trading and operations such that the potential for such impacts is minimised and appropriate management plans are in place to deal with issues when they arise. Such controls already exist on the current consent and include provision of a comprehensive tavern management plan, setting decibel limits on overall noise emanating from the tavern and requirements that no noise be heard in any habitable room of nearby residences after midnight on any night. Notwithstanding, Council also must be fair in its assessment of the proposal and take into account the needs of the tavern operators and the members of the community who will frequent the tavern.

As stated in correspondence from NSW Police Licensing Sergeant for the Tweed area regarding the originally proposed 2.00 am closing time, "..... If extended trading hours were granted the Licensee would not be able to fulfil his obligations under Section 104 of the Liquor Act and would result in undue and frequent disturbance to the neighbourhood. The Hotel is situated only a short distance from habitable residential dwellings which would be impacted upon should the Hotel close at a later time than is already permitted (by the current Hotelier's Licence)."

Council's Environmental Health Officer concurs with the views of the Police and recommends that the tavern should not be allowed to trade beyond the hours stated under the conditions of the Hotelier's Licence, with the exception of morning trading for breakfast services.

Accordingly, although increasing trading hours to midnight will prolong the period of time that potential impacts on the surrounding amenity may occur, it is considered unreasonable for Council to restrict trading beyond that allowed by the approved Hotelier's Licence and agreeable to the police. Furthermore, it must be acknowledged that the applications originally sought trading until 2.00am and the applicant has been agreeable in reducing these hours to bring the proposal in line with the licensed hours. As such, an extension of trading by an hour to allow the tavern to operate until midnight is considered a reasonable compromise and should not impact on the locality significantly more than the existing arrangement.

Morning trading hours

The proposed morning trading hours and the provision of breakfast services are not seen to be unreasonable. The location of the tavern on the riverfront would provide an exceptional location for patrons to enjoy waterfront breakfast dining of this type, which is not available elsewhere in Tweed Heads.

Section 118 of the Liquor Act 1982 states the following:

"118 Closing of restricted areas and certain other areas

(1) The holder of an hotelier's licence shall:

- (a) at any time when his or her premises should not be open for the sale or supply of liquor, and*
- (b) at any time when the sale or supply of liquor is permitted only for consumption on a specified part of the licensed premises,*

close and keep closed to the public every restricted area on his or her licensed premises, and every other part of his or her licensed premises in which liquor is ordinarily sold or supplied to the public, except a restricted area or other part open in accordance with the conditions of the licence in a part of the premises referred to in paragraph (b)."

In accordance with the provisions of the Liquor Act, in order for the tavern to be open to serve breakfast to the general public from 7.00am, the restricted areas in which this service is to be provided must be permitted to be open from this time. As such, it is a necessary that the development consent and licence recognise that the premises is approved to trade from 7.00am.

Notwithstanding, as there will be little demand for alcohol at this time and the primary intention of the earlier opening time is to provide breakfast service, not full tavern services, it is considered justified for a restriction to be placed on the consent prohibiting the sale of alcohol during this morning trading time. This will ensure that any potential alcohol related disturbance in the morning hours is avoided. A condition of consent has been included requiring the Hotelier's Licence for the premises to be amended to reflect a restriction on the sale of alcohol prior to 10am within the restricted areas of the tavern, however still allowing them to be open for breakfast trade.

(c) Suitability of the site for the development

Given the tavern has already been approved for use as a tavern, and the proposed amendments are not substantially changing the approved use, the site is considered suitable for the development as proposed.

Needs of the Community

The applicant has expressed that the current trading hours are 'far from satisfactory and fail to meet the needs of the hotel patrons'. In contrast, correspondence from NSW Police states that "The needs of the community for late trading premises are already met by a number of other premises within the community that are permitted to trade past midnight. These premises are situated in more appropriate retail and commercial precincts away from residential areas. Police are of the opinion that the application would not be in the best interests of the community and would be made solely for the purpose of increasing revenue to the Hotelier. Police would not support such an application unless Council felt it was in the best interests of the community." Please note this is in relation to trading until 2am. Police have agreed to the existing licence hours ie. 12pm so long as Council does not have concerns.

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

The original s96 applications were advertised and notified to nearby residents between Wednesday 21 February 2007 and Wednesday 7 March 2007. During this period thirty two (32) written objections to the proposed extended trading hours until 2.00am were received. Two of the submissions were submitted by Strata Corporations on behalf of residents living on the Anchorage Island, and another was from the Tweed Residents and Ratepayers Association. The remaining objections were from individual residents living near the tavern or within the Tweed locality.

Although there were many individual responses, overall the relevant issues raised in the objections can be summarised into a single statement, indicating that later trading hours would unreasonably impact on the amenity of the neighbourhood by way of increased noise, increased intoxicated behaviour, reduction in safety of residents (and patrons) and an overall increased disturbance to the residents of the locality. It must be noted, however, that these issues were raised in response to the original proposal which sought trading until 2.00am Thursday through Saturday.

With the amendment of the proposed trading hours back to midnight, the applications were notified and exhibited again displaying the amended trading hours. During this second exhibition period the intensity of objections reduced greatly, with only 5 objections received, all from original objectors and all raising the same issues. The issues raised in the objections submitted during the first exhibition round all remain valid, however must now be read in context of the midnight closing time rather than 2.00am. In that regard, a number of objectors stated that 2.00am was completely unreasonable however midnight would be reasonable.

In response to the issues raised, and as discussed in the previous section of this report, Council acknowledges that any extension in trading hours of a premises such as a tavern does increase the potential for disruption and impact on the locality, however midnight is considered a much more tolerable closing time than 2.00am, and given the premises is already licensed to operate until midnight it would be unfair and unreasonable for Council to refuse trading in accordance with the approved licence.

OPTIONS:

1. Approve the S96 Applications in accordance with the recommended conditions of consent.
2. Refuse the S96 Applications for stated reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination of these applications they have a right to make an appeal to the Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed amendments have been assessed on their merits and have been assessed in the context of the variation only, as this is not an opportunity to re-visit the original determinations.

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 [PR-PC] Development Application DA07/0189 for Multi Dwelling Housing Comprising 11 x 3 Bedroom Terrace Style Dwellings at Lot 1 & 2 DP 263730, No. 2 & 4 Overall Drive, Pottsville

ORIGIN:

Development Assessment

FILE NO: DA07/0189 Pt1

SUMMARY OF REPORT:

The subject site is known as Lots 1 and 2 in DP 263730 and is located on the corner of Overall Drive and Hampton Court, Pottsville.

The proposed development seeks the erection of a two storey, multi dwelling residential development comprising a total of eleven (11) x three-bedroom terrace style dwellings in two separate structures. Vehicular access is to be provided from Hampton Court, with a total of 25 car parking spaces being provided.

The application is estimated as having a building cost over \$2 million.

The proposal was advertised in accordance with Council's policies, however no objections were received.

The proposal generally complies with the applicable requirements, with minor variances sought in site density, front fencing and building alignment.

It is recommended that the application be supported in its current form, subject to appropriate conditions of consent.

RECOMMENDATION:

That Development Application DA07/0189 for multi dwelling housing comprising 11 x 3 bedroom terrace style dwellings at Lot 1 & 2 DP 263730, No. 2 & 4 Overall Drive, Pottsville 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 DA.00 - DA.13 prepared by Lesiuk Architects Pty Ltd and dated 19.02.07, 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 within the public road reserve including (but not limited to) 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]

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 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. The developer shall provide 25 off street car parking spaces (including parking for 3 designated visitor spaces, with one having the provisions as a designated car wash bay) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code, AS 2890 and Austroads Part 11.

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

[PCC0065]

7. **Section 94 Contributions**

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

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

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

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

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

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector8a_4	\$15,502
(b) Open Space (Structured): S94 Plan No. 5	\$4,050
(c) Open Space (Casual): S94 Plan No. 5	\$865
(d) Shirewide Library Facilities: S94 Plan No. 11	\$3,574
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$728
(f) Community Facilities (Tweed Coast - South) S94 Plan No. 15 South Coast	\$5,256
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$1,041
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$10,366.99
(i) Cycleways S94 Plan No. 22	\$1,826
(j) Regional Open Space (Structured) S94 Plan No. 26	\$12,076
(k) Regional Open Space (Casual) S94 Plan No. 26	\$4,439

[PCC0215]

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

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

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

Water DSP6:	6.8 ET @ \$4598	\$31,266
Sewer Hastings Point:	9 ET @ \$2863	\$25,767

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]

9. Any filling of the site 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. The construction of any perimeter retaining structures or batters shall at no time result in additional ponding occurring within neighbouring properties.

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

[PCC0485]

10. 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 shall be installed prior to any earthworks being undertaken.
- [PCC1105]
11. 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]
12. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works (including the connection of a private stormwater drain to a public stormwater dish drain, the installation of stormwater quality control devices and erosion and sediment control works) prior to the issue of a construction certificate.
- [PCC1195]
13. The legal point of discharge for piped stormwater from the site is via direct connection into the kerbside inlet pit within Overall Drive. Full engineering details of this connection shall be submitted with a s68 Stormwater Application for approval, prior to the issue of a Construction Certificate.
- [PCCNS01]
14. Plans to accompany the Construction Certificate application shall provide a minimum aisle width of 5.8m along the frontage of each proposed carport / garage, with a minimum aisle width of 5.5m being provided for the remainder of the internal driveway.
- [PCCNS02]
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. The landscaping plan is to be certified by a qualified Landscape Architect.
- [PCC0585]

PRIOR TO COMMENCEMENT OF WORK

16. 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]
17. 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]
18. 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]

19. 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]

20. 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]

21. 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]

22. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational 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]

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

[PCW1065]

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

[PCW0705]

25. 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]

DURING CONSTRUCTION

26. 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]

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

[DUR0375]

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

[DUR0395]

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

[DUR0405]

30. It is the responsibility of the applicant to restrict public access to the 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]

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

[DUR0445]

32. 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]

33. 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]

34. The habitable floor area of the building shall be at a level not less than RL 3.0m AHD.

[DUR1435]

35. A survey certificate signed by a registered surveyor is to be submitted to the Principal Certifying Authority at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.0m AHD.
[DUR1445]
36. 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 or prior to any use or occupation of the buildings.
[DUR1875]
37. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]
38. 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]
39. 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]
40. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
[DUR2505]
41. 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]
42. 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]

43. 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]

44. 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]

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

A. Short Term Period - 4 weeks.

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

B. Long term period - the duration.

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

[DUR0215]

46. Provision to be made for the designation of one (1) durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

47. 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]

48. 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]

49. 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]
50. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
51. Excavations below 1m of the natural ground surface level are not permitted without prior permission from Council's Building & Environmental Health Unit.
[DURNS01]
52. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.
[DUR1015]
53. Sediment & erosion controls measures are to be installed in accordance with the Erosion & Sediment Control Plan prepared by Cozens Regan Williams Prove Pty Ltd dated 21 December 2006.
[DURNS01]
54. Regular inspections are to be carried out by the site supervisor to ensure that proper sediment & erosion control measures are maintained during construction.
[DURNS01]
55. 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]
56. 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 to the satisfaction of the General Manager or his delegate.
57. Such to specifically include the following:
- (a) 150 millimetres thick reinforced with SL72 mesh, (unless modified by the approved Section 138 Application)
 - (b) Minimum Sight Lines for pedestrian safety at the property boundary, in accordance with Council's "Driveway Access To Property - Design Specification - Part 1 July 2004".

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]

58. The provision of 25 off-street car parking spaces (including 3 designated visitor parking spaces, with one having the provisions as a designated Car Wash Bay) The layout and construction standards to be in accordance with Tweed Development Control Plan Section No. A2 - *Site Access and Parking Code*

[DUR0085]

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

[DUR0815]

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

[DUR1795]

63. 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]

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

[DUR1885]

65. Where the kerb is to be removed for driveway laybacks, stormwater connections, 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]

66. 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]

67. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

68. 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]

69. 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]

70. 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]

71. 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]

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

[POC0005]

73. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

74. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

USE

75. All externally mounted air conditioning units, 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]

76. 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]

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

[USE0225]

REPORT:

Applicant: Augusta Properties (NSW) Pty Ltd
Owner: Lamington Investments Pty Ltd
Location: Lots 1 -2 DP 263730, No. 2-4 Overall Drive Pottsville
Zoning: 2(b) Medium Density Residential
Cost: \$2,000,000

BACKGROUND:

The Subject Site

The subject site is known as Lots 1 and 2 in DP263730 and is located on the corner of Overall Drive and Hampton Court, Pottsville.

The site is irregular in shape with a northern frontage to the unformed road reserve of Charles Street, an eastern frontage to Overall Drive and a southern frontage to Hampton Court, the site totals 2380 square metres.

The site is relatively level, currently vacant and comprises of partial clearing of vegetation.

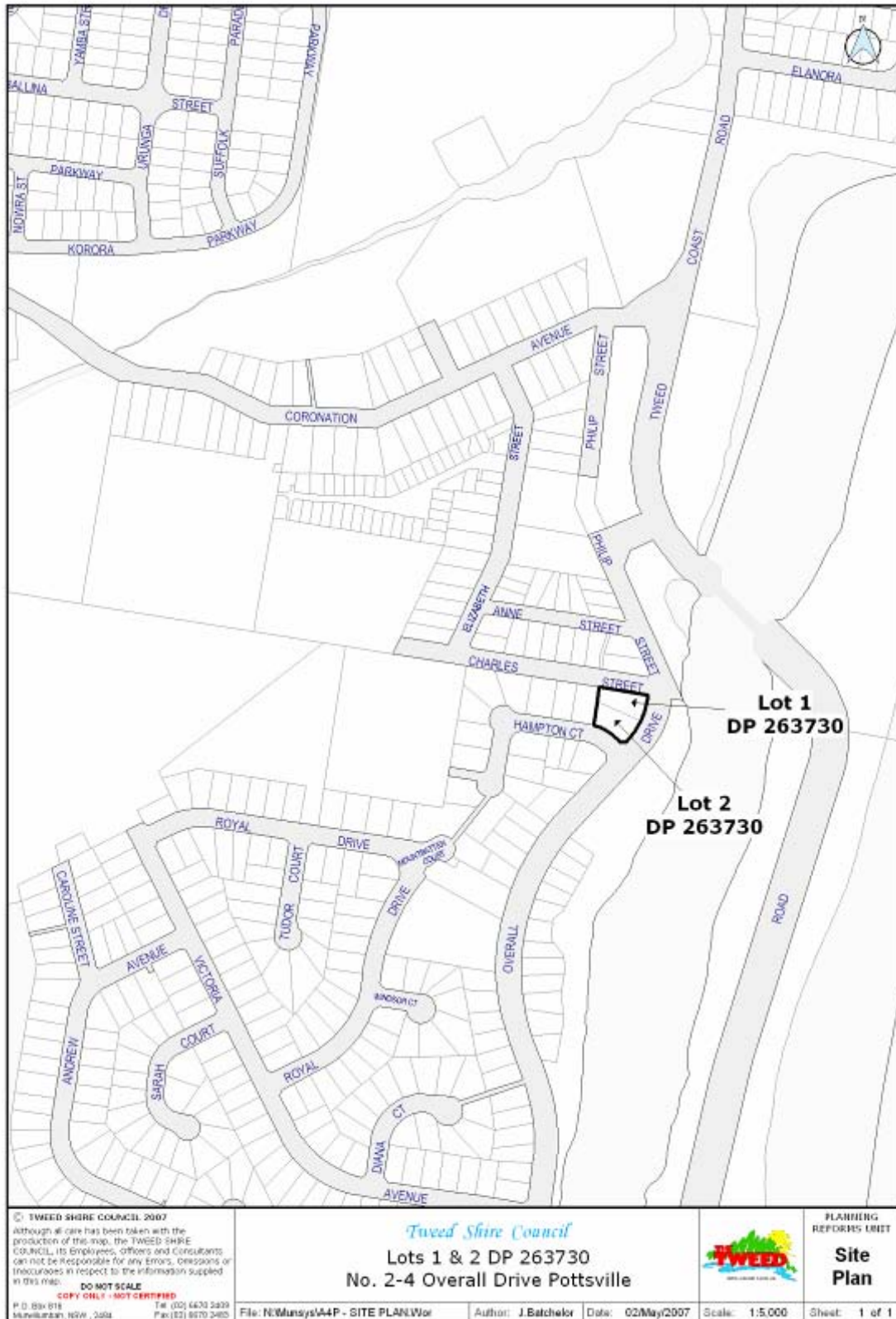
To the north of site is the unformed road reserve of Charles Street. This road reservation comprises an open drain and some mature vegetation. To the east of the site is the alignment of Overall Drive, a parkland and Cudgera Creek. To the south, on Hampton Court is a mixture of two storey residential development, including townhouse style development. Further to the west are various one and two storey residential developments.

The Proposed Development

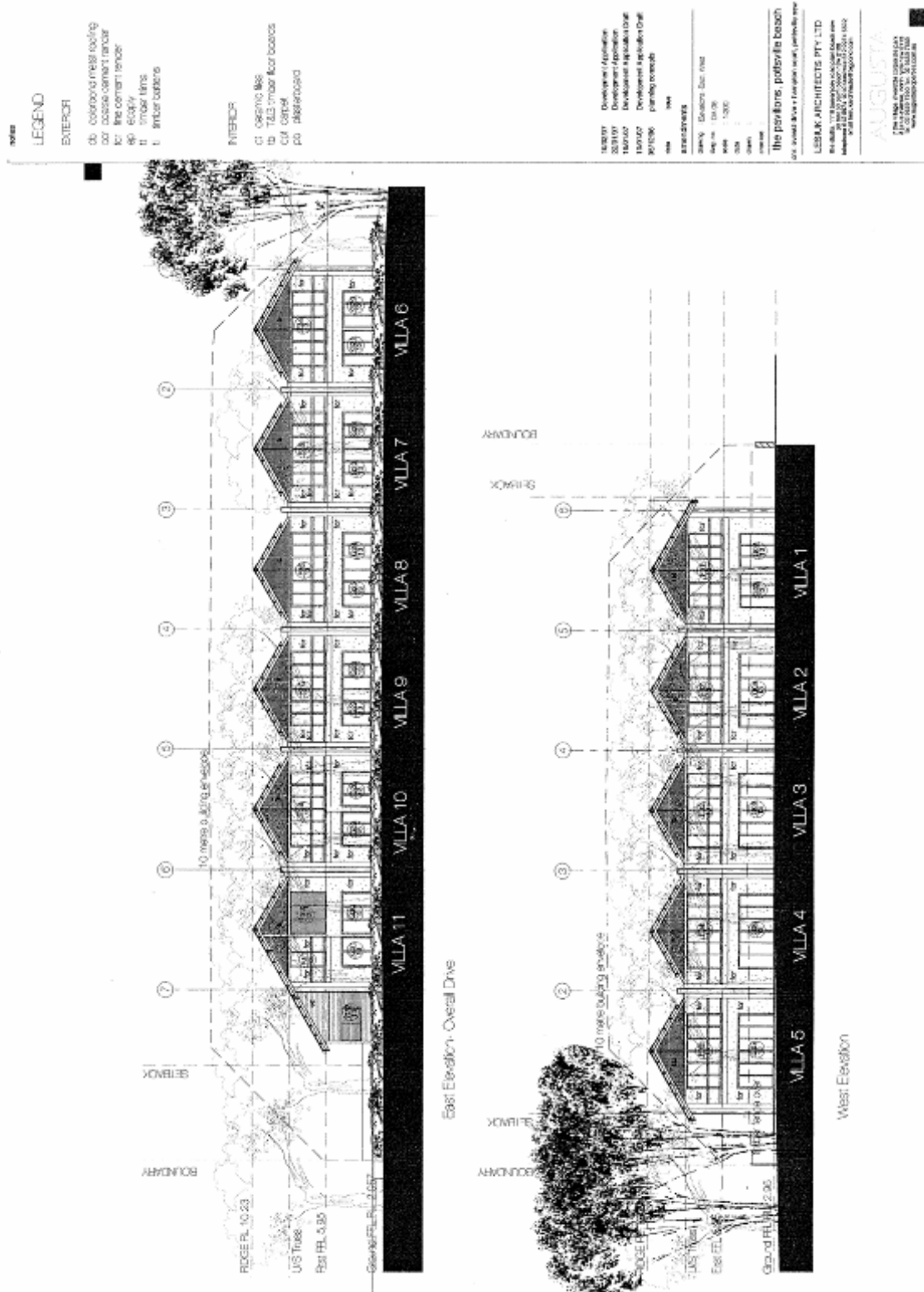
The proposal seeks the erection of a two storey, multi dwelling residential development comprising a total of eleven (11) x three-bedroom terrace style dwellings in two separate structures.

Vehicular access is to be provided from Hampton Court with a total of 25 car parking spaces provided either side of the central driveway. This equates to each dwelling having a two spaces, with a total of three spaces available for visitors.

SITE DIAGRAM:



ELEVATIONS:



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

Clause 11 – Zone Objectives

The subject land is zoned part 2(b) Medium Density Residential under the provisions of the Tweed Local Environmental Plan (TLEP) 2000.

A “Multi Dwelling Housing” development is permissible with Council’s consent in the 2(b) medium density residential zone.

The subject site is zoned 2(b) Medium Density Residential under the provisions of this plan. The objectives of this zone are:

Primary objective:

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

Secondary objectives:

- *to allow for non-residential development which supports the residential use of the locality.*
- *to allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *to discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

The proposed multi dwelling house development satisfies the objectives of the zone.

Furthermore, the development must also satisfy the provisions of Clause 8(1) of TLEP 2000:

Clause 8(1) - Consent Considerations

- The consent authority may not grant consent to development (other than development specified in Item 3 of the table to Clause 11) only if:*
- It is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- It has considered those other aims and objectives of this plan that are relevant to the development, and*

- d) *It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of the Tweed as a whole.*

The proposed multi dwelling house development satisfies Clause 8 of TLEP 2000.

Clause 15 of the TLEP requires the provision of essential services to be available to the site prior to any consent being granted. All normal urban services are available to the site.

Clause 16 of the TLEP provides a two storey height limit over the site. The proposal complies with this requirement.

Clause 35 of the TLEP provides for the management of acid sulphate soils. The subject land is identified as being in a Class 3 area. As excavations will not exceed 1m below existing ground level, Council's standard conditions for acid sulphate soil management plan for minor works will be conditioned.

North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP is applicable. The multi dwelling house development will not create any overshadowing of 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 or, The North Coast: Design Guidelines.

Clause 43 of the NCREP is applicable. This residential development clause states that Council is prohibited from granting consent to residential development within coastal lands unless it is satisfied the proposal complies with the items set out in Clause 43(1) of NCREP. The items relevant to this development relate to site density and erosion control. The proposed multi-dwelling development maintains an appropriate site density, and suitable measures to mitigate adverse impacts of erosion and sedimentation during construction have been proposed and are to be enforced through as conditions of consent. In that regard, Clause 43 is considered satisfied.

Clause 81 of the NCREP is applicable. This clause contains provision in relation to development on land within 100 metres of the ocean or any substantial waterway. In this regard it is considered that the proposal would not reduce the amount of available foreshore open space for the public, nor would it detract from the visual amenity of the creek.

The proposed development is considered to have satisfied the relevant provisions of the NCREP

State Environmental Planning Policies

SEPP No. 71 – Coastal Protection:

The subject site is within the coastal zone and therefore relevant provisions of this Policy apply:

The matters for consideration are the following:

- (a) *the aims of this Policy set out in clause 2,*
- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the [Threatened Species Conservation Act 1995](#)) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the [Fisheries Management Act 1994](#)) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*

- (p) *only in cases in which a development application in relation to proposed development is determined:*
- (i) *the cumulative impacts of the proposed development on the environment, and*
 - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The proposed development is considered to be consistent with the aims of the policy. The subject land does not have frontage to the coastal foreshore reserve and therefore will not restrict public access to the along the foreshore. The development is consistent with the zone objectives of TLEP2000, the requirements of relevant Council DCP, and consistent with ESD principles and objectives. It is therefore considered that the proposal satisfies the matters for consideration under SEPP 71.

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

There are no Draft State Environmental Planning Policies that are relevant to this application.

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

Tweed Development Control Plan

Section A1 Multi Dwelling Housing and Tourist Accommodation:

The following table assess the proposed development in relation to the provisions of this section of the DCP:

Provision	Requirement	Provides	Compliance
Site Density	0.5:1 FSR	0.68:1	* See below (1)
Boundary Setbacks	East (Overall Drive) = 6m	6m to wall	Yes
	West (Rear boundary) = 3m	3m to wall	Yes
	South (Hampton Court) = 3m	3m to wall	Yes
	North (Charles Street, unformed) = 3m	3m to wall	Yes
Building Envelope	Height = 12m Envelope/3.5m @ 45degrees	Compliance	Yes
Landscaping	30% of the site or sum of number of dwellings multiplied by ratio in table 2 = 880m ²	955m ²	Yes
Private Open Space	20% of site area, one part 25m ² , with a minimum dimension of 4m = 476m ²	760m ²	Yes
Front Fencing	Corner lots no more than 900mm high	600mm - 1.2m	* See below (2)

* See below

The proposal generally meets the specified performance criteria within DCP 6, with minor variations to a side setback and private open space criteria, as discussed below.

(1) Site Density

It is noted that the floor space ratio of the proposed development does not strictly comply with the requirements stated in the DCP. The 0.5:1 requirements is currently under review by Council and is not strictly applicable to development in the 2(b) medium density zone. The FSR for residential development is similar to the recent multi dwelling housing approvals in the 2(b) zone and is consistent with the zone objectives.

(2) Front Fences

The plans indicate a 600mm dwarf sleeper wall along the Overall Drive frontage and a 1200mm high rendered wall to the Hampton Court frontage. Although the controls require a maximum height of 900mm, the additional 300mm proposed is considered to be acceptable, given the location of the private open space of units 1 and 11, with a portion of their private open space on the Hampton Street frontage, the proposed fence height is considered to be acceptable to improve privacy to these units. Further to this, the visitor and car wash bays are also located along this frontage, the 1200mm fence is considered to form an appropriate screen, thereby improving the appearance of the streetscape. It is also worthy to note that the development across the street (Hampton Court) incorporates a high fence, demonstrating that the proposal will complement the surrounding context of the street.

Therefore the proposed 300mm non compliance is acceptable as it meets the objectives of the requirement.

In general, it is considered that the design of the proposed development is in keeping with the prevailing two storey height limits of the locality. The design which retains many of the existing trees on site, along with increased planting, will maintain the established landscaped appearance of the neighbourhood. The design and orientation of the units also takes advantage of the scenic view available to the east of the site and provides adequate solar access to all private open spaces.

Section A2 Site Access & Parking Code:

The following table assess the proposed development in relation to the provisions of this section of the DCP:

	Resident Parking	Visitor Parking	Total Spaces
Requirement:			
1.5 spaces per 2 bed unit, plus	22 spaces		22 spaces
1 space per 4 units for visitor parking		3 spaces	3 spaces
TOTAL PROVIDED	22	3	25 spaces

As the proposal comprises of eleven units, the development control plan requires a total of 25 spaces and the mix of residential and visitor spaces fully complies with the requirements of the plan.

Section A3 Development of Flood Liable Land

The proposed development is considered suitable for the site with appropriate conditions of consent being recommended to ensure compliance with this section of the DCP.

Section A9 Energy Smart Homes

Appropriate conditions of consent have been applied to the recommendation to ensure compliance with Section A9 and the Basix provisions.

Section A11 Public Notification of Development Proposal

The development has been advertised and notified in accordance with the Policy as detailed below, however the application received no submissions.

Section A14 Cut & Fill on Residential Land

The proposed development is considered to generally comply with this policy. All cut to accommodate the basement car parks occurs below the footprint of the buildings and ensures protection during flood events. Appropriate conditions are recommended.

Section B18 Tweed Coast Building Heights

The following table assess the proposed development in relation to the provisions of this section of the DCP:

Provision	Requirement	Provides	Compliance
Building	2 storey	2 stories	Yes
Height	6m (FGL – uppermost ceiling) 8m (FGL – highest point of ridge)	5m 7.3m	
Building Setbacks	East (Overall Drive) = 6m	6m to wall	Yes
	West (Rear boundary) = 3m	3m to wall	Yes
	South (Hampton Court) = 3m	3m to wall	Yes
	North (Charles Street, unformed) = 3m	3m to wall	Yes
Roof Design	Articulated roof form Non-reflective materials Screen ancillary structures	Articulated design Non-reflective materials Structures screened	Yes
Building Envelope	Height = 12m Envelope/3.5m @ 45degrees	Compliance	Yes

The Plan specifies that two storey residential development is appropriate for this site. The proposed development complies with this height limit, the prescribed setbacks, building envelope and incorporates a satisfactory roof design, as such it is considered to be a suitable form of development for the site given the changing character of Pottsville.

Pottsville Village Strategy

The subject site falls within the Pottsville Village Strategy. The proposed development is considered to meet the desired future character of the area, by providing a development that compliments its low key character. The response to the building design is considered to reflect its surrounds, by limiting the height of the development to two stories, and by providing a diversified building style. It is therefore considered that the proposal meets the objectives and intent of the strategy.

Building Line Policy

Council's Building Line policy requires a six (6) metre setback to Overall Drive, The proposal generally complies with this requirement, with the minor variance to roof/eave overhang to Units 6, 8, 9, 10, 11 by 600mm.

This encroachment is considered to be minor in nature and considering the proposal complies with the objectives of the policy, in that it provides for an attractive and reasonably landscaped streetscape; it provides for a safe and convenient circulation for pedestrians and parking of vehicles and controls the extent of overshadowing, and privacy. It is therefore considered warranted to support the minor variation to the building line.

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

The application has been conditioned to ensure compliance with all applicable Regulations.

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

Overall Site and Building Design

The development consists of pavilions with wide roof structures with windows and openings being configured with glass louvers to provide natural ventilation. The internal configuration has a number of units with their primary living areas on the upper floor opening onto wide verandahs, whilst the remaining units have their living areas located on the ground floor opening onto private outdoor gardens. The selection of materials and finishes are considered appropriate to reflect the coastal housing environment.

Additionally the proposal generally complies with Council's development standards and will provide appropriate housing choice to a growing sector of the community.

Amenity, Overshadowing & Visual Impacts:

The proposed development is considered to compliment the existing streetscape, by adopting a number of design elements which aim to reduce the impacts associated with overshadowing, privacy and amenity of adjoining properties. The development has also provided appropriate landscaping to soften visual impacts, reduce run off and improve the aesthetics of the public domain.

Access & Internal Circulation:

A review of the site and comments from Council's Development Engineer indicates that the proposed access and internal manoeuvrability is satisfactory subject to conditions of consent. Specifically a condition to provide an aisle width of 5.8m along the frontage of the each proposed carport/garage, with a minimum aisle with of 5.5 m being provided for the remainder of the driveway.

Construction & Noise:

As with most developments, some adverse impacts such as noise, reduction in air quality and general decline of amenity in the locality are anticipated during the construction phase. Despite this, any potential impacts are considered insignificant given their temporary nature and considering the minimal long-term impacts of the development.

Threatened Species:

Section 5A of the Act sets out matters which must be considered in determining whether or not there is likely to be a significant effect on threatened species, populations, ecological communities, or their habitats. The proposal does not involve the removal of any significant trees and there is no inclination that the site possesses sensitive or protected species. In the circumstances a Species Impact Statement is not deemed to be necessary.

(c) Suitability of the site for the development

The application was referred to Council's Environment and Health Unit, Building Services Unit and Engineering and Operations Unit for assessment. The application was reviewed by all abovementioned departments with no concerns being raised, subject to appropriate conditions being imposed on the consent.

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

The proposed development was originally advertised in the Tweed Link with additional notification letters going out to all residents within close proximity of the site. People were given two weeks (14 March 2007 – 28 March 2007) to view the application and provide a written submission to the DA.

During this period Council did not receive any submissions.

(e) Public interest

The proposed development is not considered to be contrary to the public interest. Subject to conditions of consent the application is considered reasonable and appropriate for the locality.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions of consent.
2. Refuse the development application, with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal in the NSW Land and Environment Court should they be dissatisfied with the determination of the application.

POLICY IMPLICATIONS:

The proposed development has been assessed on its merits and for that reason the development does not generate a policy implication for Council.

CONCLUSION:

The proposal has been investigated and is considered to be suitable to the site unlikely to cause any significant long term negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the TLEP and relevant DCP. The application has been assessed by Council's technical officers with no objections being raised subject to the attached conditions of development consent. The proposed multi dwelling housing development facility is therefore recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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P3 [PR-PC] Development Application DA06/1215 for a Six Storey Apartment Building Comprising 15 Units - 5 x 2 Bedroom, 9 x 3 Bedroom and 1 x 4 Bedroom at Lot 1 & 2 DP 360543, No. 1 Brett Street & No. 26 Recreation Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA06/1215 Pt2

SUMMARY OF REPORT:

Council is in receipt of an application for a multi unit development at 26 Recreation Street, Tweed Heads. The development comprises the construction of a 6-storey residential flat building comprising of 15 units with a basement car parking level providing on site parking for a minimum of 27 vehicles.

The land is zoned 2(b) Medium Density Residential under Tweed Local Environmental Plan 2000 and is identified under Development Control Plan Part B2 Tweed Heads as a high-density residential precinct. The proposed development is the first high density development in the locality.

The application incorporates minor encroachments into the building envelope, presents minor overshadowing to adjacent properties to the east and south, and has raised privacy concerns for a nearby resident. However, despite these issues the application is recommended for approval based on the architectural merits of the building and having regard to the high-density land-use controls in this area.

The application attracted 1 public submission.

RECOMMENDATION:

That Development Application DA06/1215 for a six storey apartment building comprising 15 units - 5 x 2 bedroom, 9 x 3 bedroom and 1 x 4 bedroom at Lots 1 & 2, DP 360543, No. 1 Brett Street & No. 26 Recreation Street, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's:**
 - **P516 - SK03 (Issue B) - Site Plan, dated 14 July 2006;**
 - **P516 - SK04 (Issue C) – Basement Floor Plan, dated 18 May 2007;**

- P516 - SK05 (Issue C) – Ground Level Floor Plan, dated 18 May 2007;
 - P516 - SK06 (Issue C) – Level 1-3 Typical Floor Plan, dated 29 March 2007;
 - P516 - SK07 (Issue C) – Level 4 Floor Plan, dated 29 March 2007;
 - P516 - SK08 (Issue B) – Level 5 Floor Plan, dated 14 July 2006;
 - P516 - SK09 (Issue C) – Level 6 Roof Terrace, dated 29 March 2007;
 - P516 – SK10 (Issue A) – Stair Cross Sections, dated 22 June 2006;
 - P516 – SK11 (Issue B) – Long Section, dated 14 July 2006;
 - P516 – SK12 (Issue B) – North Elevation, dated 14 July 2006;
 - P516 – SK13 (Issue B) – South Elevation, dated 14 July 2006; and
 - P516 – SK14 (Issue B) – East & West Elevations, dated 14 July 2006,
- prepared by Glen Petersen Architect, except where varied by the conditions of this consent.

[GEN0005]

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

[GEN0135]

3. The proposed demolition of the existing buildings on the subject site is not covered by this approval and is subject to separate development consent.
4. There shall be unrestricted access provided to the visitor parking and refuse areas within the basement level of the building.
5. No roofing or shade structure shall be permitted on the roof terrace level.

[GENNS03]

6. Council will not permit ground anchors (to retain sacrificial sheet piling for basement excavations) within Council or private property, without prior consent from the property owner being obtained. If the landowner is Council, approval is required from the Director of Engineering and Operations. The anchors are required to be removed upon completion of the works, unless a substantial compensation amount is negotiated with Council.
7. The site is flood prone and is therefore subject to the provisions of Tweed Shire Council Development Control Plan Part A3 – Development of Flood Liable Land.

[GENNS02]

8. All works shall be carried out in accordance with the Preliminary Acid Sulfate Soil Assessment & Management Plan and Dewatering Management Plan for Lots 1 & 2 DP 360543 Cnr Recreation & Brett Sts, Tweed Heads prepared by HMC Environmental Consulting Pty Ltd dated February 2007 (Report No – 2006.87).
9. All waters pumped from the site in the de-watering process are to be treated with an effective deodoriser to the satisfaction of Council's General Manager or his delegate to neutralise any offensive odours. The point of discharge shall also be approved by Council's General Manager or his delegate prior to installation and shall include a water-sampling outlet.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. 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]

11. 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 shall be installed prior to any earthworks being undertaken.
- (ii) The basement oil/grit arrestor shall be sized in accordance with Section D7.12 of Councils Development Design Specification D7 - Stormwater Quality.
- (iii) The external car wash bay and bin storage area shall be constructed of permeable material or be provided with appropriate facilities such that runoff from these areas are treated to remove oil and sediment prior to discharge into the stormwater system.

[PCC1105]

12. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.6m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park.

The pump system shall be designed for a storm event with a 10 year average return interval (ARI 10) and shall have failsafe measures in place such that property (on site and adjacent) is protected against pump failure. Consequences of the 100 year ARI storm event must also be addressed. Details of the basement stormwater pump-out system shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

Installed pumps must be designed and installed in accordance with Section 9 of AS/NZS 3500.3.2.1998 "*Natural Plumbing and Drainage – Part 3.2 : Stormwater Drainage – Acceptable Solutions*"

[PCC0685]

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. The landscaping plan is to be certified by a qualified Landscape Architect and shall be in general accordance with the submitted Statement of Landscape Intent (SLI/01 and 02), prepared by Planit Consulting and dated September 2006.

[PCC0585]

14. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. The construction of any retaining wall structure or fill batters must at no time result in additional ponding occurring within neighbouring properties.

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

[PCC0485]

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

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

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

Water DSP4:	6.2 ET @ \$4598	\$28,508
Sewer Banora:	10.75 ET @ \$2863	\$30,777

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

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

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

[PCC0265]

16. 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:	\$7,728
S94 Plan No. 4 (Version 4.0)	

Sector1_4

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

(b)	Open Space (Structured): S94 Plan No. 5	\$5,850
(c)	Open Space (Casual): S94 Plan No. 5	\$1,250
(d)	Shirewide Library Facilities: S94 Plan No. 11	\$5,162
(e)	Bus Shelters: S94 Plan No. 12	\$182
(f)	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$1,039
(g)	Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$1,503
(h)	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$14,974.80
(i)	Cycleways S94 Plan No. 22	\$2,638

- | | |
|---|----------|
| (j) Regional Open Space (Structured)
S94 Plan No. 26 | \$17,445 |
| (k) Regional Open Space (Casual)
S94 Plan No. 26 | \$6,412 |

[PCC0215]

17. The developer shall provide 27 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code as well as provisions for one Car Wash Bay.

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

The driveway entrance shall be graded such that stormwater runoff within the kerb and gutter of the Road Reserve does not enter the basement.

[PCC0065]

18. 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 within the public road reserve including (but not limited to) the construction or removal of driveway accesses or footpaths, the installation of site hoarding fences or sheet pile ground anchors. Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee.

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

[PCC0075]

19. Surcharge overflow from any installed rainwater detention tank must discharge by visible surface flow directly to the kerb and guttering of either Brett Street or Recreation Street along the frontage of the site. No surcharge flow is allowed onto neighbouring private property.

Details of any proposed rainwater detention, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

The legal point of discharge for piped stormwater from the site is via direct connection into the kerbside inlet pit within Brett Street. Full engineering details of this connection shall be submitted with a s68 Stormwater Application for approval, prior to the issue of a Construction Certificate.

[PCCNS01]

20. Development consent (separate to this consent) is required for the demolition of the existing buildings upon the subject site, prior to the issue of a Construction Certificate.

[PCCNS02]

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

[PCC0945]

22. 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]

23. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works (including the connection of a private stormwater drain to a public stormwater drain, the installation of stormwater quality control devices and erosion and sediment control works) prior to the issue of a construction certificate.

Connection to the existing sewer is to be done under Council supervision. The proposed sewer relocation shall be constructed in 300mm dia pipe as per Council's Development Design Specification D12 – Sewerage System. The sewer alignment shall comply with Council's Works in Proximity to Sewers policy.

[PCC1195]

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

[PCC1235]

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

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.

- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.
- [PCW0080]
26. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
27. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

28. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
- * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
- * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

- 29. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-**
- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

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

[PCW0255]

31. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (a) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
 - (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
 - (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

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

[PCW0775]

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

[PCW0955]

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

[PCW0965]

34. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

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

[PCW0985]

35. 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]

36. Prior to start of building works provide a certificate of adequacy of design, signed by a practising Structural Engineer on any proposed retaining wall in excess of 1.2m in height. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and be supported by Geotechnical assessment of the founding material.

[PCW0745]

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. 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]

PRIOR TO COMMENCEMENT OF WORK

39. It is the responsibility of the contractor to locate and identify all existing 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]

DURING CONSTRUCTION

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

[DUR0005]

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. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0385]
44. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- [DUR0395]
45. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- [DUR0405]
46. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
- [DUR0415]
47. Excavation
- (a) All excavations and backfilling associated with the erection of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
 - (b) All excavations associated with the erection of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- [DUR0425]
48. If the work involved in the erection 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.

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

[DUR0435]

49. 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]

50. 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]

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. **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]

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

[DUR2085]

54. 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]

55. 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]

56. 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]

57. 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]

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

[DUR2515]

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

[DUR2525]

60. 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]

61. 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]

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

[DUR2625]

63. 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]

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

[DUR2435]

65. 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]

66. 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]

67. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

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

[DUR2195]

69. 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]

70. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification to be provided to the Private Certifying Authority prior to the issue of an Occupation Certificate.
- [DUR1955]
71. 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]
72. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
- [DUR1885]
73. 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 any use or occupation of the buildings.
- [DUR1875]
74. Pram ramps are to be provided at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.
- [DUR1855]
75. 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]
76. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
- [DUR1795]
77. A concrete ribbon footpath 1.2 metres wide (minimum) shall be provided on a compacted base along the entire frontage of the site in accordance with Councils adopted Development Design and Construction Specification and Standard Drawing S.D. 013. This may require the reconstruction of the existing footpath along the frontage of the site, such that it complies with Council's standards.

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]

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

[DUR1045]

79. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

80. 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 an Occupation Certificate.

[DUR0995]

81. 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]

82. Provision to be made for the designation of one (1) durable and pervious car wash-down area. The area must be identified for that specific purpose and be supplied with an adequate water supply for use within the area. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

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

[DUR0815]

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

[DUR0785]

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

[DUR0255]

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

[DUR0245]

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

[DUR0235]

88. 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]

89. The provision of twenty seven (27) off street car parking spaces including parking for the disabled where applicable. The seven (7) visitor spaces indicated on the Basement Plan shall be nominated and maintained as such. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

90. 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 to the satisfaction of the General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with SL72 Mesh (unless modified by the approved Section 138 Application).
- (b) Minimum Sight Lines for pedestrian safety at the property boundary, in accordance with Council's "Driveway Access To Property – Design Specification – Part 1 July 2004".

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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

92. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

93. Prior to the 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]

94. 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]

95. 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]

96. 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]

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

[POC1055]

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. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

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

[POC0755]

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

[POC0475]

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

[POC0005]

USE

103. 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]

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. 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]

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

[USE1305]

107. 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]

108. The use being restricted to the floor area designated on the approved plan.

[USE0415]

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

[USE0225]

GENERAL TERMS OF APPROVAL FOR A LICENSE UNDER THE WATER ACT 1912 FOR DEVELOPMENT APPLICATION NUMBER 06/1215

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.

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

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

- The use of water shall be conditional on no tailwater drainage being discharged into or onto -
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
- The work shall be managed in accordance with the constraints set out in the “Preliminary Acid Sulfate Soil Assessment and Management Plan and Dewatering Management Plan” produced by HMC Environmental Consulting dated September 2006 Report No.2006.87 presented as Appendix D of the Statement of Environmental Effects for the proposed development.

- The volume of groundwater extracted as authorised must not exceed **5** megalitres.
- The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.

The licence shall lapse within **six (6)** months of the date of issue of the licence.

REPORT:

Applicant: Glen Petersen Architect
Owner: Ms OY Gasorn and Mission Development Group Pty Limited
Location: Lots 1 & 2 DP 360543, No. 1 Brett Street & No. 26 Recreation Street, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$5,920,000

BACKGROUND:

Council is in receipt of a development application that seeks to construct a multi dwelling housing development comprising of fifteen units over six (6) residential floors and a basement level car park. Ground Level to Level 3 comprise of three units per level, Level 4 comprises of 2 units, Level 5 consisting of only 1 unit, with the roof terrace above. The proposed building incorporates differing façade treatments through the use of various material, textures and colours.

The site involves the amalgamation of two adjacent properties. These are described as Lots 1 & 2 on DP360543, No. 26 Recreation Street and No 1 Brett Street, Tweed Heads. The total site area is 1214m². The development site is relatively level and rectangular in shape, with a depth of approximately 60.3m and an approximate width of 20.1m. Existing site improvements comprise a single storey fibro dwelling and separate fibro garage on Lot 1. Lot 2 consists of single storey fibro duplex, with a large detached metal garage. Vegetation on either site is limited to domestic gardens, small trees and lawns associated with the existing buildings.

The immediate locality surrounding the subject site is essentially residential in character, with a mixture of older two and three storey unit developments as well as single dwellings. The property adjoining the northern boundary consists of a two storey 1970s style block of flats. The main access and living areas are to the northern side of the flats. Access to the flats is also available through a narrow balcony on the southern side of the building adjacent to the proposed development. The property on the eastern side of the site consists of nine single storey housing units.

The site has frontage to Recreation Street to the west and Brett Street to the south. The properties to the south (beyond Brett Street), are also zoned 2b medium density residential, comprising of mixed-use developments, incorporating a residence and commercial establishment consisting of medical facilities such as medical doctor, dentist, healing centre and a real estate office. The land to the west of Recreation Street consists of Recreation Park, as well as a day care centre and croquet club.

The Proposal

The following provides a general overview of the components of the proposed development:

Basement

Vehicular access to the site is via a driveway off Recreation Street. The driveway leads to a single level basement car park. The car park area accommodates 27 parking bays, 20 for residents in the main body of the basement and 7 visitor spaces either side of the driveway ramp. The basement also incorporates enclosed private storage areas, a refuse area, as well as a service core area. Pedestrian access to the basement is via the lift or stairwells to the east and western ends of the building.

Ground Level

The Ground Level comprises 3 units in total. This being 2 x two (2) bedroom units, with floor areas of 169m² and 136m², as well as a three (3) bedroom unit, with a floor area of 235m². Each unit provides direct access to the open terrace areas on the podium level to the north. This level also includes: the lift lobby and foyer area; car wash bay; community recreational area and associated swimming pool; and landscaping.

Levels 1 - 3

Each level supports 3 units, comprising of 1 x two (2) bedroom unit, having a floor area of 107m² per level, as well as 2 x three (3) bedroom units with floor areas of 156m² and 162m². The units located on the eastern and western ends of the building have large terraces. The central unit has access to private balconies to the north.

Level 4

This level incorporates 2 units, each having three (3) bedrooms plus study, and floor areas of 186 m² and 194m² respectively. Each unit has access to large terraces to the east or west as well as balconies to the north.

Level 5

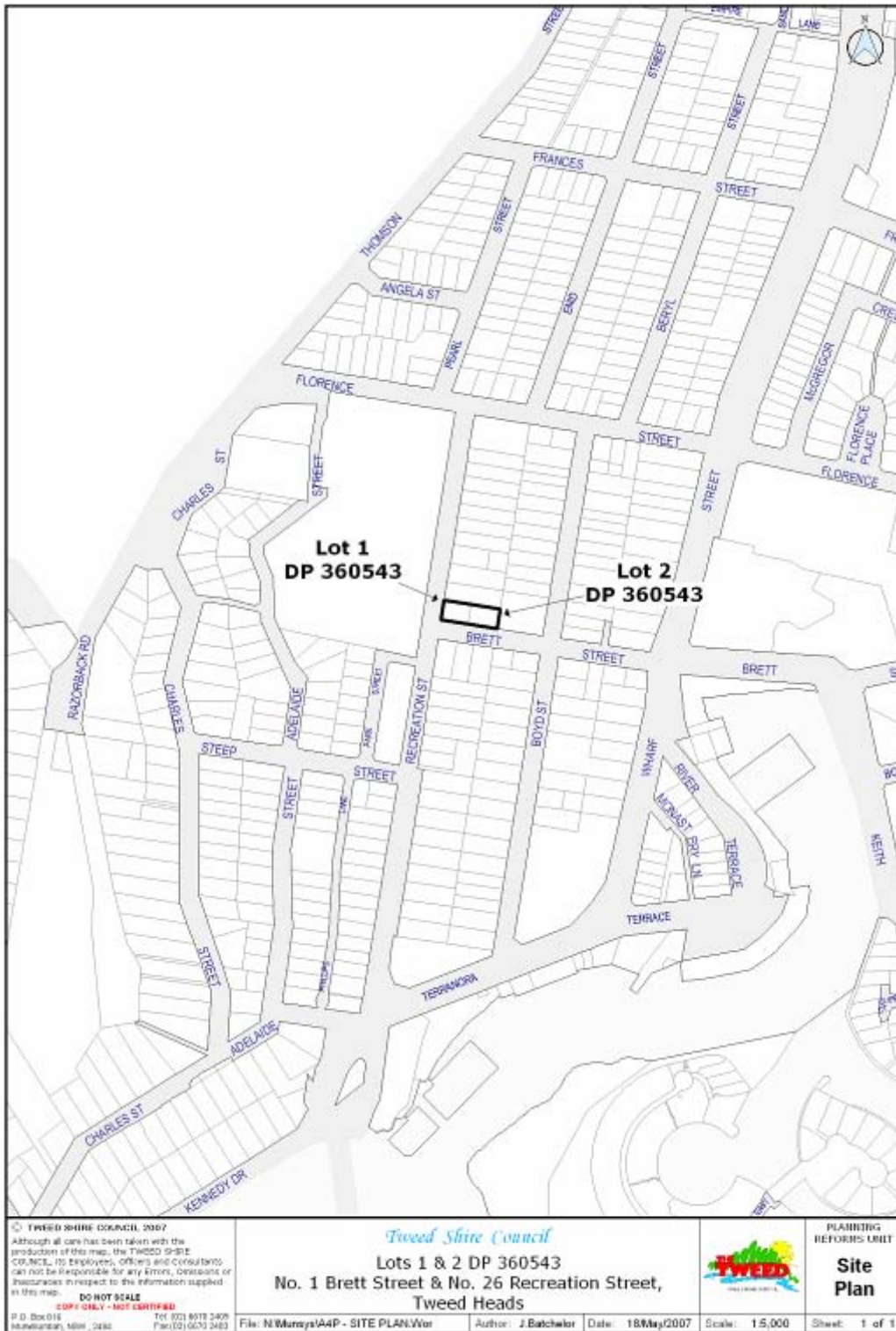
This level incorporates only 1 unit, having four (4) bedrooms plus media room, and floor area of 311m². Similar to Level 4, this unit has access to large terraces to the east and west as well as balconies to the north.

Roof Level

The roof terrace has an area of 22.1m² incorporating a spa and barbeque recreation area. Access to the roof is via a set of external stairs, allowing exclusive use of this area to the residents of Level 5.

Building setbacks are designed to be largely compliant, increasing from a nominal 3 metres (from the outer walls of the building) at ground floor level to approximately 5.3 metres at level 5 and approximately 6.3 metres at level 6. Various sized balconies have been provided to the units. Visual treatment measures include the use of a variety of textures and colours. Façades are stepped with height and further articulated and highlighted by the use of contrasting colours. Access between all levels within the building is available by an internal staircase and lift.

SITE DIAGRAM:



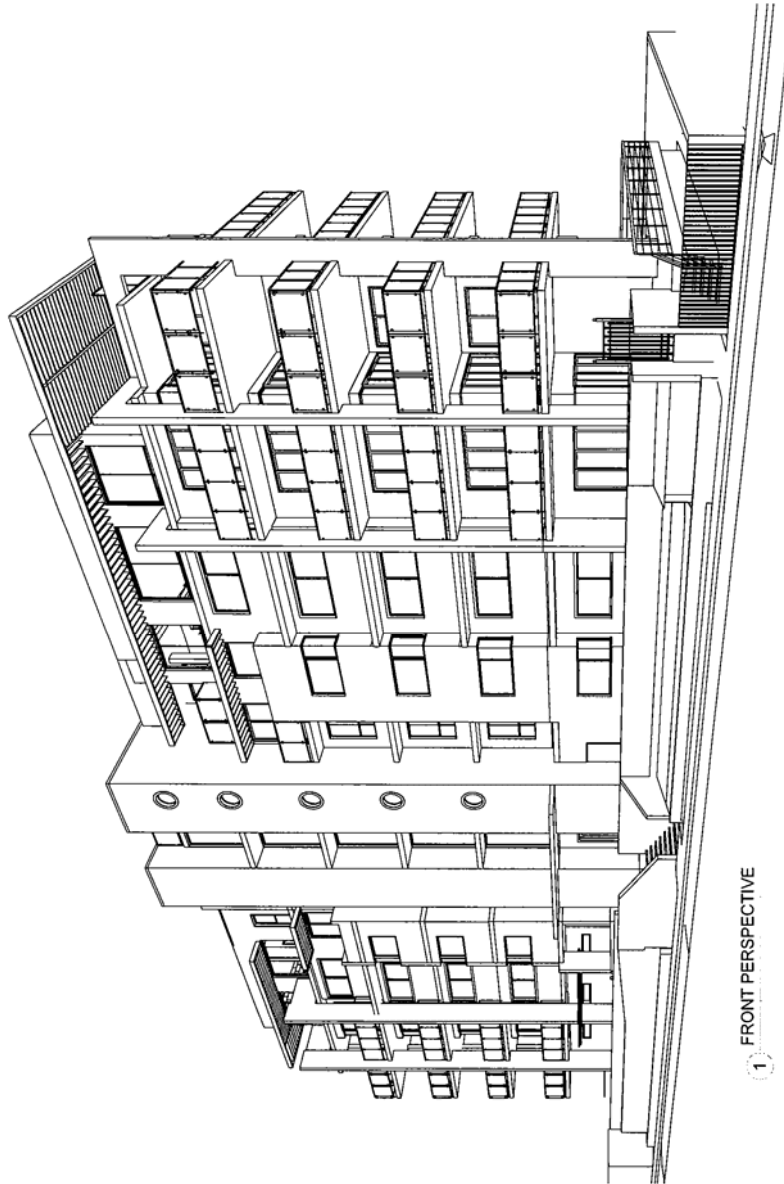
ELEVATIONS AND PERSPECTIVES:



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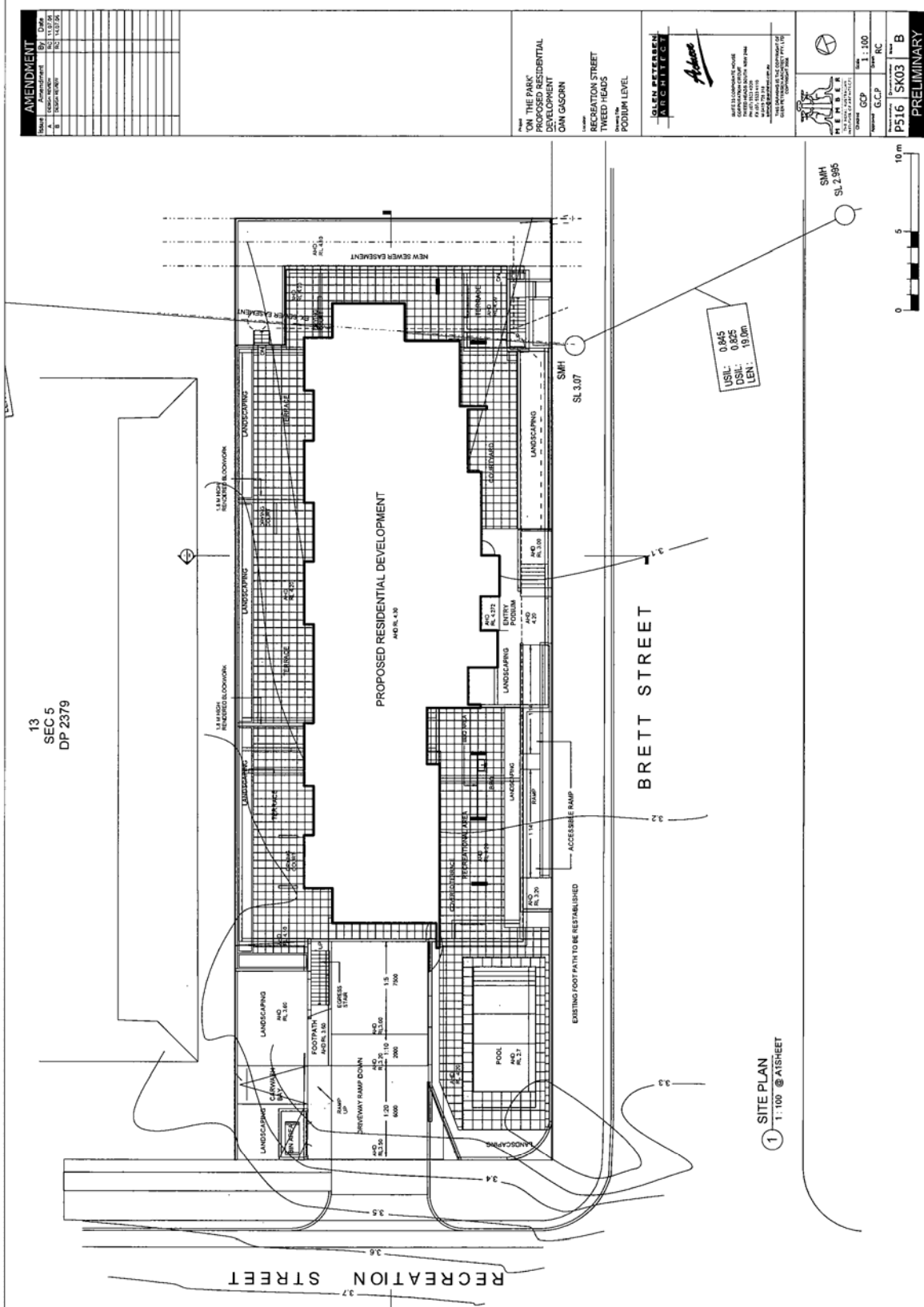
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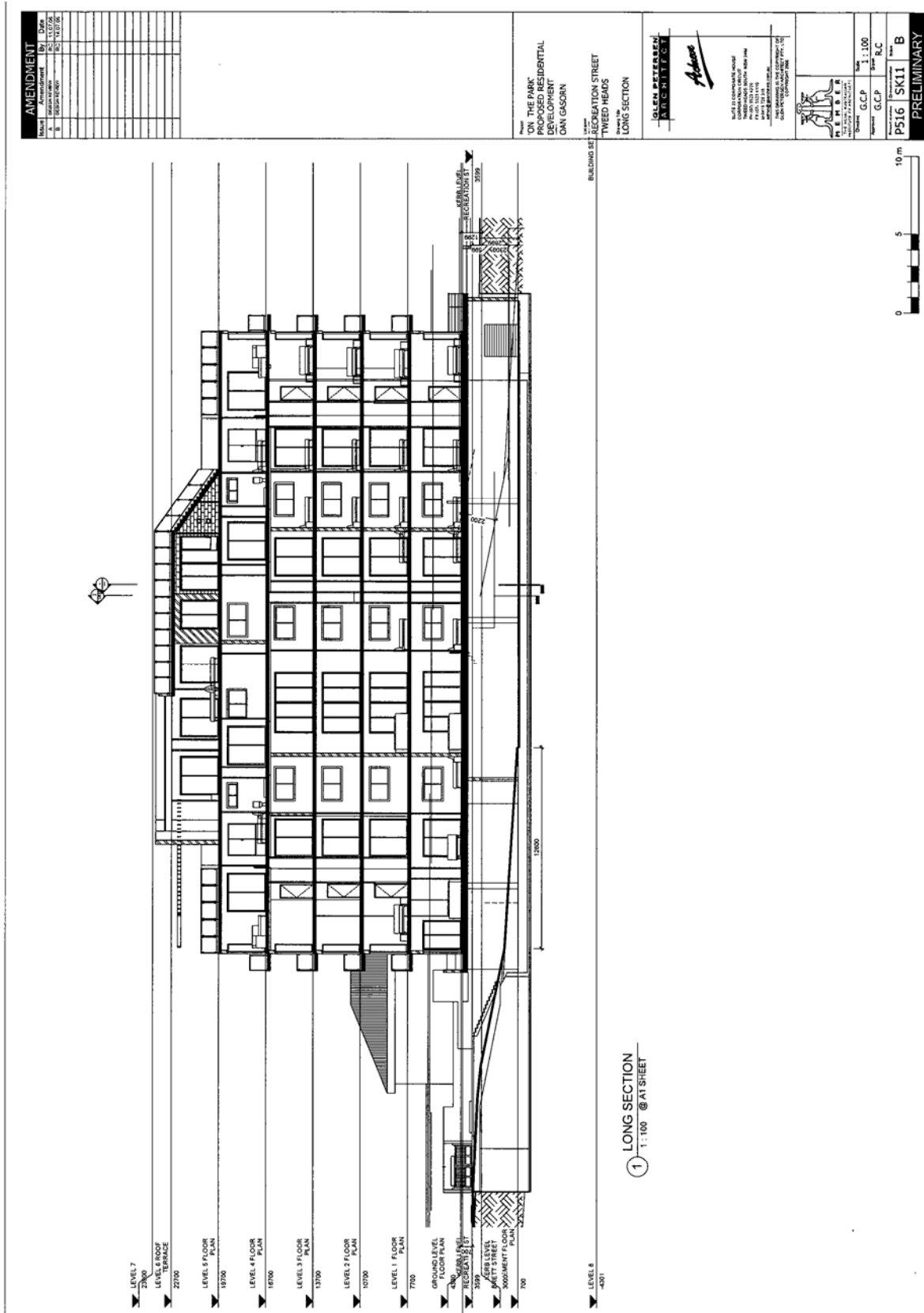
RECREATION STREET
TWEED HEADS
TITLE SHEET WITH
PERSPECTIVE



FRONT PERSPECTIVE

ON THE PARK





AMENDMENT	
Item	Date
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2	14/03/06
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Project: ON 'THE PARK' PROPOSED RESIDENTIAL DEVELOPMENT OWN: GASORN

Location: RECREATION STREET TWEED HEADS

Drawn No: EAST & WEST ELEVATIONS

Scale: 1:100

Author: GCP

Check: GCP

Rev: 3

RC

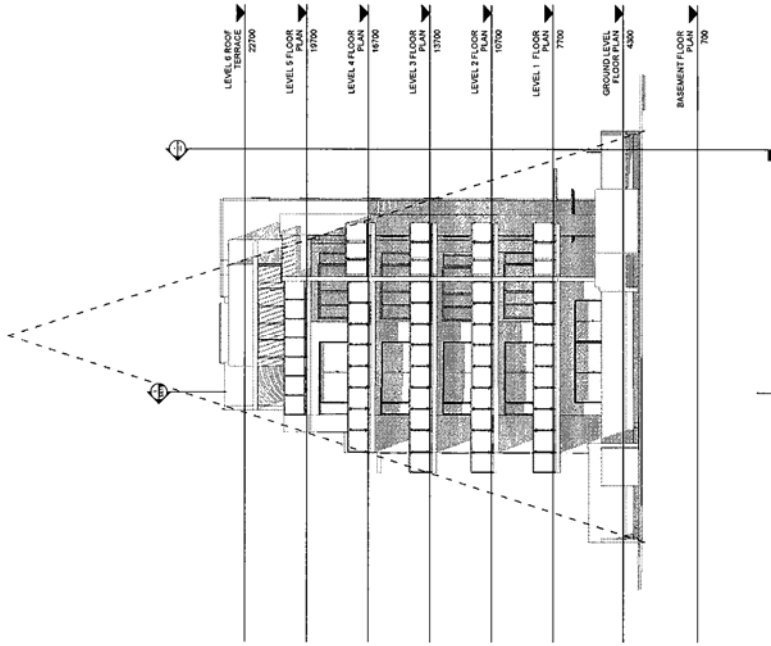
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PRELIMINARY

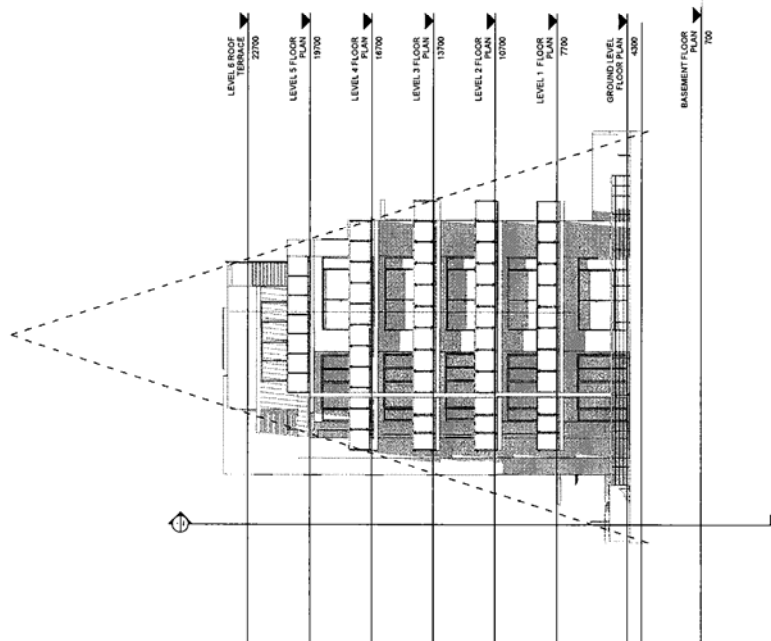
IGLEN PETERSEN ARCHITECT

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② West Elevation
1:100 @ A1 SHEET



① East Elevation
1:100 @ A1 SHEET

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 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary objective is to:

Provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good design outcomes.

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

Clause 15 of the LEP requires essential services to be available to the site prior to consent being granted for the development. The subject land has all essential services available.

Clause 16 of the LEP ensures development is undertaken in accordance with the building height plan. The subject land is identified as being limited to a six-storey height limit. The proposed development complies with the height limitation for the site. The proposed development is the first in the southern end of the precinct to apply for approval for a six-storey apartment complex. In this regard the building is of a much larger scale and height than the current surrounding buildings. However, the proposal is compliant with the scale and height identified for the future character of the area.

Clause 17 of the LEP requires social impact assessments for development where it is considered that the development may result in a social impact. DCP Part A13 requires that a social impact assessment is required for multi-dwelling housing of greater than 50 units. The proposal comprises 15 units and therefore does not require a social impact assessment to be prepared.

Clause 33 of the LEP refers to Obstacles to Aircraft. The height of the roof terrace is 22.1m AHD. The consultant for Gold Coast Airport Limited was advised of the proposed development. Council was advised that height limit for the subject site (under the Airport's OLS) is 49.5m AHD. Therefore, the proposal posed no obstacle to aircraft.

Clause 35 of the LEP requires acid sulfate soils management in relation to development where such is likely to be impacted upon. The site is located within a Class 2 acid sulfate soils area. The applicant has provided a Preliminary Acid Sulfate Soils Assessment and Management Plan in relation to the proposed development. Council's Environment and Health Unit have assessed the management plan and provided relevant conditions of consent.

North Coast Regional Environmental Plan 1988

In accordance with Clause 32B of the NCREP, the proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual. The development is sited several blocks from the Tweed estuary and is not close to any beaches. The development will not impeded public access to the foreshore or cause any overshadowing of beaches or adjacent open space. Accordingly, the proposal fully complies with this clause of the REP.

Clause 43 of NCREP 1988 provides that the consent authority shall consider density, environmental constraints, and road widths.

The proposed density is considered to be a reasonable response to the existing land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are satisfactory for the proposal and a detailed sedimentation and erosion control plan will be applied in relation to the construction. The proposal is considered to be consistent with the relevant provisions of Clause 43 of NCREP 1988.

Clause 51 of the REP refers to development over 14m in height requiring the Directors Concurrence. However, Council has been given authority to assume the Directors Concurrence, as noted in DUAP Circular No D8, 17 March 1989.

State Environmental Planning Policies

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

The applicant has submitted a Design Verification and statement addressing the 10 design principles under SEPP65. The following comments are provided on these design principles.

Context and Built Form

The development is considered to be consistent with the desired future character of the area as stated under DCP Part B2. The applicant has submitted that the development has been designed in regard to the geographical context in which it is located and the natural and built features of the area. The context is based on the developments relationship to the Tweed Heads CBD and the close proximity of recreational, sporting and health facilities. The building has been designed to address Brett Street and is of a contemporary design that will not detract from the surrounding built environment.

The proposed design is intended to encourage active street frontages and pedestrian / resident interaction, while ensuring that residents have privacy within their individual complex. The building incorporating significant horizontal and vertical stepping and setbacks and through the use of different materials, colours and building elements such as generous balconies the design facilitates both an interesting and varied aesthetic.

Scale and Density

Having regard for the size of the land, the 6 storey height limit and the desired vision of a high density residential precinct, the development is suitable in both bulk and scale. Although the building transgresses the building envelope on the front perspective of the building, the design avoids bulk by being well articulated with varying setbacks.

There are several older style 2 and 3 storey residential establishments in close proximity to the site. The area is currently undergoing a transition into a higher density precinct. It is therefore considered that the density of the development is appropriate for the site in regards to the 15 units proposed. The Floor Space Ratio has been calculated as approximately 1.56:1. This figure meets the FSR provisions of Draft LEP 2007, which nominates a maximum ratio of 1.6:1 for this locality.

Resource Energy and Water

The applicant has submitted Nat HERS and BASIX certificates demonstrating the development is sound in terms of energy efficiency. Each unit has large window and door openings maximising natural light.

Landscaping

Landscaping Intent plans have been provided with the development application. The applicant has noted that the aim of the landscaping design is to give the best possible treatment to both the public and private domains. Softening the buildings at ground level and integrating the proposal into the adjacent street, while providing privacy to the residents within the common recreation areas, achieves this aim. It is considered that the landscaping plans are consistent with the principles of the SEPP and the desired future character of the area. Appropriate conditions of consent have been imposed to ensure that landscaping will be completed prior to occupation of the development.

Amenity

The applicant has submitted that each apartment is designed for the visual and acoustic privacy of the residents. The dwellings have sufficient private open space balcony areas for each unit. A neighbouring resident has raised concern that the proposal will adversely overshadow adjoining properties and cause over-looking / privacy issues. These issues have been addressed elsewhere in this report. Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of this area.

Safety and Security

The applicant has submitted that the building and landscape design will adopt CD TED (Crime Prevention Through Environmental Design) principles and provide the following strategies in regards to safety and security.

- The design facilitates passive overlooking of all areas due to the orientation of the residential building towards the streets;
- Removal of crime hotspots, such as narrow alleys, hiding nooks and predator havens;
- Unhindered and easy access is available for able body and disabled persons respectively;
- The provision of secure parking and lock up storage facilities within the basement area and the provision of appropriate lighting relative to the same; and
- The provision of after hour lighting to public spaces and accessibility to management.

It is considered that the safety and security design features adequately comply with the principle outlined in SEPP 65.

Social Dimension

Socially the development represents good utilisation of land zoned for medium density development within walking distance to shops, clubs and other recreational opportunities in the Tweed Central Business District.

Aesthetics

The proposal does not detract from the streetscape or the aesthetics of the locality and makes a positive contribution to the area. The building incorporates roof forms with vertical and horizontal articulation on the four elevations. Appropriate conditions of consent are recommended to ensure the proposed building materials are non-reflective.

The overall aesthetics of the building provide a desirable modern development, which is in keeping with the future character of the surrounding area. It is considered that the proposed building will be prominent; however the height and scale of the building will be offset by good urban design and articulation.

State Environmental Planning Policy No. 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered compatible with the intent for the development of the locality.

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

The Draft LEP 2007 nominates the subject site as zone R3 Medium Density Residential, with a building height of 21.5m and a maximum Floor Space Ratio of 1.6:1. The proposed development meets these provisions of the Draft LEP.

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

Consolidated Development Control Plan

The principal development control plans governing the proposed development are DCP Parts A2 & B2. The level of compliance with the design parameters of the DCP is identified below.

Development Control Plan Part A2 – Site Access and Parking Code

Council's Consolidated Development Control Plan came into effect on 12 April 2007, with Part A2 of the DCP being applicable for car parking requirements. The following table details the requirements for the proposed development under DCP Part A2.

Table 1 - Car parking analysis

Standard	Requirement	Complies/variation
On site Car Parking	1.5 per 2 bed unit = 7.5 2.0 per 3 or more bed = 20 1 per 4 units (visitors) = 3.75 Total required = 32 spaces	The basement includes 27 car parking spaces. This includes 7 visitor car parking spaces The proposed development does not comply with the requirements of DCP Part A2. Refer assessment below.

As the proposed development was lodged with Council on 20 October 2006, 6 months prior to DCP Part A2 coming into effect, the parking provisions applicable on the day of lodgement have been applied to this application. DCP 2 requires a total of 23 spaces, inclusive of visitor spaces.

The proposed development, with a total of 27 car spaces complies with the former DCP 2 (subject to the recommended conditions of consent). It is noted that the visitor spaces are separated from the 20 residential spaces further within the basement. A condition of consent will be applied ensuring that any garage door is located between the residents and visitor spaces, allowing unrestricted access to the visitor spaces provided.

It should be noted that under today's requirements of DCP Part A2, the proposed development would not meet minimum requirements, with the new DCP requiring a total of 32 spaces. As discussed above, the application has been assessed under the parking provisions in force at the time of lodgement. Therefore, the proposed 27 basement car spaces and a variation to the requirements of DCP Part A2 is acceptable in this instance.

Development Control Plan Part A3 – Development of Flood Liable Land

The subject site is flood liable, with an adopted design flood level RL 2.60m AHD. Development Control Plan Part A3 requires the site to be filled to the design flood height. The Ground Floor Plan indicates that some form of filling will occur, with the recreation area and pool deck proposed at RL 4.20m AHD. Architectural plans for the development have the driveway graded to a maximum level of RL 3.50m AHD, which adequately provides the required 500mm protection above the design flood level for the basement level car park. Council's Engineering Services have assessed the proposal and have provided the appropriate conditions of consent.

Development Control Plan Part B2 – Tweed Heads

The subject land is within the Western Precinct, which is identified as a High Density Residential Precinct. The objectives for this precinct are:

- Develop the precinct primarily as high density residential areas which respect existing residential amenity;
- Provide additional choice in housing accommodation to cater for an increasing variety of household types;
- Facilitate an increased residential population in proximity to the sub regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land;
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The proposed development is considered to be generally consistent with the objectives of the precinct. The proposed development has been assessed under the following matters relevant in DCP Part B2.

Building Envelope

The building envelope for the subject land is a 72 degrees projection from the property boundary. This is to ensure the building is setback 1 metre from the boundary for every 3 metres of the building height.

The applicant has acknowledged two areas of encroachment, these being:

- Minor Encroachment at Level 4 (Fifth Floor) on the eastern elevation; and
- Minor encroachment on the Southern Elevation through the upper levels.

The applicant has also provided the following justification for such encroachments:

'Encroachments primarily occur as a consequence of the narrow width of the site. The building has been designed to minimise the visual and physical impacts. The six storey building is well proportioned and avoids bulk by being more articulated with varying setbacks and through use of different materials, colours and building elements. Features such as generous balconies and landscaped sky terraces further enhance the visual appearance of the building.

The encroachment into the building envelope does not contribute to unreasonable overshadowing of the surrounding properties. Shadow plans submitted with the application indicate that the shadow impacts primarily fall upon the Brett and Recreation Street frontages and do not adversely affect residents during mid winter.

The proposed development is not inconsistent with the desired medium density character of the area which Council has proposed through its planning controls and the minor encroachments exhibited do not establish an undesirable precedent in terms of similar scale development recently approved in Tweed Heads. It is submitted the proposal is consistent with the applicable objectives and a variation is warranted in this particular instance'.

As noted by the applicant, the areas of encroachment are not considered to result in an unreasonable degree of overshadowing to surrounding properties, with the majority of over shadowing accruing on the adjacent road reserves. As such, the proposed variation to the building envelope requirements is considered warranted in this instance.

Building Mass

The development control plan requires development to have indentations and there must be a clear break in the building line. The proposed development achieves various areas of indentation over the building elevations through the use of varying depths and balconies. The eastern façade of the building includes a variety of textures, colours and finishes to provide visual interest. It is considered that the proposed design is generally consistent with the provisions of DCP Part B2 in relation to building mass.

Energy Efficiency

The proposed design includes units, with north facing windows / doors to sunlight and breezes. The majority of units also have a south facing window, allowing cross ventilation opportunities. The development has been accompanied by Nat HERS and Basix certification that each unit complies with the minimum energy efficiency requirements.

Wind Mitigation and Overshadowing

To prevent impacts of down draft the proposed development incorporates deep balconies and a landscaped podium. The building is setback a minimum of 4 metres from the western elevation and 3 metres at the closest point from the southern elevation, with the remainder of the building being setback at various distances for articulation purposes. These setbacks will also help minimise any potential down draft problems associated with tall buildings.

The proposed building does not result in the over shadowing of any public reserves. The applicant has submitted shadow diagrams which detail that the summer shadow is predominantly within the subject site and only the property immediately adjacent to the east will be afforded slight overshadowing during the evening hours throughout the summer months. The winter shadow does extend past the property across Brett Street and slightly onto several properties to the south throughout the day. The applicant has noted that this impact is unavoidable given the orientation of the land and the height limits permitted.

Roof Lines

DCP Part B2 encourages imaginative rooflines. The proposed development incorporates various roof lines as well as roof top terrace for the upper level unit.

Privacy

Visual privacy between developments is encouraged in DCP Part B2. The adjacent two and three storey developments to the north appear to have their living areas facing north, away from the subject site. Each level of the proposed development has only the central unit facing north towards these existing developments, with all other apartments enjoying a westerly or easterly aspect from their main living areas and balconies. The Ground Floor apartments are proposed to have a landscaped buffer area along the northern boundary of their terraces to reduce any potential impact in this regard.

Within the proposed development itself, privacy has been achieved by way of no two living areas being on the same elevation, ensuring spatial separation between the living areas on each level.

Security

The proposed development achieves surveillance of the street and security through the design being orientated to the public street. Public access to the building is clearly defined by a ramped access from Brett Street to the lobby entrance, which would be well lit.

Materials and Colours

The applicant has submitted that the building will be constructed of concrete with a range of external finishes including, rendered masonry, glass, aluminium windows and doors, and elevated landscaping. Although a colour scheme was not provided for the proposal, a coloured perspective has been submitted indicating colour details of the development.

Access and Parking

Access to the basement level parking is via Recreation Street. The proposed development meets the minimum requirements in terms of vehicle spaces, including visitor parking and complies with the provisions of the former DCP 2.

Car Wash Areas

The proposed development provides a car wash area adjacent to the driveway access to the basement. This complies with the requirements of 1 car wash bay per 10 units. Appropriate conditions of consent have been applied in this regard.

Open Space and Balconies

The minimum landscaping requirement is 25m² per dwelling i.e. 375m² in total. The area of ground level landscaped open space and communal recreation area (including barbeque and swimming pool) has been calculated as approximately 375m². The terraces for the ground level apartments are in the order of 170m² in total and are in addition to the landscaped / open space areas. The balconies / terraces for the above ground level all meet the open space requirements of DCP Part B2, in that a minimum of 8m² is achieved, with direct access from a main living area.

Conclusion

The proposed development exhibits good architectural design and generally complies with the requirements of DCP Part B2.

Development Control Plan Part A9 – Energy Smart Homes Policy

The applicant has submitted a Nat HERS certificate for the proposed development as well as Basix certification (Certificate No. 96023M). Appropriate conditions of consent have been applied in this regard.

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

NSW Coastal Policy

The subject land is within the coastal policy area. The proposed development is consistent with the objectives strategies and actions of the 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

The impacts of the proposed development on the natural environment are relatively minor. The site is in an existing urban area and contains no natural stands of vegetation or natural landscape features.

The impacts of the proposed development to the built environment have been assessed as part of the DCP Part B2 assessment. The proposal will be replacing two existing single storey buildings; however the area has been identified for six-storey development in Council's Tweed Local Environmental Plan 2000. These changes in the built environment will come at a cost to residents who wish to maintain the detached dwelling character of the area.

(c) Suitability of the site for the development

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

Dewatering

The proposed development requires dewatering for the construction of the basement level. As such, the proposal is considered to be integrated development and a copy of the application was forwarded to the Department of Natural Resources for approval. The Department have provided relevant General Terms of Approval. The Department noted that...*'the applicant's attention should be drawn to the fact that the act of dewatering has the potential to lower the water table beneath adjacent properties which, under some circumstances, may result in subsidence of material causing adverse impacts on the above ground structures. It is the applicant's responsibility to ensure that all appropriate action is taken to avoid this occurring'*. Council's Environment and Health Unit have assessed the proposal and also provided appropriate conditions of consent with regard dewatering.

Acid Sulfate Soils

Council's GIS has identified the subject site as having Class 2 Acid Sulfate Soils. The applicant has provided a Preliminary Acid Sulfate Soils Management Plan. Council's Environment and Health Services Unit have assessed the proposal and provided the appropriate conditions.

Pre-demolition Testing

Although demolition of the existing dwellings will be subject to separate development application, Council's Environment and Health Services Unit undertook a site inspection with regard pre-demolition testing. They have noted that as there is no slab on ground associated with the existing dwellings, no pre-demolition testing will be required.

Stormwater Drainage

The site is generally flat and grades towards the Brett Street frontage, with stormwater proposed to be discharged to the kerb inlet pit opposite the site along Brett Street. Also proposed is a 10,000 litre rainwater utilisation system, as well as car wash bay at street level (off the Recreation Street frontage). Council's Infrastructure Engineer and Development Assessment Engineer have assessed the proposed stormwater management plan and appropriate conditions of consent provided.

Effluent Disposal

An existing 225mm sewer gravity main traverses the eastern portion of Lot 2. The proposed development incorporates the relocation of the sewer main, so that it runs directly adjacent and parallel to the eastern property boundary. Council's Water / Sewer Design Engineer has assessed the proposal with no objection, subject to the proposed relocated sewer main being upgraded to 300mm dia to compensate for any reduced grades or increased losses due to extra manholes / bends being required. Appropriate conditions of consent have been applied in this regard.

Waste

A refuse room containing bulk bins are proposed within the front section of the basement. The applicant has advised that each unit will be able to utilise a refuse chute for domestic waste. A screened bin enclosure has been proposed near the driveway entrance. Solo Waste has provided written confirmation that the proposed waste provisions can be adequately accessed for collection. A separate recycling compactor will also be available in the basement refuse room for unit occupants to access as required. Council's Environment and Health Services Unit have assessed the proposed development with no objections, subject to conditions of consent.

Noise

The proposed development incorporates several air conditioning condenser units. The submitted plans indicate only one air conditioning unit centrally located on the northern side of each level. All other air conditioning units face south onto Brett Street. The air conditioning units are proposed to be screened, mainly for aesthetic reasons rather than acoustic purposes. Council's Environment and Health Services Unit has assessed the proposed development in terms of potential noise impact, and has provided appropriate conditions of consent in this regard.

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

The proposed development was advertised for 30 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. One submission by way of objection was received. The following table addressed the issues raised in the submission.

Table 2 – Public Submission Issues

OBJECTION	IMPACT ASSESSMENT
<i>Inappropriate development for the area</i>	The subject site is zoned 2(b) Medium Density Residential, whereby unit development is encouraged. The proposed development complies with the maximum Building Height of 6 storeys. The site is located within a high density residential precinct of DCP Part B2 – Tweed Heads. The proposal does not warrant refusal on this issue.
<i>Gross over-development of the site</i>	The proposed development is within the acceptable Floor Space Ratio figures for such development noted in Draft LEP 2007. The development meets landscaping, open space and setback requirements. The proposal does not warrant refusal on this issue.
<i>Out of scale with the surrounding buildings</i>	As the proposed development is the first of its size proposed within the surrounding locality, it is somewhat out of scale with surrounding development. However, it is in keeping with the intent of the scale and density of future development in this location.
<i>Height of the development will have adverse effect on local environment</i>	The proposed development complies with the building height limit of six storeys for the subject site and surrounding area. The 'adverse effect' noted in the submission is unspecified. The likely impacts of the proposal have been adequately addressed elsewhere in this report.
<i>Proposed development is not consistent with the existing buildings in the area (3 storeys maximum)</i>	As noted above, the maximum building height for the locality is 6 storeys, under the provisions of the Tweed LEP 2000. Therefore, the development complies with the existing and future height requirements for the locality.
<i>Proposed development would dominate the landscape of the area</i>	As noted elsewhere in this report, the proposed development is the first 6 storey development in the area and will dominate the surrounding locality somewhat, but meets height and density requirements. The proposal does not warrant refusal on this issue.
<i>Proposed development would constitute an undesirable precedent</i>	The proposed development meets the objectives of the 2(b) zone, complies with the building height restrictions and generally complies with Council's residential requirements under DCP Part B2. Therefore, the proposal is not considered to set an undesirable precedent for the locality. The proposal does not warrant refusal on this issue.
<i>Overshadowing and overlooking/privacy to adjoining properties, and nearby 3 storey units (to the north).</i>	The applicant has provided Shadow Diagrams for the proposed development, which clearly shows that the majority of shadow is cast upon the Brett Street road reserve. The existing unit developments to the north are not impacted upon by overshadowing. The issue of overlooking/privacy has been addressed elsewhere in this report and does not warrant refusal.
<i>Sun reflection onto surrounding properties and traffic, causing traffic hazard in area</i>	A condition of consent has been applied, with regard wall and roof cladding having low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

OBJECTION	IMPACT ASSESSMENT
<i>Additional traffic to already overcrowded local road network at nearby intersections.</i>	Council's Traffic & Transport Engineer has assessed the proposed development, noting that there are... <i>'no traffic issues as the surrounding road network has adequate capacity'</i> . The proposal does not warrant refusal on this issue.
<i>Safety issues for elderly and children due to increased traffic.</i>	Council's Traffic & Transport Engineer has assessed the proposed development. There is an existing pedestrian footpath network, providing access from the site to the broader surrounding area.
<i>Increased parking problems for local businesses & residents</i>	The proposed development is not considered likely to generate an increase in parking problems for the local area. The proposal adequately meets the car parking requirements that were applicable at the time of lodgement.
<i>Social issues due to increased density</i>	As noted elsewhere in this report, Council's DCP Part A13 does not require a Social Impact Assessment for the proposed development. The proposal does not warrant refusal on this issue.
<i>Overload of existing local water, sewage and drainage infrastructure</i>	Council's Engineering Services has assessed the proposed development and provided applicable conditions of consent. It is not considered that the proposal will overload Council's infrastructure. The proposal does not warrant refusal on this issue.
<i>Increased noise levels due to proposed height and width of building</i>	Council's Environment & Health Unit has assessed the proposed development in terms of noise impact. Conditions of consent have been applied in this regard. The proposal does not warrant refusal on this issue.
<i>Internal lighting would have detrimental effect on local environment due to proposed height and width of building</i>	Internal lighting is not a matter of considerations under Section 79c of the Environmental Planning and Assessment Act 1979. Council's Environment & Health Unit has applied appropriate conditions of consent with regard external lighting. Apart from Basix Certification, the Building Code of Australia does not have provisions for internal lighting. The proposal does not warrant refusal on this issue.
<i>Detrimental effect to the amenity to occupants of nearby 3 storey units – blocking south/south-westerly views</i>	The issue of loss of views has been taken into consideration in the assessment of this proposal. Although there will be some degree of view loss to some surrounding residences, the proposed development is considered acceptable in terms of view sharing. The proposal does not warrant refusal on this issue.

(e) Public interest

Despite the objection received to this application, the proposal is not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the controls and the intended development for the locality.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right of appeal to the Land and Environment Court should they be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is of a high standard of design and has achieved the intentions of Council's development control plans for the area. Having had regard for all of the matters relevant to the proposal it is considered that the proposal warrants conditional consent.

A number of the conditions are imposed to ensure the development does not adversely impact on the locality during construction.

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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P4 [PR-PC] Development Application DA06/1029 for a 3 Storey Multi-Dwelling Housing Comprising 8 x 2 Bedroom and 2 x 3 Bedroom Apartments with Basement Car Parking at Lot 2 DP 517382, No. 1 Seymour Street, Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: DA06/1029 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the demolition of an existing dwelling and subsequent construction of a residential flat building comprising eight (8) two bedroom and two (2) three bedroom apartments with basement car parking for fifteen (15) vehicles and vehicular and pedestrian access off Seymour Street.

The design of the proposed building is predominantly compliant with Council's controls and is considered to possess a suitable level of architectural merit.

The proposed development will assist in the revitalisation of the Tweed Heads South area.

There are no contentious issues or significant areas of non-compliance associated with the proposal with the application reported to Council due only to the estimated cost exceeding one million dollars.

RECOMMENDATION:

That Development Application DA06/1029 for a 3 storey multi-dwelling housing comprising 8 x 2 bedroom and 2 x 3 bedroom apartments with basement car parking at Lot 2 DP 517382, No. 1 Seymour Street, Tweed Heads South be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 6705/DA01 - 6705/DA/22 prepared by Pat Twohill Designs Pty. Ltd. and dated 02/09/06, 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. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

4. All works shall comply with the Preliminary Acid Sulfate Soil Assessment and Management Plan and Dewatering Management Plan for 1 Seymour St, Tweed Heads South prepared by HMC Environmental Consulting Pty Ltd dated December 2006 (Report No: 2006.121).

[GENNS01]

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

[GENNS02]

6. A Management Strategy is to be prepared as per Section 17 of the Preliminary Acid Sulfate Soils Assessment and Management Plan and Dewatering Management Plan, December 2006, prepared by HMC Environmental Consulting Pty Ltd.

[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. The developer shall provide fifteen (15) parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

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

[PCC0065]

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.

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector2_4	\$8,420
(b) Open Space (Structured): S94 Plan No. 5	\$4,320
(c) Open Space (Casual): S94 Plan No. 5	\$923
(d) Shirewide Library Facilities: S94 Plan No. 11	\$3,812
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$769
(f) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$11,058.28
(g) Cycleways S94 Plan No. 22	\$1,948
(h) Regional Open Space (Structured) S94 Plan No. 26	\$12,882
(i) Regional Open Space (Casual) S94 Plan No. 26	\$4,735

[PCC0215]

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:

Water DSP4:	4.4 ET @ \$4598	\$20,231
Sewer Banora:	7 ET @ \$2863	\$20,041

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]

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

[PCC0465]

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

Please note timber retaining walls are not permitted.

[PCC0475]

12. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

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

[PCC0485]

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

[PCC0675]

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 2.6m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - 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. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 2.6m AHD.
 - (b) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.

[PCC0705]

17. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- (a) vehicular access
 - (b) footpath construction

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

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works

- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

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

[PCC0945]

19. 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]

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

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (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.
 - (ii) The car wash bay shall be constructed using permeable paving materials. Permeable paving is not permitted for use in the construction of the basement driveway, which must be reinforced concrete to Council's specifications.

[PCC1105]

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

[PCC1115]

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

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

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

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

[PCC1145]

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]

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.

[PCC1185]

25. 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]

26. Details of the intended method of water storage are to be submitted to the Principal Certifying Authority for approval. It should be noted that Council does not support the timber deck as a supporting structure for the proposed water tanks.

[PCC1215]

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.

[PCC1235]

28. Stormwater discharge management controls (peak discharge and on site detention) shall be implemented according to Cozens Regan Williams Prove Stormwater Management Plan (December 2006), or amended versions approved by Council officers, unless otherwise directed by these consent conditions.

- (i) OSD devices, including discharge control pits (DCP), are to comply with standards in the Upper Parramatta River Catchment Trust "On-Site Detention Handbook" (Third Edition 1999) except that permissible site discharge and site storage requirements do not apply to Tweed Shire.
- (ii) All stormwater must initially be directed to the DCP.
- (iii) Roof water shall be conveyed to OSD devices by gravity means only. Driveway and basement water may be pumped to OSD devices. Pumps will not be accepted as a means of controlling discharge. Runoff from all impervious areas, excluding roof water, must be treated prior to entering OSD devices.
- (iv) Surcharge flows from rainwater reuse tanks must be directed to the DCP.
- (v) The utilisation of infiltration to dispose of water from the OSD storage must be supported by soil permeability test results to demonstrate acceptable draw down duration (24-48 hours), and engineering certification of the compatibility of infiltration devices in proximity to structural building elements.

[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. 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]
31. 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]
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. 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]

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

[PCW0955]

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

[PCW0965]

40. 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]

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]

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

[PCW1095]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

A. Short Term Period - 4 weeks.

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

- B. Long term period - the duration.**
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
46. 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]
47. 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]
48. 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]
49. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0385]
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. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

54. 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]

55. 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]

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

[DUR0655]

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

[DUR0675]

58. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.

[DUR0755]

59. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

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

[DUR0815]

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

[DUR0905]

62. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Tweed Shire Council Development Control Plan, Part A9 - Energy Smart Housing Policy. In order to comply with the Policy consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.

[DUR0915]

63. Provision to be made for the designation of two (2) durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

64. 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]

65. 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]

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 burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

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

[DUR1045]

69. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 3.1 metres AHD, and certifying the actual finished level of the total site. Certification of those levels by a registered surveyor must be submitted to the Principal Certifying Authority prior to proceedings past floor level to ensure that the floor is above flood level.

[DUR1365]

70. 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 Seymour 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]

71. 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]

72. 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]

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

[DUR1885]

74. 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]
75. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction and demolition.
- [DUR2185]
76. 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]
77. Prior to any works commencing, appropriate measures are to be put in place to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.
- [DUR2405]
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 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]
80. 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]
81. 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]

82. 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]

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

[DUR2515]

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

[DUR2525]

85. 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]

86. 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]

87. 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]

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

[DUR2625]

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

[DUR2715]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

91. 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]

92. 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]

93. 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]

94. 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]

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

[POC0475]

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

[POC0565]

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

[POC0755]

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]

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

[POC1055]

USE

101. 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]

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

[USE0225]

103. 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]

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

[USE0875]

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

1. Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department of Natural Resources. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
2. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
3. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
4. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
5. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
11. All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
12. Works for construction of bores must be completed within such period as specified by the Department.

13. Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
14. Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
15. Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
16. The use of water shall be conditional on no tailwater drainage being discharged into or onto -
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
17. The work shall be managed in accordance with the constraints set out in the “Preliminary ASS Assessment and Management Plan, and Dewatering Management Plan”, December 2006, prepared by HMC Environmental Consulting Pty. Ltd. for the proposed development.
18. Any water extracted under a Part 5 Water Act licence must be discharged to Tweed Shire Council’s sewerage system as detailed in Section 13.4 of the Preliminary ASS Assessment and Management Plan, and Dewatering Management Plan for the proposed development.
19. Written documentation of approval from Council must be provided for the above, prior to the issuing of the licence
20. The volume of groundwater extracted as authorised must not exceed 5 megalitres.
21. The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
22. The licence shall lapse within six (6) months of the date of issue of the licence.

REPORT:

Applicant: Mr WJ Dickinson
Owner: Mr WJ Dickinson
Location: Lot 2 DP 517382 No. 1 Seymour Street, Tweed Heads South
Zoning: 2(b) Medium Density Residential
Cost: \$1,800,000

BACKGROUND:

Council is in receipt of a development application for the demolition of an existing dwelling house and subsequent construction of a three (3) storey multi-dwelling housing development comprising 8 x 2 bedroom apartments and 2 x 3 bedroom apartments with basement car parking for fifteen (15) vehicles.

The floor plan is repeated across the ground and first floors (each floor providing 4 x 2 bedroom units) with the second floor generally following the same layout – at twice the size. The second floor provides for the 2 x 3 bedroom units.

The floor plan of each unit provides a functional open-plan kitchen and living area which integrates with usable private open space areas in the form of balconies at upper areas or terraces at ground level.

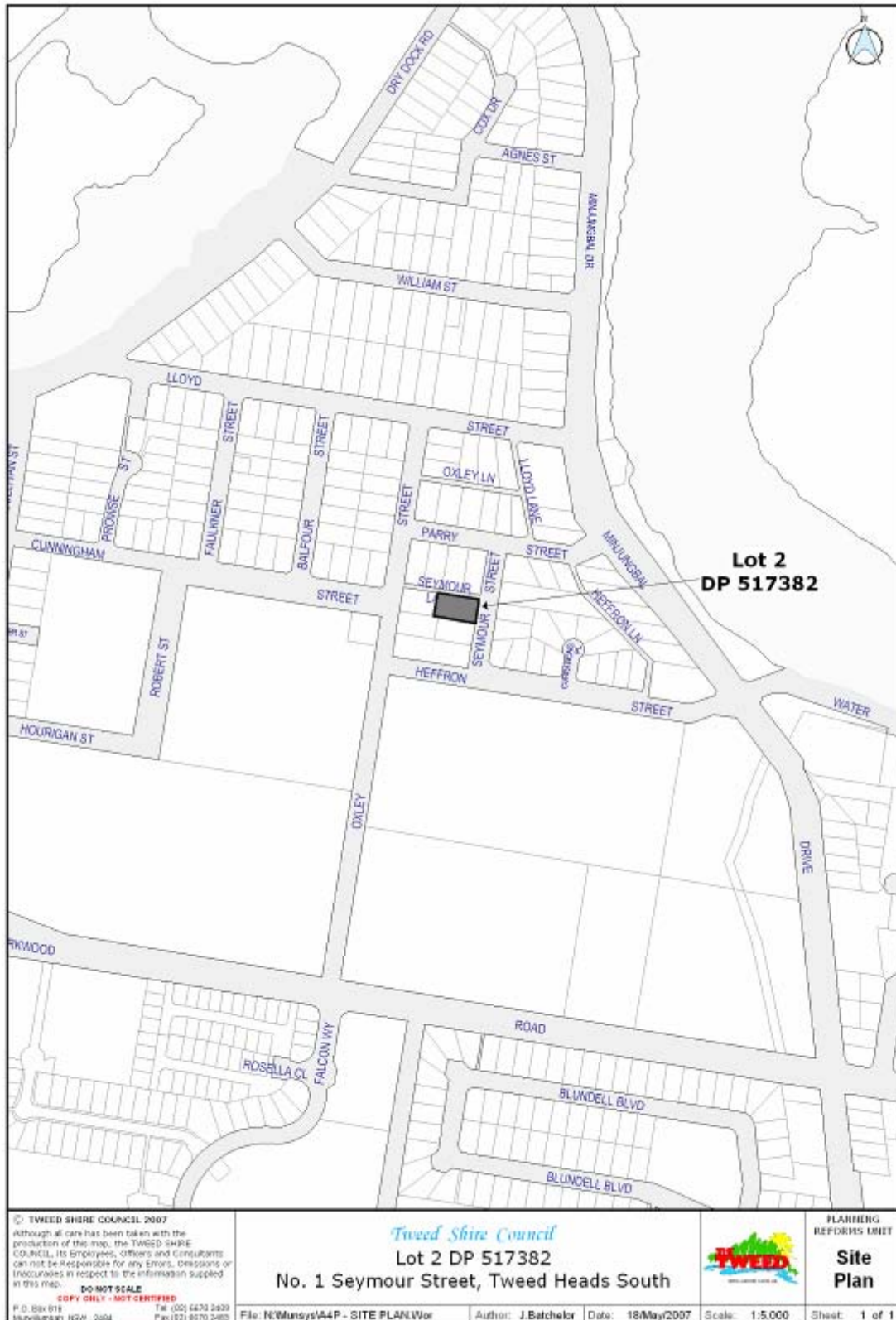
The subject land is of a regular shape with a frontage of 24.764m to Seymour Street and a secondary frontage of 45.323 to Seymour Lane, providing a total site area of 1122m².

The site is relatively flat with surface levels in the order of 1.8m AHD. The site is presently occupied by an older style single dwelling house and detached garage – neither of which possess any significant architectural or cultural value.

Vegetation on the site includes various palms and shrubs.

The local area comprises a mix of low and medium density residential buildings with a number of the older detached dwelling houses being selectively redeveloped and replaced by two and three storey multi-dwelling housing buildings. The subject site is in close proximity to existing commercial development along Minjungbal Drive and a number of public open space areas.

SITE DIAGRAM:



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Tweed Shire Council
Lot 2 DP 517382
 No. 1 Seymour Street, Tweed Heads South

TWEED
 TWEED SHIRE COUNCIL
 PLANNING DEPARTMENT
Site Plan
 File: N:\Munsys\A4P - SITE PLAN\Wor Author: J.Batchelor Date: 18/May/2007 Scale: 1:5,000 Sheet: 1 of 1

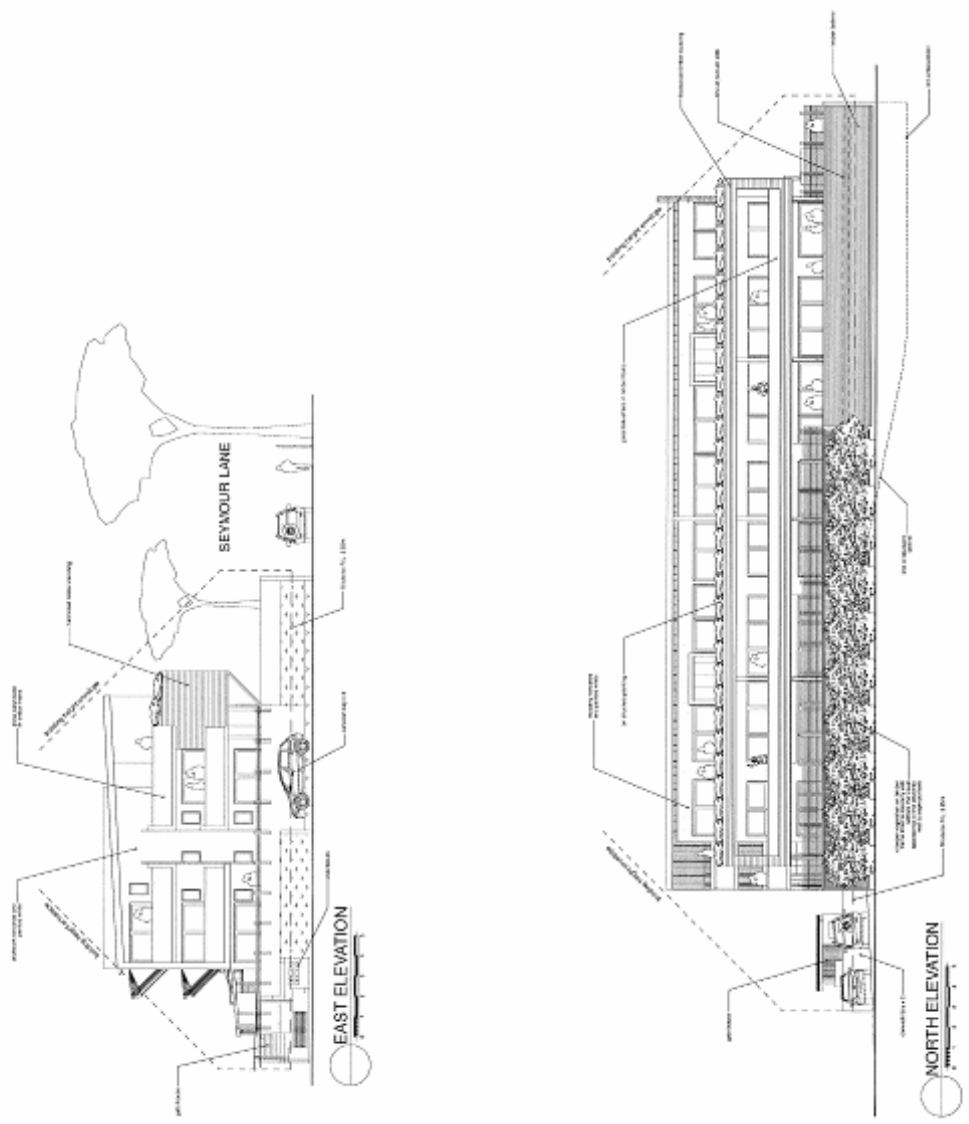
ELEVATIONS:

PAT TWOHILL DESIGNS PTY. LIMITED
ARCHITECTS
 10/11 TWEED STREET, TWEED HEADS, NSW 2486
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 EMAIL: info@twohill.com.au

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NO.	REVISIONS	DATE

CLIENT:
 Dickinson
PROJECT:
 Proposed Multi-Rises, Dev.
 No. 7 Seymour St
 Tweed Heads South
 NSW



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 2(b) Medium Density Residential under the provisions of the Tweed LEP 2000. The proposed multi-dwelling housing development is permissible with consent in the subject zone.

The density of the proposed development is considered appropriate given the site characteristics and context and is considered to result in the orderly and economic use of the land.

The proposal is considered to be consistent with the objectives of the 2(b) Medium Density Residential zone and is satisfactory with respect to the provisions of Clause 11.

The proposal is generally consistent with all other relevant Clauses of the LEP pertaining to availability of essential services (Clause 15), height of buildings (Clause 16), social impact assessment (Clause 17) and acid sulphate soils (Clause 35).

North Coast Regional Environmental Plan 1988

The proposed development is considered consistent with all relevant provisions of the REP.

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

Clause 30 of SEPP No.65 required the consent authority to consider each of the ten (10) design quality principles when determining a development application for a residential flat building.

In this regard, the applicant has provided a comprehensive assessment of the proposal against the relevant design quality principles. It is considered that the design of the proposed development exhibits suitable regard for these principles and demonstrates good practice in urban design. The modern appearance of the building is in keeping with the evolving character of the area.

State Environmental Planning Policy No.71 – Coastal Protection

Although not within a sensitive coastal area, the subject site is located within the Coastal Zone and as a result, the provisions of SEPP No.71 apply to the proposed development. The proposal is satisfactory with regard to the matters outlined in Clause 8 and is in accordance with the intent of the Policy.

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

There are no Draft Environmental Planning Instruments relevant to the proposal.

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

Section A2 – Site Access Parking Code

The following table details the compliance of the proposed development with the on-site car parking provisions contained in Section A2 of Council's consolidated DCP:-

Standard	Requirement	Proposal	Complies
On Site Car Parking	1.5 spaces per 2 bedroom unit, 2 spaces per 3 bedroom unit plus 1 visitor space per 4 units.	8 x 2 bedroom units (12 spaces) and 2 x 3 bedroom unit (4) spaces. Therefore a total of 16 resident spaces and 2 visitor spaces are required.	No - 15 spaces only provided.

At the time of lodgement of the application, Council had not yet adopted the consolidated DCP or associated changes to the car parking requirements for multi-dwelling housing.

In this regard, the application was fully compliant with the previous required rate of 1.5 spaces per dwelling with 25% to be available as visitor parking.

There are no savings provisions in the consolidated DCP which allow for the application to be assessed against the controls in place at the time of lodgement. Therefore, under the current requirements a shortfall of three (3) car parking space exists.

The fifteen (15) spaces provided are considered suitable in catering for the proposed development. The subject site is in close proximity to shops, public transport and schools, reducing the degree of dependence on private vehicles.

Requiring the applicant to redesign the development to comply with the newly introduced car parking rates would likely involve significant cost and require a substantial change to the overall form of the development.

Given the application complied with the car parking controls applicable at the time of lodgement, the minor nature of the variation required, the availability of on-street car parking in the vicinity and the proximity of the subject site to services, it is considered that the proposed parking arrangements are satisfactory in this instance.

Section A3 – Development of Flood Liable Land

The design flood level for the Lower Tweed (including Tweed Heads South) area is 2.6m AHD. Under the control of Section A3 of Council's Consolidated DCP, the minimum residential floor level in this area is to be RL 3.1m. The ground level of the proposed building will provide floor levels at RL 3.35 which fully complies with the stated controls.

The entry to the basement car park will be at RL3.15m AHD (550mm above the design flood level). Electrical and wiring materials to be used below RL 2.6m will not be susceptible to water damage. Accordingly, the proposed development fully complies with the controls stated in Section A3.

Section A1 – Multi-Dwelling Housing and Tourist Accommodation

The following table assesses the proposed development in relation to the acceptable solutions of Section A1 of the consolidated DCP:-

Standard	Acceptable Solution	Proposal	Complies
Floor Space Ratio	0.5:1 (561m ²)	0.84:1 (938m ²)	NO*
Minimum Landscaped Area	60m ² per small dwelling and 80m ² per large dwelling (640m ²)	499m ²	NO*
Setbacks	Front – 6m Side and Rear – 3m	Front – 8m Side (south) – 3m Side (north) – 7m Rear – 5m	YES
Streetscape	The maximum width of the garages should be 50% of the frontage width.	Parking provided via a basement carpark	YES
Streetscape	Garages should be setback behind the front façade of the building.	Parking provided via a basement carpark	YES
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like).	Proposal is wholly within building envelope.	YES
Minimum Private Open Space	20% of the site (224.4m ²), with a minimum dimension of 3m.	Greater than 224.4m ² provided.	YES
	One part min 25m ² with minimum dimension of 4m.	Minimum of 25m ² per unit in the form of balcony/courtyard areas.	YES

* See Comment Below

Floor Space Ratio

The proposal involves a floor space ratio of 0.84:1 which is in keeping with the average 1:1 - 1.35:1 generally associated with other multi-dwelling housing development in the 2(b) zone.

Landscaping

The proposed development incorporates approximately 500m² of landscaped area, including a mixture of deep planting zones, courtyard areas, pervious car wash down areas and an upper level landscaping bay.

Whilst the landscaping provided is considered of a suitable standard, it fails to meet the numerical requirement applicable under the acceptable solution.

To address this shortfall the applicant points to the following aspects of the application:-

- *The proposal meets the performance criteria within the 'density' element of the plan;*
- *The generous provision of usable open space with areas in excess of 25m² being provided adjacent to each living area with a northern aspect (average 52.89m²) per unit;*
- *The provision of substantial deep planting zones adjacent to the southern boundary (approximately 20% of the site area – 220m²);*
- *The provision of a significant pervious surface to the driveway and car wash areas to further enhance the 'landscaped' appearance of the site and increase stormwater infiltration (approximately 115m²);*
- *The proximity of the passive open space of the river foreshore and the active open space of Arkinstall Park.*
- *The general design merit of the proposed building which is compatible with the intended built form of the surrounding medium density area;*
- *Design omerit of the building which is compatible with the objectives of the 2(b) Zone under the Tweed LEP 2000 and intended future character of the area which optimises residential yields in proximity to the services and facilities of the Tweed Heads South business area.*

In light of the arguments raised above and the overall merit of the application it is considered that a variation to the acceptable solution relating to landscaping can be accepted in this instance.

The landscaped area proposed incorporates functional areas within the front, side and rear setback to each of the dwellings, as well as areas around the perimeter of the site.

Whilst the amount of landscaping proposed is numerically deficient, the proposal is considered to provide suitable landscaped area for the use and enjoyment of its future occupants. A condition of consent has been included requiring approval (by Council) of a full landscape plan prior to the issue of a construction certificate to ensure landscaping treatment is appropriate.

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

NSW Coastal Policy

The proposed development is not in conflict with the strategic goals or objectives of this Policy.

Demolition

The proposal requires the demolition of an existing dwelling. The applicant has submitted a demolition plan to the satisfaction of Council's Building Services Unit with suitable conditions of consent proposed to control demolition activities.

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

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

The proposal has been designed to provide for upper level living areas and balconies along the Seymour Lane (north facing) frontage which not only maximises solar access to living areas but also reduces the risk of overlooking/overshadowing impacts due to the added separation provided by the laneway.

As reflected in the shadow diagrams submitted with the application, the shadows cast by the proposed building do not result in unreasonable overshadowing or adverse impacts on adjoining buildings or property.

The proposal achieves substantial compliance with Council's codes, Development Control Plan and relevant environmental planning instruments thereby mitigating any potential adverse impacts.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed development. The key opportunities afforded by the site include a north east aspect and the proximity of the site to the sub regional shopping facilities at Tweed Heads South, foreshore open space to the east and the active open space at Arkinstall Park.

The existing buildings to the south and the design flood level are relative constraints to the redevelopment of the site yet have been suitably considered in the design of the proposed building. The majority of existing buildings in the street comprise two and three storey structures.

The design and articulation of the building takes advantage of the prevailing summer breezes from the northeast, whilst providing good orientation and solar access to the living areas. The scale, bulk and height of the proposed building are sympathetic to the existing built form and are consistent with contemporary architectural and urban design principles.

Due to the location and development potential of the subject locality, the area surrounding the site is undergoing a significant transformation from lower density residential uses to predominately three storey residential uses. The bulk, scale and general design the proposed building is compatible with the existing and emerging character of the area.

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

The application was advertised for a 30 day period in accordance with Council's Notification Policy. During this period one (1) submission was received. The submission objected to the development on the grounds that the provision of a basement car park will necessitate dewatering and pointed to another similar development at 7-9 Lloyd Street where dewatering operations had caused considerable nuisance by way of noise from the pump and the pungent smell of the exposed water.

The dewatering aspect of the proposal has been reviewed by the Department of Natural Resources with suitable General Terms of Approval provided. The impacts referred to in the letter of objection are not considered likely to be an isolated occurrence given the frequency of dewatering operations throughout the area. It is noted that any impacts are limited to the construction period only with the subject site a considerable distance from the residence of the objector. Should the dewatering operations create a nuisance, the General Terms of Approval and other conditions proposed by Council's Environment Health unit provide Council with suitable recourse to address the issue with the applicant.

(e) Public interest

The proposed development is not considered to compromise the public interest. The proposal adequately addresses the relevant planning controls and reflects the intended development for the locality.

OPTIONS:

1. Approve the application in accordance with the recommendation and considered of consent herein.
2. Reside the application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is considered to be suitable for the subject site, unlikely to result in any significant adverse impacts and generally meets all Council's controls pertaining to multi-dwelling housing. The proposal is considered to warrant conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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P5 [PR-PC] Development Application DA06/0800 for a Three (3) Storey Mixed Development Comprising 16 Tourist Units Two (2) Retail Shops/Commercial Units and Two (2) Restaurants at Lot 1 & 2 DP 842350, No. 25-27 Tweed Coast Road, Bogangar

ORIGIN:

Development Assessment

FILE NO: DA06/0800 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for a mixed-use development comprising sixteen (16) tourist accommodation units and four (4) commercial tenancies.

The subject site comprises two (2) adjoining allotments with a total land area of 1283.5m². The site is currently vacant and occupies a key corner location on the fringe of Cabarita's retail strip.

The application is generally compliant with Council's controls pertaining to mixed-use development and is considered to possess significant architectural merit.

The main issues associated with the application are:-

- Non-compliance with the three (3) storey height limit;
- Proposed access arrangements requiring an extension to an existing right of way over the Council owned land to the west;
- Strategic considerations relating to the Cabarita Locality Plan and the intended land-use of the adjoining Council owned land to the west.

Each of these matters is discussed within the body of the report.

RECOMMENDATION:

That Development Application DA06/0800 for a three (3) storey mixed development comprising 16 tourist units two (2) retail shops/commercial units and two (2) restaurants at Lot 1, 2 DP 842350, No. 25 Tweed Coast Road Bogangar No. 27 Tweed Coast Road Bogangar 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 DA0.00, DA0.01, DA0.02, DA0.03, DA1.01 (as amended in red), DA1.02, DA1.03, DA1.04, DA1.05, DA1.06, DA1.07, DA2.01, DA2.02, DA3.01 and DA4.01 prepared by Lightwave Architects, except where varied by the conditions of this consent.
[GEN0005]
2. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.
[GEN0075]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
4. The development is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils adopted Development Design and Construction Specifications.
[GEN0125]
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]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Any carparking floodlighting shall not spill beyond the boundaries of the site.
[PCC0055]
7. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee.
Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.
[PCC0075]
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.

(a) Tweed Road Contribution Plan:	\$51,195
S94 Plan No. 4 (Version 4.0)	
Sector7a_4	
(b) Open Space (Structured):	\$7,332
S94 Plan No. 5	
(c) Emergency Facilities (Surf Lifesaving)	\$1,696
S94 Plan No. 16	
(d) Extensions to Council Administration Offices & Technical Support Facilities	\$15,421.69
S94 Plan No. 18	
(e) Cycleways	\$4,080
S94 Plan No. 22	
(f) Regional Open Space (Casual)	\$3,488
S94 Plan No. 26	

[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:

Water DSP6:	7.622 ET @ \$4598	\$35,046
Sewer Hastings Point:	12.6428 ET @ \$2863	\$36,196

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]

10. 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]

11. 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 3.4m AHD in accordance with Tweed Shire Council Development Control Plan Part A3 - 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]

12. 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 a Section 138. Safe public access shall be provided at all times.

[PCC0865]

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

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

[PCC1105]

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

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

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

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

[PCC1145]

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

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

[PCC1155]

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

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

[PCC1165]

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

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

[PCC1185]

18. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.

[PCC1195]

19. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

20. The construction certificate application shall include engineering plans for the following roadworks, designed in accordance with Councils adopted Design and Construction specifications;

- The right of carriageway is to have a 5.5 metre wide pavement suitable for the carrying of heavy vehicles from the Rosewood Avenue boundary to the southern boundary of the site. The construction is also to include kerb & gutter offset 0.5 metres from the new western boundary of the property and any associated drainage.
- The existing sewer main is to be shown on the design plans.

The right of carriageway is also to be extended through to Rosewood Avenue and registered with the Land Title Office.

[PCCNS01]

21. Prior to the issue of a Construction Certificate, Council shall be provided with a construction management plan to the satisfaction of the Director of Environment and Community Services.

[PCCNS02]

22. 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. The landscaping plan is to be certified by a qualified Landscape Architect.

[PCC0585]

PRIOR TO COMMENCEMENT OF WORK

23. 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]

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.
- [PCW0215]
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.
- [PCW0225]
27. 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]
28. 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]

29. 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]

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. 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]

32. 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]

33. 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]

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

[PCW1095]

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

[PCW1165]

36. A separate Construction Certificate approval is to be obtained for all commercial tenancy fitouts unless included in any previously issued Construction Certificates.

[PCWNS01]

DURING CONSTRUCTION

37. The concrete driveway across the footpath is to be constructed in accordance with the approved plan and be a minimum of 150 millimetres thick reinforced with F82 mesh.

[DUR0105]

38. 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]

39. 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]
40. 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]
41. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.
- [DUR0385]
42. 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]
43. 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]
44. 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]
45. 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]

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

[DUR0785]

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

[DUR0815]

48. 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]

49. 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 an Occupation Certificate.

[DUR0995]

50. 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]

51. 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]

52. The land to be filled to the design flood level of RL 3.4m AHD.

[DUR1385]

53. 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]
54. All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises.
- [DUR1535]
55. 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]
56. 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]
57. 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]
58. 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]
59. 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]

60. 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]

61. **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]

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

[DUR2085]

63. 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]

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

[DUR2195]

65. 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]

66. 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]

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

[DUR2415]

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

[DUR2425]

69. All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg.

[DUR2435]

70. 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]

71. 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]

72. 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]

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

[DUR2505]

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

[DUR2515]

75. 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]

76. 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]

77. 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]

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

[DUR2595]

79. 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]

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

[DUR2625]

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

[DUR2675]

82. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

83. Acid sulfate soils shall not be exposed or disturbed.

[DURNS01]

84. Internal partition walls which form part of the proposed future restaurants shall be of solid construction as per Australian Standard 4674.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

85. 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]

86. 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]

87. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

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 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]

90. The registered Right of Carriageway (located on Lot 3 DP1088746) from Hastings Road through to the boundary of the newly constructed roadworks located within the perpendicular section of the right of carriageway is to be relinquished prior to occupation.

The right of carriageway located on Lot 3 DP1088746 is to be extended through to Rosewood Avenue and registered as a right of carriageway.

The owner is to enter into a legal agreement with Council within 3 months of the service lane being constructed from Rosewood Avenue to the Council car park on Lot 3 DP 1088746.

Documentary evidence is to be provided prior to release of the occupation certificate.

[POCNS01]

91. The owner is to dedicate at no cost to Council a 1.5 metre by 5.5 metre strip of land on the north western corner of the site to Council, extending the existing dedicated strip for the full frontage of the property.

Documentary evidence is to be provided prior to release of the occupation certificate.

[POCNS02]

92. Prior to the issue of the occupation certificate, a restriction shall be placed on the consolidated title under Section 88B of the Conveyancing Act stating each unit is approved only for tourist accommodation and the tourist accommodation units are not to be used for residential purposes.

[POCNS03]

USE

93. 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]

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

[USE0135]

95. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

96. 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]

97. Hours of operation of the business are restricted to the following hours:
-

Retail: 7am to 7pm, 7 days a week

Refreshment Rooms: breakfast/lunch 7am to 2:30pm, evening 5pm to 11pm

[USE0185]

98. 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]

99. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the Food Regulation 2004 and the Food Act 2003.

[USE0825]

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

[USE0875]

101. The premises shall be maintained in a clean and tidy manner. [USE0965]
102. 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]
103. The premises must be provided with facilities that are adequate for the purpose of keeping towels, appliances and utensils clean. [USE1005]
104. A minimum two (2) metre wide clear unobstructed pedestrian pathway shall be maintained on the footpath. [USE1115]
105. **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]
106. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense. [USE1455]
107. The gates into the basement car park are not to obstruct public access to the commercial component of the car park and are to remain open for public use. [USENS01]
108. Access to toilet and handwashing facilities shall be available to diners at all times that the restaurants are trading. [USENS02]

REPORT:

Applicant: BCJ Investments Pty Ltd and DMD Property Group Pty Ltd
Owner: DMD Property Group Ltd and BCJ Investments Pty Limited
Location: Lot 1 & 2 DP 842350, No. 25-27 Tweed Coast Road, Bogangar
Zoning: 3(b) General Business
Cost: \$3,500,000

BACKGROUND:

Council is in receipt of a development application for a mixed-use development comprising sixteen (16) tourist accommodation units and four (4) commercial tenancies.

The proposed development incorporates the following elements:-

Tourist Units

- 4 x 1 bedroom units
- 10 x 2 bedroom units
- 2 x 3 bedroom units

Commercial Component

- 2 retail shops
- 2 restaurants

Storeys

- Generally three (3) plus basement car parking.
- Fourth storey element through the centre of the property (due to the topography of the land).

Site Area

- 1283.5m²

Car Parking

- 35 spaces plus loading bay and bicycle racks.

The design of the proposed development incorporates a number features that assist in breaking up and articulating the building. The innovative design responds well to the site having regard to its prominent corner position on the edge of the Cabarita retail strip.

During assessment of the application, Council approached the applicant to investigate the possibility of integrating the adjoining Council owned land into the proposal. Various options were explored including extending the proposed development across onto the Council owned land with a view to providing a larger scale supermarket or similar retail outlet over all three (3) allotments. In this regard, car parking would remain at ground level with access off Hastings Road, with the commercial floor space to be accessed off Tweed Coast Road.

After failing to resolve a specific plan for the site with Council and given the uncertainty regarding timeframes and options, the applicant elected to pursue the application as submitted.

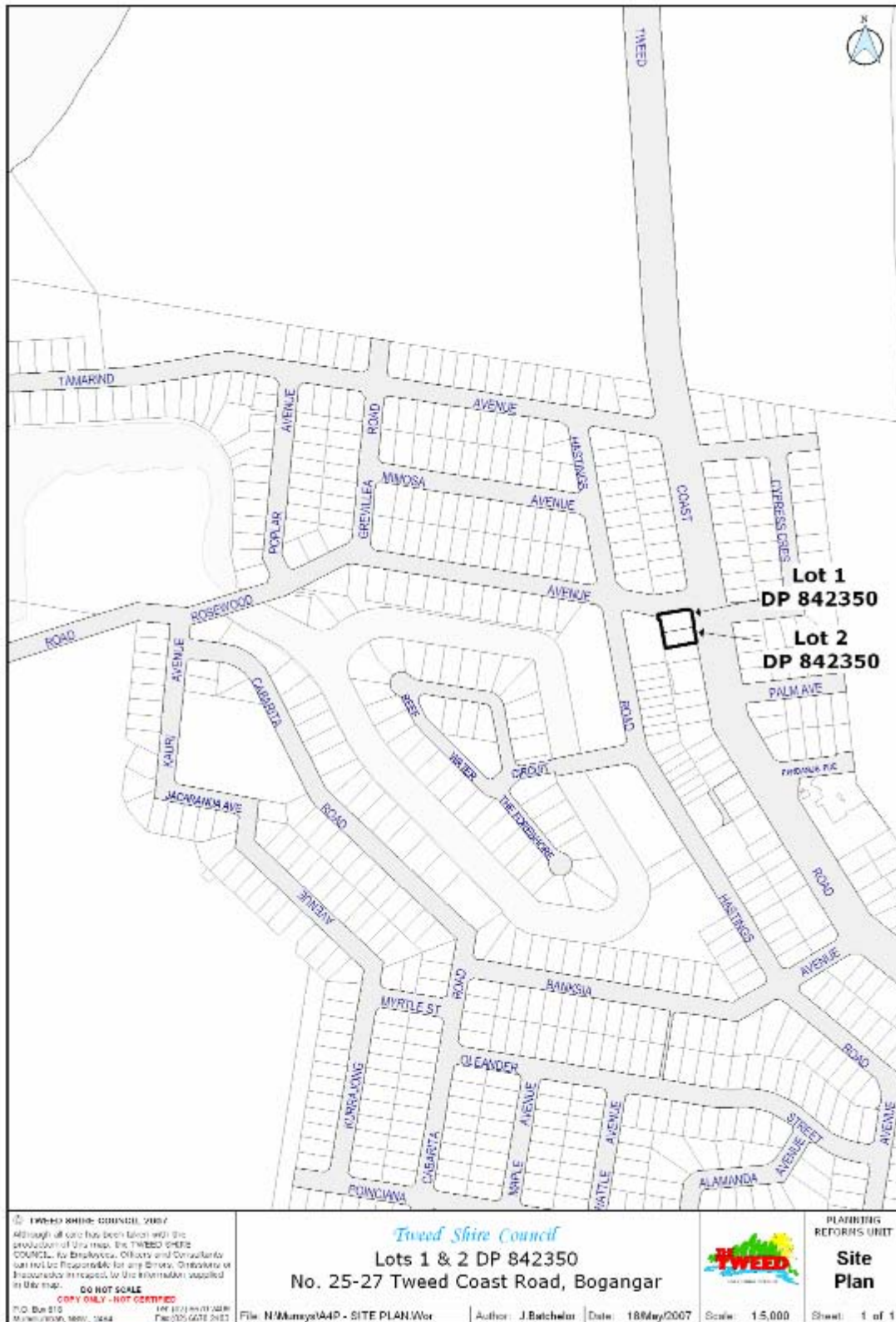
The subject site comprises two (2) regular shaped allotments on the corner of Tweed Coast Road and Rosewood Avenue. Little existing vegetation is evident on the site other than scattered paperbarks and umbrella trees. There are no structures or other built improvements on the property.

The levels on site drop significantly from the Tweed Coast Road frontage (along the existing retail strip) down to Rosewood Avenue.

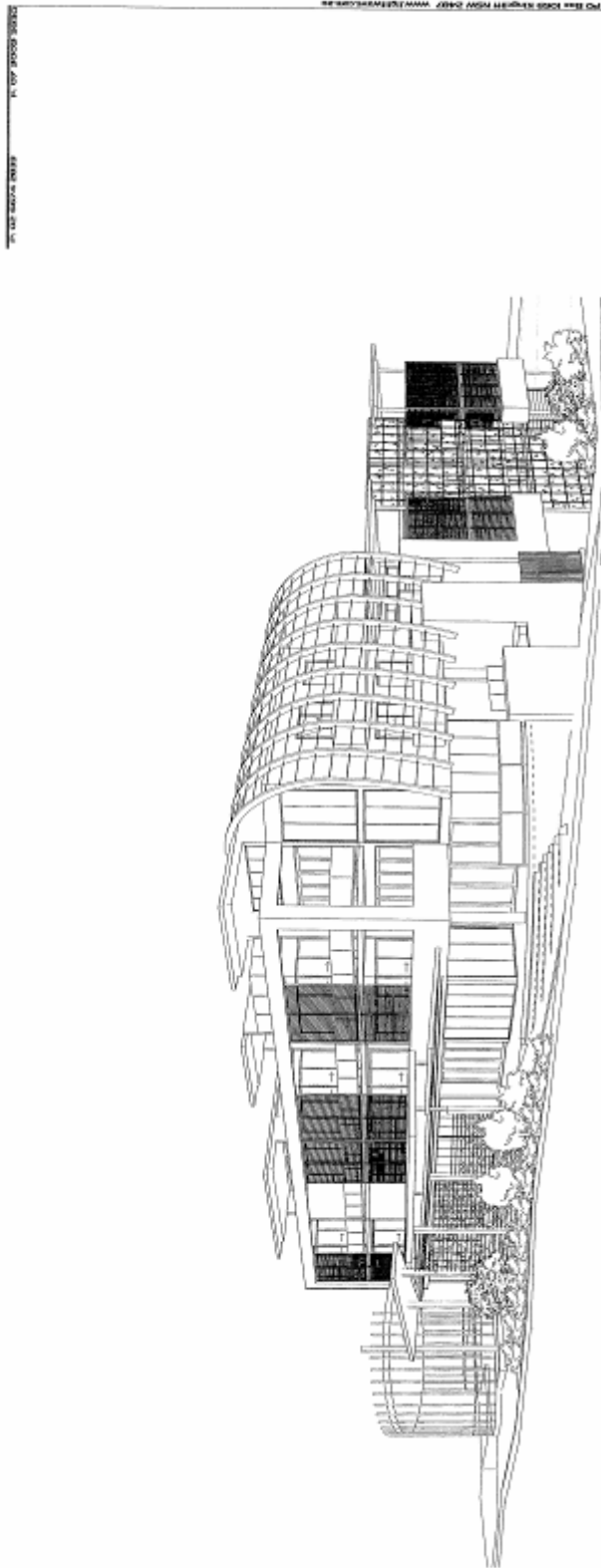
The adjacent allotment to the west is currently vacant but is identified for a future public car park and is in Council ownership.

Development to the north of the site is residential in nature with the main commercial precinct for Cabarita located to the north-east and south.

SITE DIAGRAM:



DEVELOPMENT PERSPECTIVES:



Cabarita Mixed Use
Cnr Rosewood Ave & Tweed Coast Rd
Cabarita

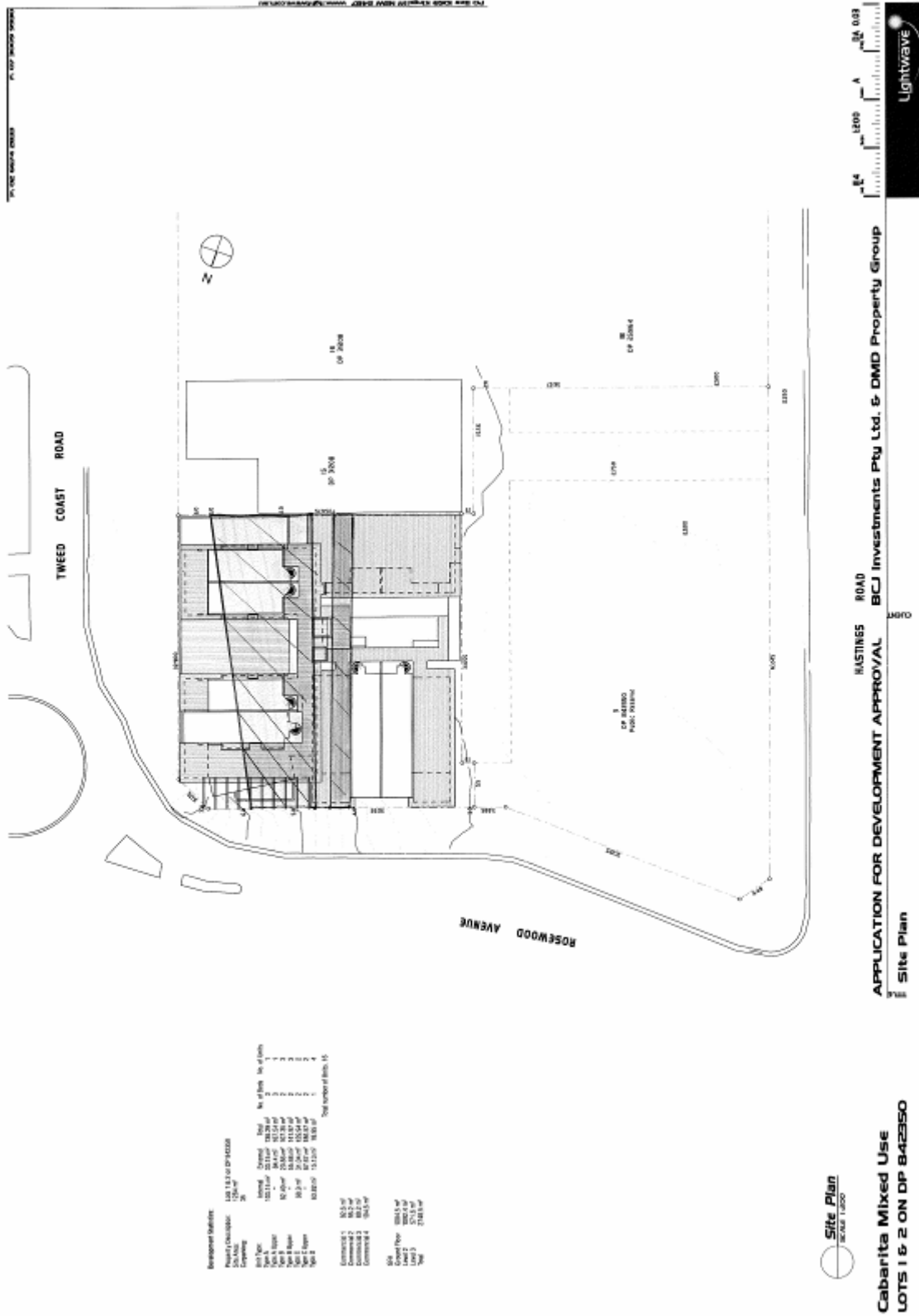
Cabarita Mixed Use
LOTS 1 & 2 ON DP 842350

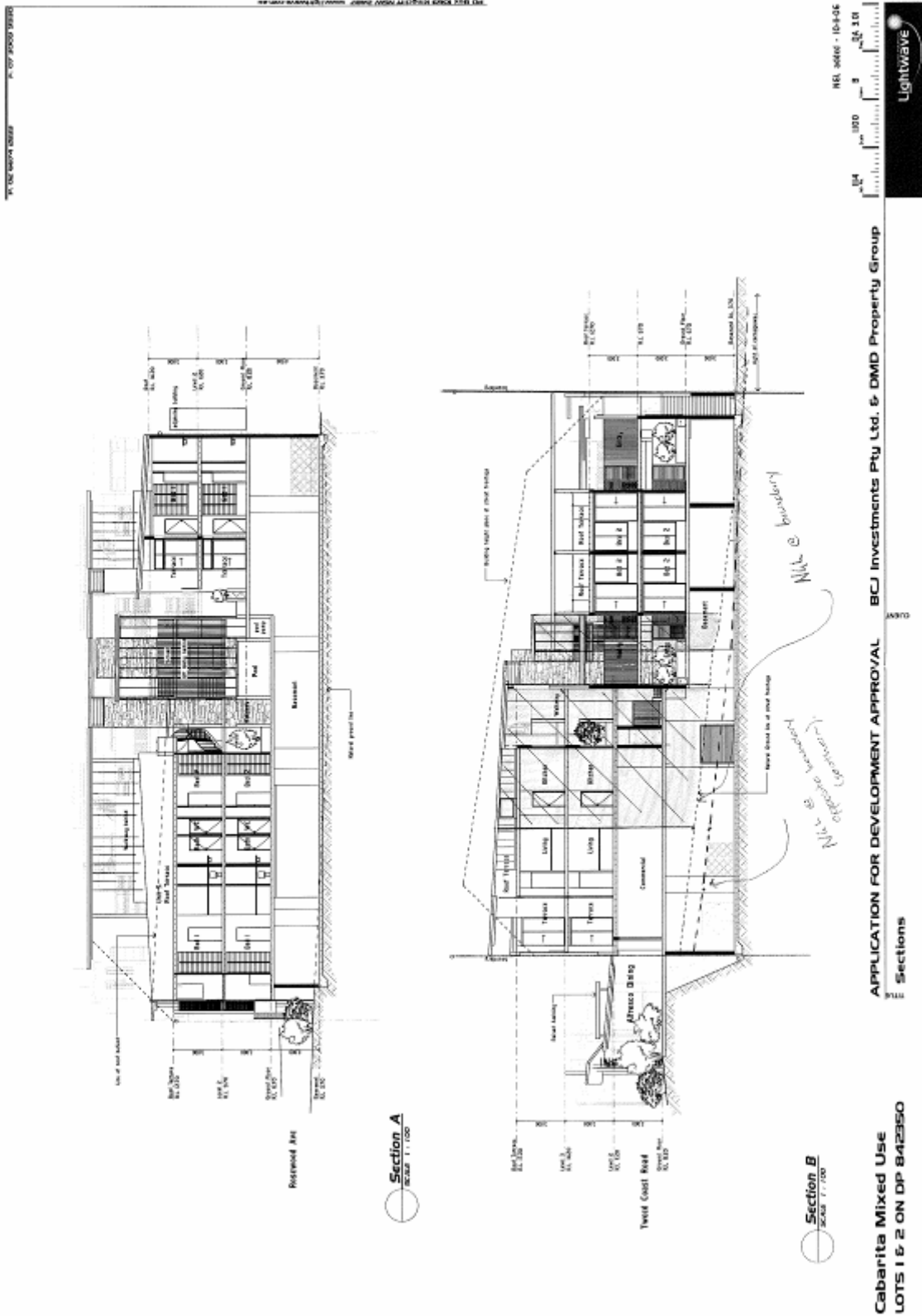
APPLICATION FOR DEVELOPMENT APPROVAL BCJ Investments Pty Ltd. & DMD Property Group

CLIENT

Cover Page

Lightwave





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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 3(b) General Business under provision of the Tweed Local Environmental Plan 2000. In terms of definitions under the LEP, the proposal incorporates shops, refreshment rooms and tourist accommodation. Each of the proposed uses is permissible consent in the 3(b) zone.

The proposal complies with the objectives of the 3(b) zone as it provides for upper level tourist accommodation and is considered to represent a valuable addition to Cabarita's commercial/retail strip.

Clause 15 – Availability of Essential Services

The subject site has an existing connection to all essential services with sufficient capacity available to cater for the proposed development.

Clause 16 – Height of Buildings

The subject land possesses a three (3) storey height limit. The proposed development is in part three (3) storeys but also includes four (4) storey elements through the centre of the site. This is primarily a result of the topography of the area and the steep drop off from Tweed Coast Road. Despite the non-compliance, the development will front Tweed Coast Road as a three (3) storey building with vertical articulation ensuring the building steps down to three (3) storeys on the western elevation facing Hastings Road as well. The applicant has prepared an objection to the three (3) storey height limit pursuant to State Environmental Planning Policy No.1 and is discussed later in this report.

Clause 35 – Acid Sulphate Soils

Council's Acid Sulphate Soil Planning Maps indicate that the site is located in an area identified as containing Class 3 Acid Sulphate Soils. An Acid Sulfate Soils Investigation has been submitted with the application with Council's Environment and Health Unit raising no objection to the proposal subject to certain conditions of consent.

North Coast Regional Environmental Plan 1988

The proposed development is considered consistent with all relevant provisions of the REP.

State Environmental Planning Policy No.1 – Development Standards

As discussed, the proposed development exhibits a fourth storey component through the middle of the site and therefore requires a variation to the three (3) storey height limit applicable under Clause 16 of the Tweed LEP 2000.

At Council's request, the applicant has submitted plans clearly demonstrating the area of the non-compliance, copies of which are provided in the development plans above.

The submission raises the following points in support of the variation:-

- The extent of the variation, where the basement protrudes more than 1.5 metres out of the ground equates to approximately one third of the buildings external length;
- The proposal is consistent with the objective of Clause 16 as the height and scale of the development is appropriate to its location, surrounding development and environmental characteristics of the land;
- The proposal presents as three (3) storeys from both Tweed Coast Road and Hastings Road;
- The bulk of the building presents to Rosewood Avenue as three (3) storeys and includes substantial vertical articulation as the building steps down the site;
- The proposal will appear predominantly as three (3) storeys. A lay person would be unlikely to be able to decipher whether the proposal is four (4) storeys in part;
- The proposal steps down the slope and adopts urban design principles such as those promoted within DCP No.43;
- Recently approved and constructed buildings within Cabarita incorporate fourth (4) storey elements thereby ensuring that the proposal will not be inconsistent with the current character of the locality;
- Lowering the building further to achieve compliance would potentially lead to the need for dewatering and/or treatment of acid sulphate soils, exacerbating the environmental impact of the proposal;
- The form of the proposed development and the presence of a fourth storey component is directly related to the slope of the land; and
- The proposed fourth storey does not adversely impact upon surrounding residents by way of overshadowing, loss of sea views, privacy or amenity.

Having regard to the comprehensive nature of the submission and the validity of the points raised, it is considered that the variation lodged under SEPP No.1 warrants support in this instance. Strict compliance with the three (3) storey height limit is unreasonable given the topography of the land. The fourth storey component relates to those parts of the building where the podium level extends more than 1.5 metres beyond the natural ground level. In this regard, the steep fall of the land away from Tweed Coast Road prevents compliance from being achieved without multiple changes in the floor levels across the development. In order to activate the street frontage and encourage pedestrian interaction, it is considered preferable to have the ground floor of the commercial tenancies fronting Tweed Coast Road at street level rather than stepped down from the footpath.

For reasons outlined above, it is considered a departure from the three (3) storey height limit to accommodate the proposed development is acceptable in this instance.

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

The proposed development incorporates tourist accommodation only and as such the provisions of the SEPP do not apply. Notwithstanding this, the proposal is considered to be consistent with the design principles underpinning this policy.

State Environmental Planning Policy No.71 – Coastal Protection

Although not within a sensitive coastal area, the subject site is located within the Coastal Zone and as a result, the provisions of SEPP No.71 apply to the proposed development. The proposal is satisfactory with regard to the matters outlined in Clause 8 and is in accordance with the intent of the Policy.

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

There are no Draft Environmental Planning Instruments relevant to the proposal.

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

Section A2 – Site Access and Parking Code

The proposed development incorporates a total of thirty-five (35) car parking spaces.

This number is consistent with the minimum requirement – as outlined in the table below.

DCP No.2 Assessment		
Tourist Units	16 Units @ 1 space per unit	16 spaces
Restaurant (80m ²)	1/7m ² of dining area (less 20% as per Clause 4.11)	9 spaces
Retail Shops (187.8m ²)	1/40m ² GFA (less 20% as per Clause 4.11)	6 spaces
Total Required		31 spaces
Total Provided		35 spaces
Compliant		YES

The proposal also includes a secure bike rack within the basement for tenants and guests, whilst provision is also made for a further bike rack at the front of the building. The exact fit-out of the restaurants is unknown at this stage and will be subject to a future development application, however a dining area of 40m² has been allowed for each restaurant – noting that four (4) residential spaces are available should the restaurants require any further parking.

A loading bay is situated within the basement to service the development. As the proposal does not incorporate a permanent residential component, a car wash bay is not required in this instance.

Access

Access to the proposed development is via a right of carriageway from Hastings Road over Lot 3 DP 842350 which is a Council owned allotment immediately adjoining the subject site and zoned 5(a) Special uses – Car Park.

It is understood that Council is still considering options for the use of this land.

During assessment of the application, it was determined that the width of the existing right of way was insufficient to provide suitable turning area for a garbage or delivery truck.

After exploring several different options, the applicant negotiated with Council to extend the existing right of carriageway through to Rosewood Avenue. With the right of carriageway extended, service vehicles and garbage trucks will be able to gain access to and from the subject site directly off Rosewood Avenue.

In exchange, the applicant has agreed to relinquish the perpendicular section of the right of carriageway off Hastings Road. Ultimately, it is anticipated that the right of carriageway will run from Rosewood Avenue across the adjoining fifteen (15) allotments through to the second Council owned 5(a) Special Uses – Car Park parcel of land at Lot 3 DP 1088746.

In this regard, the only change to the current right of carriageway is the extension out to Rosewood Avenue and the eventual deletion of the section off Hastings Road.

In terms of traffic safety concerns relating to the newly proposed Rosewood Avenue access point, Council's Traffic and Transport Engineer has advised that the proposed access is satisfactory due to the *'low speed environment which will be further improved by a proposed roundabout at Hastings Road/Rosewood Avenue.'*

The following conditions are proposed to address this issue:-

- 1) *The registered right of carriageway (located on Lot 3 DP 1088746) from Hastings Road through to the boundary of the newly constructed roadworks located within the perpendicular section of the right of carriageway is to be relinquished prior to occupation.*
- 2) *The right of carriageway located on Lot 3 DP 1088746 is to be extended through to Rosewood Avenue and registered as a right of carriageway.*

The owner is to enter into a legal agreement with Council within 3 months of the service lane being constructed from Rosewood Avenue to the Council car park on Lot 3 DP 1088746. Documentary evidence is to be provided prior to the release of the occupation certificate.

Subject to the conditions outlined above, the proposed access arrangements are considered satisfactory.

Section A1 – Multi-Dwelling Housing and Tourist Accommodation

Various provisions under DCP No.6 relate to multi-dwelling housing within commercial zones. The proposal provides for upper level tourist accommodation which Council now requires to be assessed in a similar manner to residential development. The following table provides an assessment of the proposal against the relevant controls:-

Standard	Acceptable Solution	Proposal	Complies
Streetscape/Setbacks	No setback requirements for the first 9 metres and 3 metres from side boundary thereafter.	No setbacks proposed.	NO*
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like).	Proposal exhibits encroachments on side and rear boundaries.	NO*
Usable Private Open Space	A shaded balcony with 10m ² and minimum dimensions of 2 metres.	Each tourist unit has a balcony area compliant with the minimum area and dimension requirements.	YES

Streetscape/Setbacks

The proposed development occupies the subject site from boundary to boundary. No front setback is required at street level due to the commercial zoning of the land and the nature of uses proposed.

The failure of the development to 'step in' and provide a 3 metre side setback (after the first 9 metres), is considered acceptable given the strong architectural merit of the proposal and the nature of surrounding development. In this regard, the adjoining commercial building to the south-east is itself built up to the side boundary. Providing the 3 metre setback on the subject development would be of no benefit given the presence and height of the wall of the adjoining building. Building up to the boundary is considered the most efficient use of the land available and creates a continuous stretch of commercial development.

It is further noted that as the proposal does not incorporate any permanent residential component, thereby reducing the landscaping and private open space requirements that would otherwise be provided by the side setbacks.

Building Envelope

The proposed development exhibits substantial encroachments into the building height plane on both the side and rear elevations. Despite these encroachments, the extensive articulation and use of awnings, screens and other design features considerably reduce the bulk of the building.

The site does not adjoin any residential development that would be impacted upon by the encroachments.

The proposal is considered to be at the cutting edge of architectural design and will set the benchmark for future development in the Cabarita Beach CBD.

The non-compliance with the acceptable solution relating to building envelope is supported given the architectural merit of the proposal, the absence of any adverse impacts on adjoining residents/tenants/landowners and the performance of the development against the associated objectives and performance criteria within the DCP.

Section B18 – Tweed Coast Building Heights

Despite exhibiting certain non-compliances with acceptable solutions in Section B18 relating to building height and building setbacks, the proposed development is considered to satisfactorily comply with the relevant performance criteria in each instance. Of particular note in this regard are the absence of any impacts on adjoining properties and the innovative design which reduces the bulk of the building and ensures it provides an attractive addition to the streetscape.

Section B19 – Bogangar/Cabarita Beach Locality Plan

The subject site is located within the Tweed Coast Road Business Precinct under the provisions of Section B19.

Council's strategic directions listed under Section B19 for the precinct are to encourage a variety of mixed-use development including ground floor commercial activity with upper level residential and tourist development above. The DCP also encourages building design which provides for an interesting and active streetscape and displays high quality urban design. Looking at adjoining development to the south, it is apparent that this has not been achieved in this past with the main focus being on the provision of vehicular access – which does little to bring vitality and life to the street.

The proposed development includes a range of architectural features which encourage street life along the Tweed Coast Road frontage whilst minimising activity on Rosewood Avenue – thus protecting the residential amenity of the properties to the north of the site.

The use of landscaping and extensive covered walkways draws pedestrians into the site and provides opportunities for al-fresco dining subject to future Council approval. The variety of materials proposed and extent of vertical and horizontal articulation add interest to the built form and ensure the precinct objectives are upheld.

The proposed development is considered satisfactory with respect to the provisions of Section B19.

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

Satisfactory.

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

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

The location of the subject site on a corner allotment, adjoining existing commercial development and a proposed car park creates a situation where no residential properties are likely to be affected.

The bulk and scale of the proposed is consistent with the existing, adjoining commercial development and will not lead to any adverse impacts by way of overshadowing or noise.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed development.

There are no natural constraints evident over the land with the design considered to respond well to the steep fall away from Tweed Coast Road.

The consultants preparing the Cabarita Beach Locality Plan and Master Plan have provided comment on the application indicating support for general design ethos and noting that the proposal *'incorporates active ground level uses fronting Tweed Coast Road and affords adequate amenity considerations to the proposed tourist residential accommodation'*.

The proposal is considered likely to make a positive contribution to the streetscape and character of the area with the site considered to present the ideal location due to its prominent corner location and separation from any residential properties.

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

The application was advertised for two (2) weeks in accordance with Council's Notification Policy. During this period, one (1) submission was received.

The submission pays credit to the design of the proposal and the architectural merit but also raises concern regarding the height limit breach.

As discussed above, it is considered the fourth storey component and minor variation to the overall height limit prescribed under DCP Nos. 48 and 50 are acceptable in the circumstances of the site topography.

(e) Public interest

The proposed development is considered in the public interest.

OPTIONS:

1. Approve the application in accordance with the recommendation and conditions of consent herein.
2. Refuse the application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Significant public benefits are likely to result from the redevelopment of what is currently a vacant site – including the reinvigoration of the Cabarita town centre and its peripheral areas. The proposal is deemed to be suitable for subject site, unlikely to result in any adverse impacts and is generally compliant with all applicable requirements.

Having regard to the above considerations, the subject application is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P6 [PR-PC] Development Application DA06/0627 for a Staged Development for a Rural Land Sharing Community Comprising 14 Dwellings at Lot 1 DP 783885 Cobaki Road and Lot 6 DP 614304 No. 290 Cobaki Road; Cobaki

ORIGIN:

Development Assessment

FILE NO: DA06/0627 Pt1

SUMMARY OF REPORT:

Council is in receipt of an application for a Rural Landsharing Community, comprising 14 Home Improvement Areas on a 50.74ha parcel of land, comprising 2 properties, situated at 290 Cobaki Road, Cobaki.

The subject land along with the immediate area is zoned 1(a) Rural under the Tweed LEP 2000 and is predominately utilised for low intensive agriculture, particularly cattle grazing and rural living.

The proposal also includes an extensive revegetation plan for the site, which, along with the use of the HIAs, is proposed over 4 stages.

During the prescribed notification period, a total of 30 public submissions were received, in addition, concerns have been raised from the Department of Primary Industries. However it is considered that the proposal adequately addresses the requirements of State Environmental Planning Polices No. 15 – Rural Landsharing Communities, the primary planning document for the proposal, as well as Council's relevant requirements, and is recommended for approval in its current form.

RECOMMENDATION:

That Development Application DA06/0627 for a staged development for a rural land sharing community comprising 14 dwellings at Lot 1 DP 783885; Lot 6 DP 614304 Cobaki Road, Cobaki be approved subject to the following conditions: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

1. Lot 1 DP783885 and Lot 6 DP 614304 are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with Lands Titles Office and documentary evidence of such, is to be submitted to Tweed Shire Council for its acknowledgement.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos COB2005-05, COB2005-06 & COB1005-07 prepared by Stewart McIntyre & Associates and dated 11/08/06 & 12/08/06, in accordance with the following staging plan:

Stage 1 (HIA 1, 2 & 3)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 1,2 & 3 (subject to individual development consent)
- Revegetation areas - critical parts of areas B, C & G, full length of the creek (Cobaki Creek), however initially to a depth of 5 - 10 meters.
- The internal access roads servicing proposed HIA sites 1, 2 & 3 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 1 are to be clearly sign posted with properties clearly identified.

Stage 2 (HIA 10, 11 & 12)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 10, 11 & 12 (subject to individual development consent)
- Revegetation areas - majority of areas D & E, additional Areas F and parts C & G.

- The internal access roads servicing proposed HIA sites 10, 11 & 12 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 2 are to be clearly sign posted with properties clearly identified.

Stage 3 (HIA 4, 5, 6, 7, 8 & 9)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 4, 5, 6, 7, 8 & 9 (subject to individual development consent)
- Revegetation areas - Areas F and parts C & G

Stage 4 (HIA 13 & 14)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 13 & 14 (subject to individual development consent)
- Revegetation areas - revegetation areas A & B, completion of other areas.
- The internal access roads servicing proposed HIA sites 13 & 14 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 4 are to be clearly sign posted with properties clearly identified.

except where varied by the conditions of this consent.

[GEN0005]

2. The proposed future dwellings and structures must be the subject of a separate development consent.

[GEN0035]

3. The development is to be carried out in accordance with the requirements of State Environmental Planning Policy No. 15 - Rural Landsharing Communities.

[GENNS01]

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

[GEN0045]

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

[GENN0135]

6. A roof catchment water supply source shall be provided for domestic purposes where a Council reticulated water supply is unavailable. Any domestic water supply roof collection system is to be fitted with a first flush device. Minimum storage tank capacity shall reflect the dry seasonal periods experienced with the locality and shall be separate to any fire fighting requirements stipulated by the NSW Rural Fire Services.

[GENNS02]

7. Revegetation areas will be monitored and maintained monthly for the first 12 months (establishment period) and quarterly thereafter by the appointed contractor in conjunction with ongoing weed management works as described within Section 4.2.1 of the submitted Vegetation Management Plan.

[GENNS03]

8. Active searches throughout all rehabilitation areas for the weed species listed within the North Coast Environmental Weed Survey 2000 (refer Attachment 4) should be undertaken monthly for the first 12 months (from commencement) (establishment period) and quarterly thereafter by a suitably qualified professional appointed by the owner and/or successors in title to ensure such species are appropriately controlled.

[GENNS04]

9. Access shall comply with section 4.3.2 Planning for Bushfire Protection 2001.

10. All future dwelling development applications will be required to be assessed in accordance with Section 79BA of the Environmental Planning and Assessment Act, 1979.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. The initial revegetation works described in this section will be implemented by a suitably qualified professional appointed by the owner/successors in title to Council's satisfaction prior to the issue of a Construction Certificate.

12. Section 94 Contributions

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

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

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

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

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

Stage 1

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector4_4	\$8,786
(b) Open Space (Structured): S94 Plan No. 5	\$1,560
(c) Open Space (Casual): S94 Plan No. 5	\$334
(d) Shirewide Library Facilities: S94 Plan No. 11	\$1,376
(e) Bus Shelters: S94 Plan No. 12	\$52
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$262
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$400
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$3,993.60
(i) Regional Open Space (Structured) S94 Plan No. 26	\$4,654
(j) Regional Open Space (Casual) S94 Plan No. 26	\$1,710

Stage 2

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector4_4	\$13,179
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(b) Open Space (Structured): S94 Plan No. 5	\$2,340
(c) Open Space (Casual): S94 Plan No. 5	\$501
(d) Shirewide Library Facilities: S94 Plan No. 11	\$2,064
(e) Bus Shelters: S94 Plan No. 12	\$78
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$393
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$600
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$5,990.40
(i) Regional Open Space (Structured) S94 Plan No. 26	\$6,981
(j) Regional Open Space (Casual) S94 Plan No. 26	\$2,565
<u>Stage 3</u>	
(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector4_4	\$26,358
(b) Open Space (Structured): S94 Plan No. 5	\$4,680
(c) Open Space (Casual): S94 Plan No. 5	\$1,002
(d) Shirewide Library Facilities: S94 Plan No. 11	\$4,128
(e) Bus Shelters: S94 Plan No. 12	\$156
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$786

(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$1,200
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$11,980.80
(i) Regional Open Space (Structured) S94 Plan No. 26	\$13,962
(j) Regional Open Space (Casual) S94 Plan No. 26	\$5,130
<u>Stage 4</u>	
(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector4_4	\$8,786
(b) Open Space (Structured): S94 Plan No. 5	\$1,560
(c) Open Space (Casual): S94 Plan No. 5	\$334
(d) Shirewide Library Facilities: S94 Plan No. 11	\$1,376
(e) Bus Shelters: S94 Plan No. 12	\$52
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$262
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$400
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$3,993.60
(i) Regional Open Space (Structured) S94 Plan No. 26	\$4,654
(j) Regional Open Space (Casual) S94 Plan No. 26	\$1,710

[PCC0215]

13. 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]

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

Please note timber retaining walls are not permitted.

[PCC0475]

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

- (a) vehicular access from the public road

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

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

[PCC0895]

16. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) 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]

17. 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]

18. 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]

19. Prior to the issue of a construction certificate for any stage of development the proponent shall submit plans and specifications relative to all stages of the development for access roads and associated stormwater drainage designed in accordance with Planning NSW publication "Planning for Bushfire Protection" and Tweed Shire Council Development Design and Construction Specifications. The application shall be accompanied by a certificate from a suitably qualified engineer certifying the design meets the standards tabled within the above documents.

PROPERTY ACCESS ROADS

- (a) Construction of a gravel pavement (min depth 200mm) on a 6m wide formation comprising a trafficable width of 4.0m and 1m wide shoulders clear of bushes and long grass shall be provided to all internal access roads.
- (b) Construction of passing bays at a maximum interval of 200m. Where sight distance is limited additional passing bays shall be provide to ensure vehicles are not required to reverse. Passing bays shall be a minimum 20m long and 3m wide providing a total trafficable pavement of 7m.
- (c) The capacity of road surfaces and bridges shall be sufficient to carry fully loaded firefighting vehicles of approximately 28 tonnes or 9 tonnes per axle.
- (d) A minimum vertical clearance of 6m to any overhanging obstructions, including tree branches shall be provided.
- (e) Curves shall be kept to a minimum to allow for rapid access and escape. The minimum inner radius shall be 6m and distance between inner and outer curves shall be 6m.
- (f) Maximum grades shall not exceed 21% for residential access. Any access greater than 15% shall be bitumen sealed. Where access roads are solely provided for bushfire fighting purposes the maximum grade shall not exceed 26.8% and preferably be not more than 17.6%.
- (g) Where dwellings are cited greater than 200m from the public road network, an alternative emergency egress road shall be provided.
- (h) Additional fire trails shall be provided to isolated dwellings or groups of dwellings.

- (i) A fire trail from Access Road 1, dwelling site 12 to Access Road 3 at dwelling site 13 to provide alternative egress for serviced dwelling sites
 - (j) A fire trail from Access Road 2, dwelling site 2 to Access Road 1 to provide alternative egress for serviced dwelling sites.
- [PCCNS01]
20. Weed management works are an on-going requirement however a minimal presence of weed species on the site must be achieved prior to the issue of a Construction Certificate.
- [PCCNS03]
21. Prior to the issue of ANY Construction Certificate, the final proposed Management Plan is to be submitted to Tweed Shire Council for approval. Approval is to be obtained from the General Manager or their delegate.
- [PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

22. 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]
23. An Approval to Install a Waste Treatment Device shall be obtained prior to the commencement of the installation of the facility.
- [PCW1105]

DURING CONSTRUCTION

24. 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]
25. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
- (a) Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.

- (b) Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot in accordance with Councils adopted Development Design and Construction Specifications.
- [DUR0045]
26. 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]
27. Bushfire asset protection zones are to be maintained around the house site at all times to the satisfaction of the NSW Rural Fire Service.
- [DUR0575]
28. Access to the property is to be provided in accordance with Chapter 4.3.2 of Planning for Bushfire Protection 2001.
- [DUR0585]
29. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
- [DUR0785]
30. The proposed earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.
- [DUR0795]
31. Any watercourse crossing is to be in compliance with current NSW Fisheries Policy and Guidelines for Bridges, Roads, Causeways, Culverts and Similar Structures.
- [DUR1205]
32. 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]
33. 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]

34. Stage 1

Construction of Access roads, fire trails and associated drainage servicing house sites 1 to 3.

Stage 2

Construction of Access roads, fire trails and associated drainage servicing house sites 10 to 12.

Stage 3

Construction of Access roads, fire trails and associated drainage servicing house sites 4 to 9.

Stage 4

Construction of Access roads, fire trails and associated drainage servicing house sites 13 and 14.

[DURNS01]

35. 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]

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

- **Noise, water or air pollution**
- **Minimise impact from dust during filling operations and also from construction vehicles**

- **No material is removed from the site by wind**

[DUR1005]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0005]

38. **Work as executed plans are to be provided to Council in accordance with Councils adopted Development Design and Construction Specification.**

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]

39. **The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.**

[POC0855]

USE

40. **All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.**

[USE0845]

41. **The proponent shall make adequate provision for the management and maintenance of all matters raised within the approved management plan as specified in clause 10 of SEPP 15 at all times.**

[USENS01]

42. **Upon completion of each stage of development the proponent shall provide a certificate from a suitably qualified engineer certifying all works required for access and stormwater management required by this consent have been undertaken in accordance with the standards specified.**

[USENS02]

REPORT:

Applicant: Button Partnership
Owner: Mr SC McIntyre, Ms AM McIntyre, Mr AW Steer, Ms JV McIntyre and Button & Button Pty Ltd
Location: Lot 1 DP 783885 & Lot 6 DP 614304 Cobaki Road, Cobaki
Zoning: 1(a) Rural
Cost: \$500,000

BACKGROUND:

Council is in receipt of an application for a Rural Landsharing Community, comprising 14 Home Improvement Areas on a 50.74ha parcel of land, comprising 2 properties, situated at 290 Cobaki Road, Cobaki. The subject land along with the immediate area is zoned 1(a) Rural under the Tweed LEP 2000 and is predominately utilised for low intensive agriculture, particularly cattle grazing and rural living.

The subject lands currently has one dwelling entitlement by virtue of a Council approved subdivision that created Lots 3, 4, 5 and 6 in DP 614304. It appears as though Lot 1 DP 783885 was created in 1988 without Council approval and accordingly is not viewed to possess a dwelling entitlement. However, as the application has been made under SEPP 15, whether the lot possess an entitlement does not impact upon the assessment, only the amount of Section 94 Contributions.

Under the provisions of Clause 11(2) of SEPP 15 there is only a certain number of dwellings permissible relative to the area of land subject to the application. The formula is detailed below:

$$\begin{aligned} & 4 + \frac{(A - 10)}{4} \text{ where } A = \text{the area of land subject of the application} \\ & = 4 + \frac{(50.74 - 10)}{4} \\ & = 4 + 10.185 \\ & = 14.185 \text{ (rounded down as per SEPP 15)} \\ & = 14 \text{ potential Home Improvement Areas based on land area} \end{aligned}$$

The application seeks consent for a rural land sharing development comprising of 14 HIA's ranging in size from 2500m² to 4800m². The remaining site area (approximately 92% or 46.44ha) remains as common property areas and will comprise re-vegetation areas and open space. These areas will be accessible to everyone within the scheme.

It is proposed that a company structure be established with 14 shareholders and all decisions made in relation to the property would be made by the registered proprietors.

Details of each proposed dwelling (including size, building design etc) will be submitted for development consent on an individual HIA basis, however the submitted plans nominate specific building and effluent disposal envelopes.

The application is proposed in four stages. The following is a recommended condition of consent to ensure the application is staged appropriately:

Stage 1 (HIA 1, 2 & 3)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 1,2 & 3 (subject to individual development consent)
- Revegetation areas – critical parts of areas B, C & G, full length of the creek (Cobaki Creek), however initially to a depth of 5 – 10 meters.
- The internal access roads servicing proposed HIA sites 1, 2 & 3 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 1 are to be clearly sign posted with properties clearly identified.

Stage 2 (HIA 10, 11 & 12)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 10, 11 & 12 (subject to individual development consent)
- Revegetation areas – majority of areas D & E, additional Areas F and parts C & G.
- The internal access roads servicing proposed HIA sites 10, 11 & 12 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 2 are to be clearly sign posted with properties clearly identified.

The applicant has indicated the construction of a community building as part of Stage 2 works, however no plans, use or construction details have yet been submitted. Accordingly, any future proposed community building will be subject to a separate development application.

Stage 3 (HIA 4, 5, 6, 7, 8 & 9)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 4, 5, 6, 7, 8 & 9 (subject to individual development consent)
- Revegetation areas – Areas F and parts C & G

Stage 4 (HIA 13 & 14)

- Construction of dwellings (and ancillary infrastructure, i.e. OSSM, water tanks etc.) on HIAs 13 & 14 (subject to individual development consent)
- Revegetation areas – revegetation areas A & B, completion of other areas.
- The internal access roads servicing proposed HIA sites 13 & 14 shall be constructed and maintained accordingly to achieve a minimum standard of road as required by the approved construction certificate.
- All internal roads constructed in Stage 4 are to be clearly sign posted with properties clearly identified.

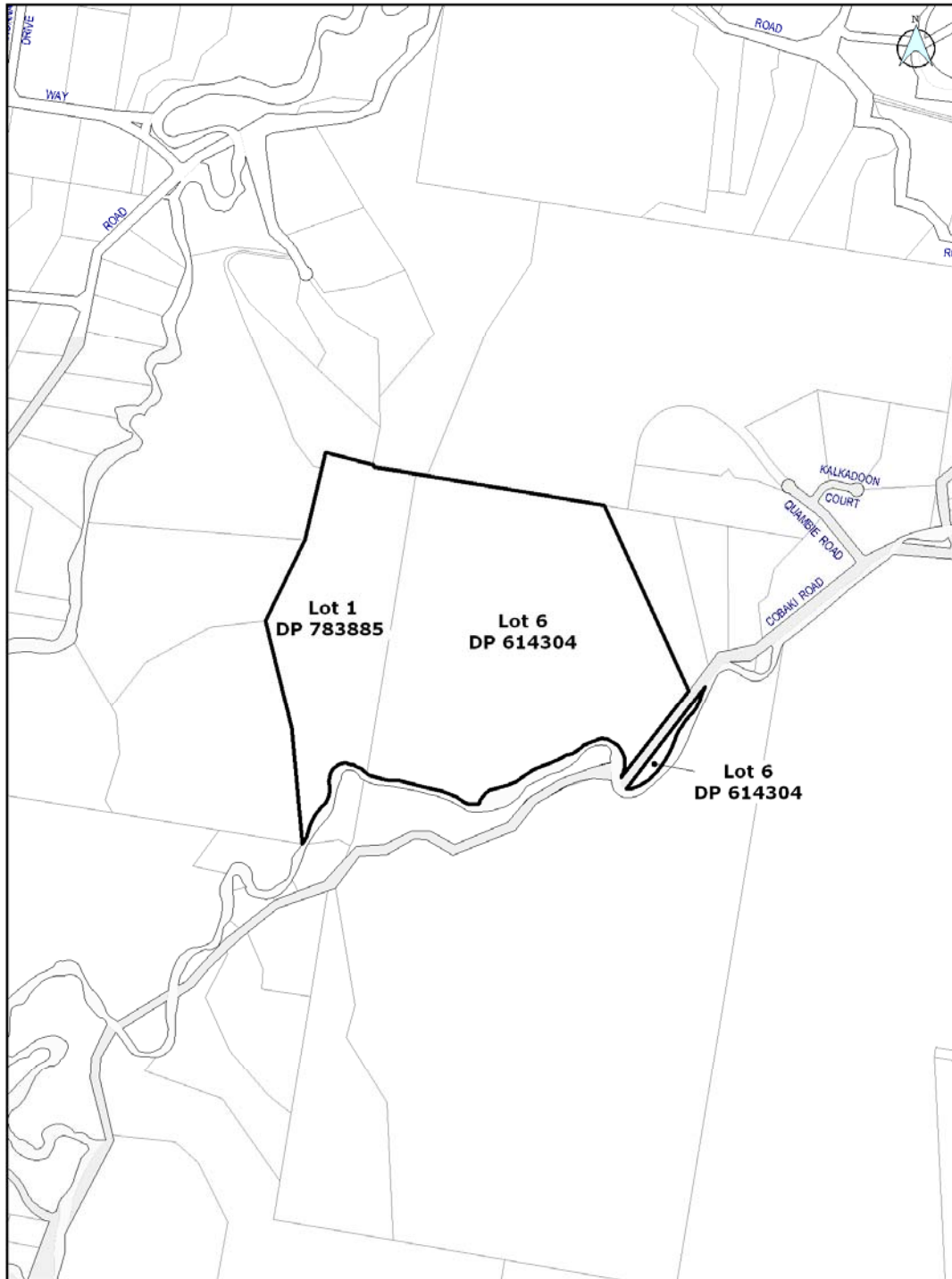
Clause 12 of SEPP 15 further provides that Subdivision is prohibited and subsequently the following condition of consent is recommended;

Subdivision of the development, including strata subdivision, is not permitted.

The Owners consider that a SEPP 15 Rural Land Sharing Communities concept is ideally suited to their property and their commitment to environmentally sensitive and sustainable land use practices.

The application is recommended for conditional approval.

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 Tel: (02) 6670 2409 Murwillumbah, NSW, 2484 Fax: (02) 6670 2483</p>	<p style="text-align: center;"><i>Tweed Shire Council</i></p> <p style="text-align: center;">Lot 1 DP 783885 & Lot 6 DP 614304 No. 290 Cobaki Road; Cobaki</p>		<p>PLANNING REFORMS UNIT Site Plan</p>
<p>File: N:\Munsys\A4P - SITE PLAN.Wor Author: J.Batchelor Date: 18/May/2007</p>		<p>Scale: 1:10,000</p>	<p>Sheet: 1 of 1</p>



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

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

Tweed Local Environmental Plan 2000

Clause 11 – Zone Objectives

The subject land is zoned 1(a) Rural under the provisions of the Tweed Local Environmental Plan (TLEP) 2000.

A Rural Landsharing Community is permissible in accordance with SEPP 15 despite any provision in an environmental planning instrument concerned with the use of land for the purposes only of a dwelling or dwellings in rural or non urban zones.

Notwithstanding the development's permissibility in accordance with SEPP 15 it is still considered necessary to assess the application against the objectives of the 1(a) zone and the relevant provisions of the Tweed LEP as follows:

The objectives of the 1(a) rural zone are:

Primary Objectives

To enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.

To protect rural character and amenity.

Secondary Objective

To enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.

To provide for development that is not suitable in or near urban areas.

To prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.

To provide non-urban break between settlements to give a physical and community identity to each settlement.

The proposed rural land sharing community is seen to satisfy the objectives of the zone. In this regard the following comments are made:

- The proposal is considered to be ecologically sustainable and with the extensive revegetation areas proposed will be provide a significant opportunity to improve and contribute to the natural features of the land
- The proposal seeks 14 HIAs over 50.74ha of land, resulting in a yield of 1 HIA per 3.624 ha. A search of land areas within the immediate vicinity (200 metres from the perimeter of the subject site) revealed a range in lot sizes between 0.7ha to 114.9ha, with most lots comprising approximately 2 – 3ha in size. Further than immediate parcels, a rural living themed subdivision involving approximately 76 lots (average lot size of approximately 2 – 3ha) is located approximately 700m northwest of the subject land and significant portions of land located 650m southeast are currently zoned 2(c) Urban Expansion under the Tweed LEP 2000. In light of the above, it is considered that the density proposed is not out of character with the current context and setting of this area, and is not seen to detract from the existing character or amenity.
- The proposed land use is not considered suitable on urban lands, nor is it permissible under the SEPP
- The proposal does not result in the fragmentation of land.

Furthermore, the development must also satisfy the provisions of Clause 8(1) of TLEP 2000:

Clause 8 Consent Considerations

The consent authority may not grant consent to development (other than development specified in Item 3 of the table to Clause 11) only if:

- a) It is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- b) It has considered those other aims and objectives of this plan that are relevant to the development, and*
- c) It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of the Tweed as a whole.*

The proposed rural landsharing community satisfies Clause 8 of TLEP 2000.

Clause 15 – Availability of Essential Services

In accordance with Clause 15, the proposed rural landsharing community must have adequate provision for essential services. The proposals compliance with Clause 15 is detailed as follows;

Water Supply:

The proposed dwelling sites are to be serviced by rainwater tanks. The development applications for individual dwelling houses will include specific details on the design and citing of water storage tanks.

On-site Sewage Management:

The proposal is to be serviced via on-site effluent disposal. Council's Environment and Health Unit have reviewed the proposal as satisfactory, subject to conditions of consent.

Electricity:

Mains power is provided to the boundary of the property. Appropriate conditions are to apply

Telecommunications:

Underground telecommunication cabling is available to the site

Having regard to Clause 15 of the Tweed LEP 2000 the proposed services are considered satisfactory.

Clause 31 – Development Adjoining Waterbodies

The subject site contains a portion of Cobaki Creek, however, all HIAs are located well away from the creek (minimum setback of approximately 100 metres).

The application has been assessed against the provisions contained within Clause 31 that focus on protecting and enhancing scenic quality, water quality, aquatic ecosystems, biodiversity and wildlife habitat corridors.

The development will not adversely impact upon the scenic quality, water quality, habitat values or marine/riverline ecology but rather improve scenic quality through the proposed revegetation areas.

These comments substantiate compliance with the provisions of Clause 31.

Clause 39A – Bushfire Protection

The subject land is identified as bushfire prone as per the Bushfire Prone Land Map dated February 2004. The NSW Rural Fire Service have reviewed the proposal and has recommended the following conditions of consent;

Access shall comply with section 4.3.2 Planning for Bushfire Protection 2001.

All future dwelling applications will be required to be assessed in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979.

Accordingly, Clause 39A is considered satisfied.

North Coast Regional Environmental Plan 1988

Clause 12 requires that consideration must be given to the likely impact from the proposed development on the use of the adjoining or adjacent agricultural land and whether the development will cause loss of prime agricultural land or loss of prime crop or pasture land.

The subject land is not identified as prime crop or pasture land and has historically been used for cattle grazing. The significance of the land is reflected in Council's zoning of the land as 1(a) as opposed to 1(b) Agricultural Protection. It should be noted that the subject land does involve some 'significant non-contiguous farmland', following the line of Cobaki Creek, however no HIAs are located within this area, nor are any works proposed which would detract or impact upon this land.

It is considered the position and orientation of the HIAs and building envelopes will not significantly impede surrounding rural activities currently typical of the area. HIA 7 and 14 involve the closest building envelopes to the property boundary, with a minimum setback of 30 metres. Potential for landuse conflict does exist, particularly in these areas, however the proposal does comply with Council's nominated buffers for grazing land (30 metres) and it is also worth noting that the building envelopes nominated are significant in size (380m² and 450m² respectively) and allow for further setbacks through building design.

Subject to appropriate conditions of consent, the development is not considered to adversely affect or be affected by surrounding agricultural land.

State Environmental Planning Policies

SEPP 15 applies to the Tweed Shire Council Local Government Area as it is listed in Schedule 1 of the Policy.

SEPP 15 aims to provide the following:

(a) to encourage and facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices, and thus

(b) to enable:

- (i) people to collectively own a single allotment of land and use it as their principal place of residence, and*
- (ii) the erection of multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment, and*
- (iii) the pooling of resources, particularly where low incomes are involved, to economically develop a wide range of communal rural living opportunities, including the construction of low cost buildings, and*

(c) to facilitate development, preferably in a clustered style:

- (i) in a manner that both protects the environment and does not create a demand for the unreasonable or uneconomic provision of public amenities or public services by the State or Commonwealth governments, a council or other public authorities, and*
- (ii) in a manner that does not involve subdivision, strata title or any other form of separate land title, and in a manner that does not involve separate legal rights to parts of the land through other means such as agreements, dealings, company shares, trusts or time-sharing arrangements, and*
- (iii) to create opportunities for an increase in the rural population in areas that are suffering or are likely to suffer from a decline in services due to rural population loss, and*

(d) to repeal State Environmental Planning Policy No 42--Multiple Occupancy of Rural Land (Repeal).

The proposals compliance with the aims of SEPP 15 are discussed later in this report.

In addition, SEPP 15 provides a list of pre-request requirements which must be satisfied prior to the application being valid to the subject site. These requirements are as follows:

- (a) the land comprises a single allotment not subdivided under the Conveyancing Act 1919 or the Strata Schemes (Freehold Development) Act 1973, and*
- (b) the land has an area of not less than 10 hectares, and*
- (c) the height of any building on the land does not exceed 8 metres, and*
- (d) not more than 25 per cent of the land consists of prime crop and pasture land, and*
- (e) the part of the land on which any dwelling is to be situated is not prime crop and pasture land, and*

- (f) *the part of the land on which any structure or work is to be situated is not land that is a wildlife refuge, wildlife corridor or wildlife management area and development and management of the rural landsharing community does not adversely affect any area identified as a wildlife refuge, wildlife corridor or wildlife management area, and*
- (g) *the development is not carried out for the purposes of a motel, hotel, caravan park or any other type of holiday, tourist or weekend residential accommodation, except where development for such purposes is permissible under the provisions of another environmental planning instrument in the zone, and*
- (h) *the part of the land on which any structure is to be situated does not have a slope in excess of 18 degrees, or has been determined not to be prone to mass movement, and*
- (i) *the aims of this Policy are met.*

In this regard the following comments are made.

- (a) The development application has been lodged over 2 land parcels and is therefore not in compliance with the SEPPs requirement. However, the opportunity exists to issue a 'Deferred Commencement' approval, which required the 2 subject parcels to be amalgamated prior to the activation of the development consent, ensuring that once the consent is active, the requirements of the SEPP have been met.
- (b) the land area is greater than 10 hectares.
- (c) No buildings are proposed within the subject application, however appropriate conditions of consent have been drafted to ensure this requirement is upheld.
- (d) The land is not identified as prime crop and pasture land.
- (e) As above
- (f) The subject lands are not identified as a wildlife corridor, refuge or management area.
- (g) The proposal does not seek any tourism purposes or activities.
- (h) The topography of the land is not greater than 18 degrees within the designated building envelopes.
- (i) The applicant has provided the following detail to demonstrate compliance with the aims of SEPP 15;

The proposed Rural Landsharing Community is committed to environmentally sensitive design through the creation of numerous revegetation areas throughout the property.

The proposal will have the opportunity of sharing facilities and resources through the community building.

The Rural Landsharing Community provides the opportunities for the community to purchase low cost housing in the Tweed Shire. The proposed development does not involve subdivision or strata title.

It is agreed that the proposed revegetation areas will have a positive contribution to the local environment and its sustainability. In addition, it is seen that proposal adequately allows people to collectively own a single allotment of land and use it as their principal place of residence, and erect multiple dwellings on the allotment and the sharing of facilities and resources to collectively manage the allotment, particularly the undertaking and management of the revegetation areas (although it is re-iterated that the proposal, whilst 'flagging' a community building, does not seek approval of any communal structure).

Concerns have been raised regarding the proposals ability to provide the construction of low cost buildings. In this regard, neither the applicant nor objectors have been able to provide any documentary evidence demonstrating compliance or non-compliance with this sub clause. It is acknowledged that the proposed revegetation is likely to be of considerable cost, which, it is assumed, will be largely funded by the purchase price of future occupiers of the land, possibly resulting in an inflated cost for future occupiers. However, it should also be acknowledged that the submitted management plan does not contain any specific building design requirements which would result in an inflated development cost. In addition, bank loans and insurance are often difficult to obtain for dwellings within a rural landsharing community as the land is not wholly owned by a singular party, accordingly, the cost of purchasing a HIA is traditionally greatly reduced when compared to a rural parcel with similar characteristics (lot size, locations etc).

In light of the above, whilst documentary evidence has not been supplied demonstrating the ability of the proposal to provide low cost housing, and the reality that it is ultimately a combination of the landowner and market value/forces to determine the price of each HIA, nothing within the submitted application by way of building requirements or environmental constraints that is seen to result in low cost or affordable housing and construction not being achieved. Accordingly, the aims of the SEPP are considered to be met.

SEPP 15 also details the following matters for consideration:

- (a) *the means proposed for establishing land ownership, dwelling occupancy rights, environmental and community management to ensure the aims and objectives of this Policy are met,*

- (b) the area or areas proposed for erection of buildings, including any proposals for the clustering of buildings,*
- (c) the area or areas proposed for community use (other than areas for residential accommodation and home improvement areas),*
- (d) the need for any proposed development for community use that is ancillary to the use of the land,*
- (e) the availability and standard of public road access to the land,*
- (f) the availability of a water supply to the land for domestic, agricultural and fire fighting purposes and, where a proposed water supply is from a river, creek, dam or other waterway, the effect upon other users of that water supply,*
- (g) if required by the applicant, the availability of electricity and telephone services,*
- (h) the availability of community facilities and services to meet the needs of the occupants of the land,*
- (i) whether adequate provision has been made for waste disposal from the land,*
- (j) the impact on the vegetation cover of the land and any measures proposed for environmental protection, site rehabilitation or reforestation,*
- (k) whether the land is subject to a risk of flooding, bush fires, landslip or erosion or whether there are areas with actual or potential acid sulfate soils and, if so, the adequacy of any measures proposed to protect occupants, buildings, internal access roads, service installations, and land adjoining the development from any such hazard,*
- (l) the visual impact of the proposed development on the landscape,*
- (m) the effect of the proposed development on the present and potential use, including agricultural use, of the land and of lands in the vicinity, including the need for separation and buffers to avoid land use conflicts,*
- (n) whether resources of coal, sand, gravel, petroleum or other mineral or extractive deposits will be sterilised by the proposed development,*
- (o) the effect of the proposed development on the quality of the water resources in the vicinity,*

- (p) any land claims by local Aborigines and the presence of any known Aboriginal relics and sites,*
- (q) the impact of the proposed development on any heritage item, relic or site, or on their curtilages,*
- (r) whether the land has been identified by the council as being required for future urban or rural residential expansion,*
- (s) whether the development would benefit an existing village centre suffering from a declining population base or a decreasing use of the services provided in that centre.*

This report addresses all of the above issues, as they are considered relevant. Based on this assessment the application is considered satisfactory having regard to these matters of consideration.

Furthermore, Council cannot consent to an application made in pursuance of clause 7 unless it has taken into consideration a site analysis that:

- (a) contains information about the site and its surrounds as described in Schedule 3, and*
- (b) is accompanied by a written statement explaining how the design of the proposed development has regard to the site analysis.*

The applicants Statement of Environmental Effects, Site Analysis, and Environmental Management Plan are all considered satisfactory having regard to the Policy.

State Environmental Planning Policy No. 55 – Remediation of Land

The site is not considered to be contaminated land.

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

The proposal is not considered to be affected by any draft EPIs.

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

Council's assessing officers have had regard for the following sections of the Tweed Development Control Plan and recommended appropriate conditions of consent accordingly:

- Section A2 - Parking;
- Section A3 – Development of Flood Liable Land; and
- Section A5 – Subdivision Manual (regarding internal access standards, provision of essential services etc.)

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

Satisfactory

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

Threatened Species

Section 5A of the Act sets out matters which must be considered in determining whether or not there is likely to be a significant effect on threatened species, populations, ecological communities, or their habitats.

The siting of all HIA's and community open spaces is to occur within existing cleared sections.

Traffic Capacity/ Kennedy Drive Catchment

As Council has previously been advised, in August 2001, Council resolved under resolution 71 to restrict traffic volumes on Kennedy Drive at the Cobaki Bridge to 22,000 vehicles per day by limiting development west of the bridge. Council determined in 1997 that the available traffic capacity on Kennedy Drive was 1200 vehicles/day.

Post determination of DA05/1351, which approved a 76 lot subdivision at Bilambil Heights it was established that 109 trips remained within the catchment. The proposal presently before Council is considered to generate a total traffic amount of 84.5 trips, resulting in a remaining 24.5 trips within the catchment.

However, Council's DAU has traditionally employed a 'first in, first served' basis for the allocation of trips within the Kennedy Drive catchment. In this regard it is noted that an application for the construction of a three (3) storey terrace development comprising twenty-one (21) units and car parking for 32 vehicles at 18-20 Cupania Court, Tweed Heads West ([DA05/1147](#)) remains undetermined within the catchment (which would generate approximately 75.4 trips).

Accordingly, should the traditional approach be upheld, should DA05/1147 be approved, the remaining trips left within the Kennedy Drive catchment would not be sufficient to approve the subject application holistically.

In light of the above, Council's assessing Traffic and Transport Engineer has provided appropriate conditions of consent restricting the commencement of Stages 2, 3 & 4 until such time that it is acknowledged that spare traffic capacity is available within the Kennedy Drive Catchment to cater for each stage.

With the inclusion of these conditions, it is considered that this matter is adequately satisfied and no other traffic concerns are raised.

(c) Suitability of the site for the development

Suitability of the Lot/ Natural Hazards

The subject lands have a site area of 50.74ha and is of irregular shape. The land is undulating, however all HIA are located on appropriate slopes. The site is identified as Bushfire Prone under the Bushfire Prone Land Map dated February 2004, and is identified as flood prone. However both of these constraints have been overcome through the appropriate placement of HIAs and appropriate conditions of development consent.

Development along Cobaki Road is predominately of a rural living character, with several properties engaged in agricultural pursuits.

In consideration of the limited site constraints, existing uses and desired character of the locality, the proposal is not considered to adversely affect or create any additional hazards and is considered a suitable use in relation to the subject land.

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

During the prescribed notification period, a total of 30 public submissions were received. The following table details the concerns raised, response received from the applicant and final comment.

Issue	Response by Applicant	Comment
Lowering of land values	Reduction of property values is not foreseen as an impact of this development and is not considered a relevant basis for objection. The proposed sharing community will be development and managed in accordance with Council's requirements and the provisions of the adopted management plan. This will ensure only high quality well planned development is allowed.	Void of any evidence demonstrating that the proposal having a direct, significant impact to the land value of any adjoining properties. Refusal of the application on this basis is not considered warranted.

Issue	Response by Applicant	Comment
Road Capacity	<p>The development is for the establishment of a 14 dwelling Rural Share Community. Upon completion under Tweed Shire Council's Section 94 Tweed Road Contribution Plan the development is considered to produce 84.5 additional trips a day. It is important to note that the development is staged and this additional traffic will progressively come online over the life of the development.</p> <p>The development will be required to contribute funds to road infrastructure as is standard practice. This will over time bring improvement to surrounding road networks. Currently the road system is considered to have adequate capacity to service the development.</p>	<p>As previously detailed earlier within this report, sufficient traffic capacity is currently available within the Kennedy Drive Traffic Catchment area. Nonetheless, appropriate conditions of consent have been included to ensure that prior to the commencement of each stage of the development, further acknowledged that spare traffic capacity is available within the Kennedy Drive Catchment is required. Refusal of the application on this basis is not considered warranted.</p>
Impacts to local flora and fauna	<p>As demonstrated by the site photos the subject property is largely grassed pastures with sparse clusters and scattered individual native trees. The area adjacent to Cobaki creek has more dense vegetation which is populated with a mixture of native and weed species. In various locations across the site there are small farm dams that serve to provide water for the cattle.</p> <p>The proposed layout has been arranged based on the features of the land, including its topography and the location of high quality</p>	<p>The proposal has been assessed against Section 5A of the EP &A Act 1979 as satisfactory. The proposal is seen to improve the environmental value of the property. Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
	<p>healthy vegetation. These design measures coupled with revegetation initiatives outlined within the prepared Vegetation Management Plan (VMP) provides increased numbers of trees. The development will also undertake restoration of areas that have been degraded over time. This will positively impact on the surround flora and fauna with progressive improvements as the development stages progress.</p>	
<p>Impacts to adjacent farming activities</p>	<p>The creation of Rural Sharing Communities is aimed at ensuring the ability of the subject and surrounding sites to maintain rural farming activities. As such buffers and setbacks have been implemented to ensure all rural activities on adjoining lots can continue with no impact.</p> <p>A revised layout of the proposed building envelopes sees sites 4 to 9 setback off the boundaries of Lot 1 on DP438026 and Lot 1 on DP392678. These setbacks coupled with areas of planting provide sufficient buffer areas. All other sites remain in there current proposed locations with vegetation provided as buffers. It is considered that all lots are now sited sufficiently to allow adjacent rural activities to continue.</p>	<p>The inclusion of buffer areas between the HIAs and common boundary lines (minimum of 30 metres) as well as requirements within the submitted Rural Landsharing Constitution – Management Plan requiring fencing of HIAs is seen to mitigate any significant impacts to adjacent farming activities. Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
Maintenance of unoccupied land	<p>The purpose for the creation of Rural Land Sharing Communities is to ensure adequate levels of people and funds to ensure unoccupied common land is up kept to the highest possible standard. The proposals management plan ensures that all fences, internal roads, vegetation and site environmental values are maintained free of cost to Council.</p> <p>The proposal will also provide tailored recycling and waste management procedures, will enforce requirements regarding both type and control of domestic and live stock animals; and will implement requirements for housing design and environmental features. These measures will ensure the property is developed and maintained to the highest possible standard. It is noted that the majority of the common land will be continued to be use for the grazing of cattle and other livestock.</p>	As has been detailed, it is the responsibility of the land owners to maintain all areas of the property to a suitable standard, as is the case for all residential properties within the Tweed Shire. Maintenance issues have also been included with the management plan for the development. Refusal of the application based on this issue is not considered warranted.
Flood mitigation	<p>As is a common occurrence within the area, flood events regularly cut the roadways in and out of the community. Objections stating that the presence of development will impact flood events by prolonging there impact is unfounded.</p> <p>All proposed dwelling parcels are situated on land elevated above the flood levels as</p>	Refusal of the application based on this issue is not considered warranted.

Issue	Response by Applicant	Comment
	<p>required by Council regulations. An emergency evacuation plan will be prepared in conjunction with the SES to provide coordinated and streamlined evacuation or flood protection measures.</p>	
<p>Water resource capacity</p>	<p>The preliminary intent of the development is to rely on rainwater tanks for potable water supply to the dwellings. Detailed and finalised information on the size and locations of these tanks outside that detailed within the submitted management plan are currently unknown and will be handled as part of each individual dwellings design and approval stage.</p>	<p>Council is satisfied that the proposal has made adequate arrangements for the provision of water to each HIA. Refusal of the application on this basis is not considered warranted.</p>
<p>Sewer capacity and design (septic and it's potential impacts</p>	<p>The proposal sees each of the proposed 14 house sites include areas assigned for effluent disposal through a septic style system. Objections have been raised on the potential pollution issues to surrounding water systems should these types of systems be used.</p> <p>It is considered that the proposed effluent removal is adequate to ensure all environmental requirements. It should also be noted that all systems will be constructed in accordance with council requirements and will be based on current best practice principles for effluent treatment.</p>	<p>Council's Environment & Health Unit have reviewed the proposal and subject to the attached conditions of consent, raise no objection to the proposal. Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
<p>Compliance with Rural 1(a) zoning</p>	<p>The subject site is zoned 1 (a) Rural pursuant to the Tweed Local Environmental Plan 2000. The received submissions expressed concerns regarding the proposals compliance with the intent of the Rural 1 (a) zone and fears that the proposal was in fact just to exploit a loop hole to gain approval for a residential subdivision.</p> <p>The proposal is not for a residential subdivision and the existing site will remain titled and registered under the existing Lot and Plan number. The proposal sees the nomination of building envelopes not the subdivision of residential blocks.</p> <p>Under the Tweed Local Environmental Plan 2000 it is stated that the objectives of the 1 (a) Rural zone are:</p> <p>Primary objectives <i>to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development.</i> <i>to protect rural character and amenity.</i></p> <p>Secondary objectives <i>to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.</i> <i>to provide for development that is not suitable in or near</i></p>	<p>This matter has been discussed extensively earlier in this report concluding that refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
	<p><i>urban areas.</i> <i>to prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.</i> <i>to provide non-urban breaks between settlements to give a physical and community identity to each settlement.</i></p> <p>The proposal is in keeping with the above objectives, with the proposal meeting primary objective 1 and 2 and secondary objective 2 and 3. The proposal sees the development of ecologically friendly housing stock which will be required to be designed to ensure rural amenity. The proposal also provides an alternative form of land use not suitable to heavily developed urban areas and prevents the unnecessary fragmentation of the site. It is also noted the bulk of the common land will be continued to be used for grazing of livestock.</p> <p>It is also important to note that overall the development is in accordance with State Environmental Planning Policy No. 15 – Rural Land Sharing Communities which is the overriding planning policy for the proposal.</p>	
Rates Payment	All rates payments will be in accordance requirements of State Environment Planning Policy No. 15 – Rural Landsharing Communities.	Refusal of the application on this basis is not considered warranted.

Issue	Response by Applicant	Comment
<p>Success of land sharing arrangements</p>	<p>Although it is acknowledge that land sharing communities have often failed in the past, this has been due to inadequate planning requirements and management systems to ensure success. The proposed sharing community will be developed and managed under new State Planning and Development Policies and in regard to Local Planning Requirements.</p> <p>This will ensure only high quality well planned development is allowed and removes many of the development and management issues of share communities which often resulted in retro fitting to meet requirements with little or no financial base to undertake on going maintenance.</p>	<p>The application is required to be assessed against the provisions of the Environmental Planning and Assessment Act 1979, as this report has detailed. Refusal of the application on this basis is not considered warranted.</p>
<p>Remnant vegetation retention</p>	<p>The vegetation on the site consists of predominantly sparse clusters and individual native trees. The area adjacent to Cobaki creek has more dense vegetation which is populated with a mixture of native and weed species. The proposal has been designed to ensure that house parcels are located with regard to this existing vegetation.</p> <p>As outlined within development application and the preliminary Vegetation Management Plan revegetation and</p>	<p>The application has been reviewed by appropriate specialist officers within Council as satisfactory. Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
	regeneration activities are proposed. These activities will be removing vegetation that is classed as a weed species, removal of species not classed as environmental weeds will need approval and will be contained with the final approved Vegetation Management Plan.	
Site drainage	Stormwater runoff to the surrounding creeks will not be impacted as part of the application. Measures are being implemented to provide higher quality runoff into the creeks. This is being achieved through the revegetation and regeneration of areas in and around the creeks and the overland flow areas which carry runoff from the site. All stormwater will be disposed of in accordance with Council's requirements.	Council's Development Engineers have reviewed the proposal and have raised no objection to the proposal subject to attached conditions of consent. Refusal of the application on this basis is not considered warranted.
Provision of additional community facilities	The proposal does not include a 'Community Facility' for the surrounding area but a 'Common Building' for the residents of the site to undertake meeting and organisation activities for the maintenance of the site. Potential exists for this to be used for the greater community with Councils approval and the wishes of the local community.	As discussed previously within this report, any Community Building will be subject to a separate DA. Refusal of the application on this basis is not considered warranted.
Buffers	A revised layout of the proposed building envelopes sees sites 4 to 9 setback off the boundaries of Lot 1 on DP438026 and Lot 1 on DP392678. These areas are further buffered through the proposed revegetation. All	The proposal is considered to incorporate sufficient buffers to adjoining lands to mitigate significant impacts. This regard the smallest buffer from the defined building envelope to an adjoining boundary is 30

Issue	Response by Applicant	Comment
	<p>other sites remain in there current proposed locations with vegetation provided as buffers. It is considered that all lots are now sited sufficiently to ensure no impacts to adjoining neighbours.</p> <p>Within the proposed Rural Land sharing Constitution Management Plan housing sites 2, 7,8,9,12 & 14 are to be limited to predominately a single storey in accordance with the management plan. Additional planting is to be stipulated within the Vegetation Management Plan to provide additional buffers for dwellings in visually prominent areas.</p>	<p>metres, satisfying Council's requirements for appropriate buffers to grazing land. Refusal of the application on this basis is not considered warranted.</p>
Bushfire	<p>All development will be in accordance with bushfire requirements and has been referred to the Rural Fire Brigade for comment. In this regard the property is primarily covered with pasture and does not present a risk in terms of bushfire.</p>	<p>The proposal has been reviewed by the NSW Rural Fire Service, whom have raised no objection subject to the attached conditions of consent. Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
<p>Domestic dog control and ability to continue wild dog eradication measures</p>	<p>The Draft outline of Rural Land Sharing Constitution Management Plan indicates control measure for domestic dogs and animals stating:</p> <p>Restriction and guideline for all domestic and commercial animals allowed on the property. The following measures are proposed.</p> <p><i>Individual shareholders are to have a maximum of 1 medium size dog (up to 20kg) per home parcel. Other small animals such as fish or birds are allowed if wholly contained within the home parcel</i></p> <p><i>No cats permitted</i></p> <p><i>No breed of dog is permitted that may cause intentional damage to any native animals or livestock within or adjoining the property</i></p> <p><i>Animals to be grazed on common land are generally to be cows, especially crossbreeds which are suitable for the area. All such animals are to be correctly cared for and the guidelines of the relevant Statutory Authorities adopted</i></p> <p><i>Grazing of other animals such as horses is permitted subject to the approval of the committee</i></p> <p><i>Poison control of pest animals will be carried out as necessary in accordance with the directions of the Rural Protection Board</i></p> <p>As demonstrated all reasonable measure are being implemented to ensure</p>	<p>Refusal of the application on this basis is not considered warranted.</p>

Issue	Response by Applicant	Comment
	<p>that domestic animals present within the site are controlled and breeds are kept to those that will not intentionally cause damage to live stock or the surrounding flora or fauna.</p> <p>The ability to poison pest animals in accordance with Rural Protection Board requirements will not be changed as part of the development. As demonstrated above all pest animal control measures as required by the Rural Protection Board is stipulated to continue within the sites Rural Land Sharing Constitution.</p>	
Proposed revegetation	All revegetation activities will be undertaken in accordance with procedures as established within the approved Vegetation Management Plan and in accordance with the stages of development. Species will be selected based on the areas native species with quantities to be established with in the Vegetation Management Plan.	Refusal of the application on this basis is not considered warranted.

In addition to the public submissions, Council was in receipt of several submissions for public authorities, which are discussed as follows;

NSW Rural Fire Service

The proposal was referred to the NSW RFS as the subject land is identified as Bushfire Prone, as per the Bushfire Prone Land Map dated February 2004. The NSW RFS provided the following conditions to be included as part of any approval issued:

1. *Access shall comply with Section 4.3.2 Planning for Bushfire Protection 2001.*

2. *All future dwelling development applications will be required to be assessed in accordance with Section 79BA of the Environmental Planning and Assessment Act 1979.*

Both of the above conditions have been incorporated into the conditions of consent formulated within this report.

Department of Primary Industries

The NSW Department of Primary Industries submitted a co-ordinated submission regarding the application. Comments from each component of NSW DPI are discussed as follows:

General

NSW Fisheries – The Aquatic Habitat Protection Unit raised no objection to the proposed development and support the proposed riparian rehabilitation works. However the AHPU also wished to advised that the road and driveway layout should include minimal watercourse crossings and any dredge or reclamation works associated with the construction, repair of crossings triggers permit requirements under s198-202 of the Fisheries Management Act 1994.

Comment: The proposal seeks to utilise an existing access to the site, which crosses Cobaki Creek, and fails to detail any other ‘works’ that trigger the need for a permit under s198-202 or 205 of the Fisheries Management Act 1994. An appropriate condition of consent has been included to ensure that should any works be proposed that would necessitate any separate permit that those permits required are obtained prior to commencement of those works.

Mineral & Extractive Resource – Concern has been raised regarding the proposals ability to impact upon the ability of the nearby Mudge’s Quarry to reach it’s development potential. Particular concern has been raised that an increase in residents in the locality increases the risk of objections to quarry traffic along Cobaki Road.

In response the applicant has provided the following detail;

The proposed development will not lead to the potential sterilisation of mineral and extractive deposits in the area. In particular the DPI is concerned that the proposal will have an adverse impact upon Mudge's Quarry. In this regard the closest dwelling site as identified within the proposal is located approximately two kilometres from the quarry (as measured in a straight line).

Development Control Plan No. 16 – Subdivisions Manual includes recommended buffers from quarries. In this regard Council's attention is drawn to the extract from the DCP below. The proposal therefore complies with the buffer requirements for subdivisions with no component of the site within either the primary or secondary buffers.

Finally, it is considered that this is not a valid objection or issue which would prevent the development from proceeding as it is based on the suggestion that Mudge's Quarry will seek approval to expand.

Comment: The abovementioned comments are noted. Whilst it is agreed that the existing quarry has development rights, the application is located outside the prescribed buffer zones and is not considered to contain any elements which specifically place undue pressure upon the quarry, other than an increase in density which isn't normally allowed for within the 1(a) Rural zone. In addition, the existing road network is capable of catering for the proposal, and whilst will contribute to additional use of the carriageway, it is not considered appropriate to refuse the application based upon the possibility to the quarry expanding or potential submissions.

Agricultural Issues – The NSW DPI has expressed a view that dwellings located 30 – 50 metres from rural land used for grazing or passive land uses to be minimal setback arrangement so as to provide rural lifestyle amenity and to preserve the rights of adjoining landholders to use and maintain their land.

Comment: The subject proposal involves a minimum building envelope setback of 30 metres from an adjoining property boundary and is considered to satisfy Council's prescribed setback requirements. Whilst it is acknowledged that in many instances a larger setback may be desirable, the citing of the HIAs has been made in regards to the topographical features of the site and the slope requirements of the SEPP. Accordingly, the amendment of the proposal to relocate many of the HIAs to increase setbacks to adjoining lands is not considered feasible, certainly without reducing the number of HIAs proposed. In this regard it is considered that the merits of the proposal do not warrant the reduction in the number of HIAs when considered against the agricultural viability of the site and locality (the site is not identified as prime agricultural land), as well as the established context and setting of the locality, which is predominately void of intensive agriculture and the number of dwellings are present within the area which do not include setbacks as large as the proposal.

(e) Public interest

Despite the objections in relation to the application, the proposed development is not considered to be contrary to the public interest. It will provide a rural landsharing community within an environmental friendly manner. Subject to conditions of consent the application is considered reasonable and appropriate for the locality.

OPTIONS:

1. Approve the application in accordance with the recommendation and conditions of consent herein.
2. Refuse the application and provide applicable reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal has been thoroughly investigated and is considered to be suitable to the site; unlikely to cause any significant negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the TLEP and relevant DCPs. The proposal is recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P7 [PR-PC] Development Application DA07/0205 for a 30 Bed Inpatient Extension to Tweed Heads District Hospital at Lot 628 DP 755740, Keith Compton Drive, Tweed Heads

ORIGIN:

Development Assessment Unit

FILE NO: DA07/0205 Pt2

SUMMARY OF REPORT:

Council is in receipt of a development application for a 30 bed extension to the Tweed Heads Hospital at Lot 628 DP 755740, Keith Compton Drive Tweed Heads.

The 30-bed extension is proposed through provision of new level to an approved 2 storey building currently under construction. The subject building was recently approved as a health facility, education centre and breast screen clinic and is situated near the Powell Street entrance to the hospital (Development Consent number DA06/0097 issued 8 March 2006).

The 30 beds are proposed on a new level between approved level 1 and 2, effectively requiring the re-location of the approved educational facilities from level 2 to level 3.

The maximum height permissible at the site is 5 storeys. The proposal does not exceed this height but will result in a 3 storey building (including a partial 4th storey component comprised of an enclosed stair access and plant room).

The main issue associated with this application is the lack of on-site car parking. A total of 48 car parking spaces are required for the extension. To meet this requirement, the applicant has proposed approximately 25 car parking spaces in the road reserve of Keith Compton Drive. The remaining spaces are proposed on-site.

Council's Traffic and Infrastructure Engineer considers this outcome to be acceptable.

With regard to developer contributions, Council's Infrastructure Engineer has recommended that section 64 and section 94 contributions should be charged as it is considered: -

- the proposed Hospital extensions will be a beneficiary of Council upgrades to water supply and sewerage systems.
- the hospital extension will generate additional trips on Council's arterial road network which will exacerbate severe congestion problems in the local road network.

However, Council has received correspondence (received 21 May 2007) which indicates that NSW Health does not accept proposed condition Nos. 11 and 12 in relation to Section 64 and 94 contributions. (Please refer to attachment 1.)

The Environmental Planning and Assessment Act does not allow Council to impose a condition on Crown developments without written approval of the applicant. In this regard recommended conditions do not include the requirement for payment of contributions.

It is recommended Council defer determination of this development application pending further discussions between the Director of Planning and Regulation and NSW Health negotiating in kind works in lieu of payment of contributions.

Minor modifications to Condition Nos. 15, 28 and 37 have been requested by the applicant and incorporated into the recommended conditions.

The proposal complies with Council's LEP and DCP requirements as detailed below and is recommended for approval.

RECOMMENDATION:

That: -

- 1. Council defers determination of this development application pending further discussions between the Director of Planning and Regulation and NSW Health negotiating in kind works in lieu of payment of contributions.**
- 2. The General Manager be given delegated authority to determine DA07/0205 for a 30 bed inpatient extension to Tweed Heads District Hospital at Lot 628 DP 755740, Keith Compton Drive Tweed Heads.**

REPORT:

Applicant: Health Administration Corporation
Owner: NCAHS Tweed District Hospital
Location: Lot 628 DP 755740 Keith Compton Drive, Tweed Heads
Zoning: 5(a) Special Uses (Hospital)
Cost: \$3,000,000

BACKGROUND:

In March 2006, Council approved a two storey building for the purpose of a health facility, education centre and breast screen clinic. The building is located adjacent to Powell Street on the western portion of the site (DA06/0097). Construction of the approved building is nearing completion.

The 30 in-patient hospital beds, the subject of this application are proposed through the addition of a new level to this building.

Tweed Heads Masterplan

The subject site is located within the Campus / Civic Precinct of the Tweed Heads Town Centre Masterplan. The subject building is located within a potential long-term development expansion zone and is compatible with the intent of the precinct.

The Masterplan contemplates 6 storeys at the western end of the site (on-which the building is proposed). The proposed building extensions do not exceed this limit.


Movement connections identified for the precinct are not compromised by the proposal as it is limited to an existing building envelope.

The building extensions are consistent with the precinct design guidelines. The design of the additional storey is in keeping with the approved building and includes matching face brickwork and lightweight cladding. The building is articulated with aluminium framed windows, eaves, sunshades and louvers within the roof element.

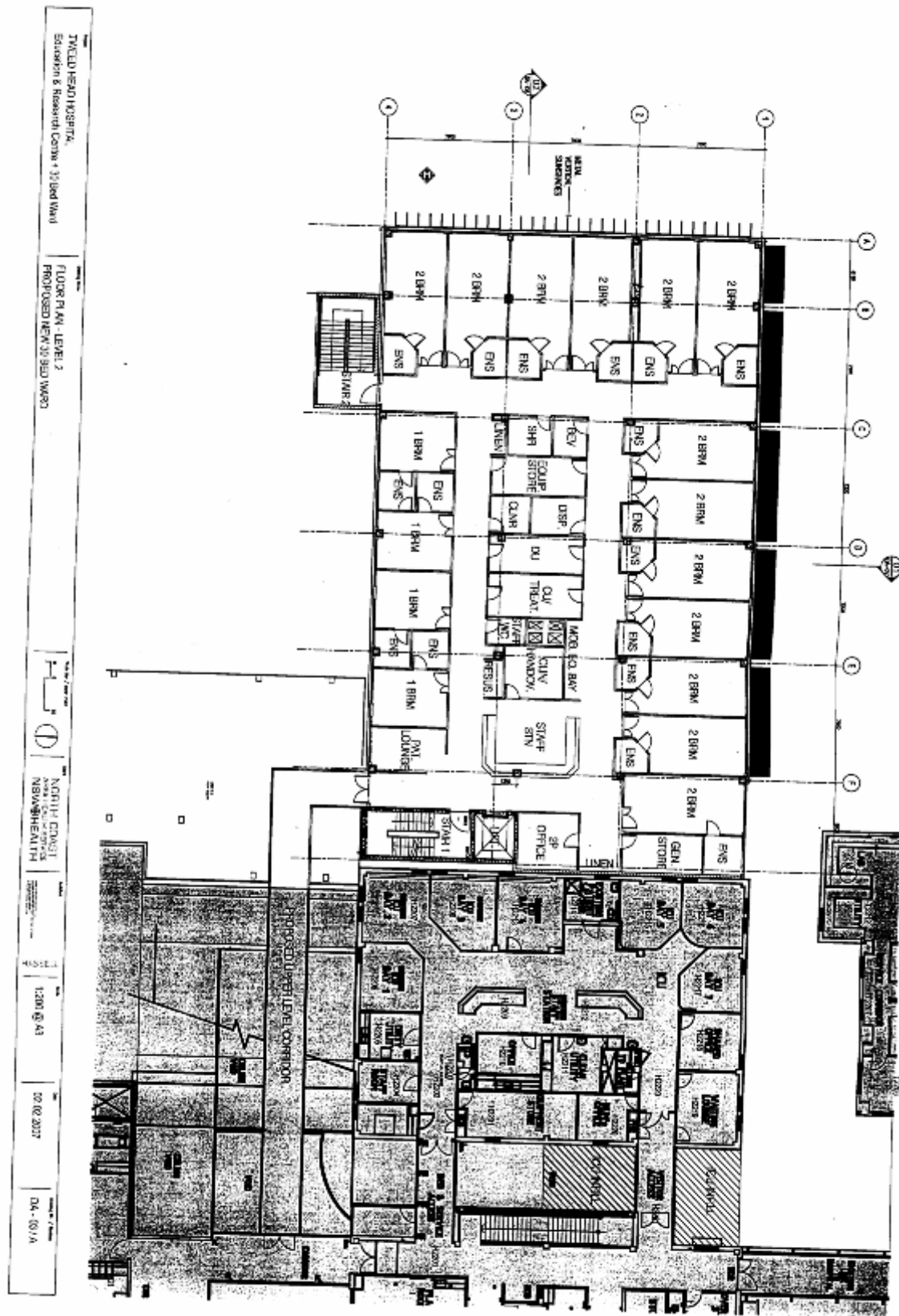
The proposed building does not contradict the provisions of the Masterplan for the Campus / Civic Precinct.

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 628 DP 755740 Keith Compton Drive, Tweed Heads</p>	 <p>TWEED SHIRE COUNCIL RURAL SERVICES UNIT</p>	<p>PLANNING REFORMS UNIT Site Plan Scale: 1:10,000 Sheet: 1 of 1</p>
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FLOOR PLAN



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 5(a) Special Uses Hospital.

The general purpose of the zone is to facilitate community facilities, in particular, to provide for hospital facilities at the site.

Hospitals and associated ancillary or incidental uses are listed as Item 2 – allowed only with consent from Council.

The proposed 30 bed extension to the hospital is consistent with the purpose of the 5 (a) zone.

Clause 16 Height

The proposal will not exceed the five storey height limit applicable to the site.

The additional level increases the height to a 3 storey building (including a partial 4th storey component comprised of access stairs and a plant room).

Clause 17 Social Impact Assessment

Council's Social and Economic Impact checklist has been submitted with the proposal and it is considered the development will result in an overall benefit to the community through provision of health and medical facilities.

Clause 34 Flooding

Whilst the site is subject to flooding, the proposed building extensions do not result in modification to the floor levels approved in Development Consent DA06/0097.

Clause 35 Acid Sulfate Soil

The land is identified as Class 2 on Council's Acid Sulfate Soil Planning Map.

An Acid Sulfate Soil (ASS) Management Plan was required for the building as part of previous assessment of DA06/0097.

The additions proposed to the building do not impact upon the depth of footings and no further assessment of ASS is required.

Developer Contributions

Council's Engineering and Operations Division has advised that Section 64 and Section 94 contributions should be imposed, in accordance with the advice below: -

"1. Section 64 Contributions for Water Supply & Sewerage

The 30 bed inpatient extension will generate additional demand for trunk water supply and sewerage services. Over the next 10 years Council anticipates raising over \$200M in loans as well as expending all current reserves to finance major upgrades to the Shire water supply and sewerage systems. This includes \$70M to upgrade the Bray Park Water Treatment Plant as well as upgrading the Clarrie Hall Dam and expansion of the Banora Point Sewerage Treatment Works.

The proposed Hospital extension will be a beneficiary of these works and notwithstanding Section 2.7 of "Developer Charges for Water Supply, Sewerage and Stormwater Guidelines," DLWC, DEC 2002. It is not reasonable for Council to subsidise the Hospital's share of these essential works.

Council's Developer Servicing Plan for Water Supply and Sewerage works objectively and fairly apportions the cost of these works to developments that benefit from the works.

It is therefore recommended that conditions be applied on this development consent requiring payment of normal developer contribution charges for trunk water supply and sewerage infrastructure.

2. Section 94 Contributions for Arterial Road Works

The 30 bed inpatient extension will generate additional trips on Council's arterial road network. These trips will exacerbate severe congestion problems that already exist in the arterial road network in the Lower Tweed area. The Section 94 Plan for roadworks envisages a number of substantial capital works required in this area to alleviate congestion from developments such as the Hospital expansion. These works include provision of service road crossings at Terranora Creek, costing around \$30M, upgrading of Kennedy Drive, construction of Kirkwood Road and associated interchange with the Pacific Highway.

The proposed Hospital extension will be a beneficiary of these works and notwithstanding Department of Urban Affairs & Planning - Circular No. D6, it is not reasonable for Council to subsidise the Hospital's share of these essential works.

Council's Section 94 Tweed Road Contribution Plan objectively and fairly apportions the cost of these works to developments that benefit from the works.

It is therefore recommended that conditions be applied on this development consent requiring payment of normal S94 developer contribution charges for arterial road works."

This would result in the following conditions:

11. *Section 94 Contributions*

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, work is not to commence 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: \$77,279*
S94 Plan No. 4 (Version 4.0)
Sector1_4

[PCC0215/PSC0175]

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

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

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

Water DSP4: 27 ET @ \$4598 \$124,146

Sewer Banora: 42 ET @ \$2863 \$120,246

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]

The applicant has not accepted the above conditions.

The applicant makes reference to Section 94 of the Environmental Planning and Assessment Act - Contributions Plan Manual, which states that Crown developments providing essential community services should not be charged developer contributions. It is argued that Crown activities are not likely to require the provision of public services and amenities in the same way as developments undertaken with a commercial objective (justifiable categories of Section 94 contributions only relate to site drainage and connection).

In relation to Section 64 contributions the applicant argues that water authorities can charge direct connection costs where appropriate but not compulsory levy water and sewerage contribution costs under the Water Management Act.

See attachment 1 for the applicant's comments on conditions. Given that Council is unable to impose a condition of consent on Crown developments, without written approval of the applicant the recommendations include the option to defer this item until the matter of developer contributions is resolved.

It is recommended Council defer determination of this development application pending further discussions between the Director of Planning and Regulation and NSW Health negotiating in kind works in lieu of payment of contributions.

North Coast Regional Environmental Plan 1988

The proposal is not contrary to the objectives of the North Coast Regional Environmental Plan.

State Environmental Planning Policies

SEPP 71 – Coastal Protection

The subject site is located within the Coastal Zone and matters for consideration under Clause 8 are relevant. Clause 8 matters relate to the potential impacts of the development on public access to the foreshore, views, overshadowing of the foreshore, existing wildlife corridors, the suitability of the site for the development and measures to reduce other adverse environmental impacts.

The proposed development will not impact upon existing wildlife corridors or water systems as it does not include any vegetation clearing or cut and fill.

The subject building is situated approximately 170 metres from the foreshore and does not create overshadowing or restrict access to the nearby waterway. Within the context of the surrounding hospital facilities, the site is a logical location for the proposed hospital extension.

The proposal does not compromise the matters within Clause 8.

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

There are no relevant provisions of any Draft Environmental Planning Instruments.

(a) (iii) Consolidated DCP

Section A2 – Site Access and Car Parking Code

DCP No. 2 requires a total of 60 car parking spaces to service 30 hospital beds (at a rate of 1 space per bed for staff and 1 space per bed for customers).

Clause 4.11 of Section A2 allows for a 20% reduction for customer and staff car parking, in order to support ESD and reduced car dependence principles.

Applying this reduction rate, the number of car parking required on-site is 48 spaces.

Whilst the Statement of Environmental Effects indicated that a car parking master plan would be developed for the site, details on proposed car parking were not provided with the original application.

The development application was discussed at the Local Traffic Committee on 15 March 2007 and the following comments were made:

“parking on the site is inadequate and improvements should be made as a matter of urgency”.

On 19 March 2007, the applicant was requested to provide a car parking management plan as referenced in the Statement of Environmental Effects. After discussions with Council Officers, the applicant submitted a plan indicating on-site parking and provision of the shortfall (additional 25 car parking spaces) within western side of the Keith Compton Drive road reserve.

Council's assessing Engineer has assessed the proposed car parking arrangements and makes the following comments:

"Discussions with Council's Traffic and Transport Engineer have raised no concerns for the proposal. Site survey has identified a maximum of 22 additional spaces may be achieved (in the road reserve). Recommended conditions of consent shall require the applicant to provide car parking within Keith Compton Drive and any shortfall being addressed on site."

Section B2 – Tweed Heads

The proposed additions to the hospital are consistent with the objectives of the Civic Precinct of Section B2 – Tweed Heads, in which the site is situated.

The subject site complies with requirements in relation Precinct Objectives, Strategic Policies and building envelope requirements. Many of the commercial façade guidelines are not relevant to the proposal given the subject building is located approximately 20 metres from the street frontage (Powell Street) and it is not of a commercial nature.

The proposal is compliant with overshadowing and privacy requirements as the building is located approximately 80 metres from nearby residents.

With regard to access to daylight and wind mitigation, the proposal is constrained somewhat given the established building footprint and surrounding development.

The design of the building extensions is considered adequate. The roofline is articulated with louvers and an elevated, glazed stair access protrudes vertically above the roof line, providing for visual interest. The building is articulated with sunshades, windows and eaves, displaying adequate articulation.

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

The proposal is not contrary to the NSW 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

The impacts of the proposal on the natural environment are limited given the proposal is within an approved building footprint and it does not involve any additional vegetation clearing or cut and fill.

The proposal will not impact upon existing waste removal operations.

Traffic

The proposed development will generate additional traffic movements within the area. The application was forwarded to the Local Traffic Committee who made comments in relation to inadequate parking (as identified above).

The 30 bed inpatient extension will generate additional trips on Council's arterial road network. Whilst Council's Traffic Engineer has indicated that the proposal will not result in significant traffic impact, Council's Infrastructure Engineer has recommended conditions requiring contributions for roadworks.

Erosion and Sediment Control

Whilst the proposal does not result in any disturbance to the soil, conditions are recommended to ensure that erosion and sediment control devices are provided in accordance with Council's Development Design guidelines.

Flooding

The development site is considered flood liable with a natural surface level of RL2.25m-2.75AHD and the 1% AEP of RL2.65m AHD.

As indicated above, the extensions do not impact upon the approved floor level (RL3.7m AHD).

(c) Suitability of the site for the development

The extension to the hospital within the existing building is considered to be logical and suitable given the surrounding context of the Tweed Heads Hospital and supporting infrastructure.

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

Adjoining and affected landowners were notified of the proposal and provided the opportunity to make a submission. A total of 4 submissions were received during the notification period.

The main issue raised by submitters is discussed below.

Parking and Traffic Concerns

There are concerns that increased traffic and parking in the area will create safety hazards and will be unacceptable.

Residents have indicated that on-street car parking in the area (resulting from the hospital and university) creates issues for local traffic and garbage collection vehicles.

Officer Comment

A condition is recommended to ensure that the required car parking spaces are provided through provision of on-site spaces and within the Keith Compton Drive road reserve.

(e) Public interest

The proposal represents an extension to the health services within the Tweed locality and will provide a benefit to the public interest.

OPTIONS:

1. Defer the application until the matter of Section 94 and 64 contributions or in kind works in lieu of contributions is resolved with the applicant.
2. Determine the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicant is dissatisfied with Council's decision, they may choose to appeal the decision in the Land and Environment Court.

A consent authority in respect of a development application for Crown development must not impose a condition of consent except with the written approval of the applicant. Where Council does not determine the application within 40 days the applicant may refer to the Minister who will assist in negotiation determination of the development application.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is recommended Council defer determination of this development application pending further discussions between the Director of Planning and Regulation and NSW Health negotiating in kind works in lieu of payment of contributions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Correspondence from the applicant regarding Section 64 and 94 contributions (DW 1603752)
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P8 [PR-PC] DQ2007-018 - Tender Evaluation of Six Stage II LEP Review Projects Comprising Locality Plans for Kingscliff, Pottsville, South Tweed Heads, Employment Lands Strategy, Urban Release Strategy and DCP & S94 Plan for

ORIGIN:

Planning Reforms

FILE NO: LEP - LEP Review Environmental Planning & Assessment Amendment Act 2006 - GT1/LEP/2006; Kingscliff Locality Plan; Pottsville Locality Plan; Tweed Heads Town Centre Precinct Plan

SUMMARY OF REPORT:

A tender was called for six planning projects in accordance with the NSW Local Government (General) Regulations 2005 and Council's Procurement Policy with tenders closing on 18 April 2007.

Sixteen tenders were received at the time of closing and this report recommends the award of the tender for each project.

Council's approval of the recommendations in this report will expedite commencement of the projects and assist in meeting the Stage II draft LEP 2008 timeframe.

RECOMMENDATION:

That Council resolves to prepare the following projects in accordance with *Environmental Planning and Assessment Act, 1979*: -

- 1. Council awards contract DQ2007-018 (Part A); Employment Lands Strategy for the amount up to \$71,273 (exc. GST) to GHD Pty Ltd, subject to Director Planning & Regulation refining the scope of the project, and**
- 2. Council defers the awarding of contract DQ2007-018, Kingscliff Locality Plan, pending the outcome of court actions involving Gales Holdings.**
- 3. Council awards contract DQ2007-018 (Part C); Pottsville Locality Plan for the amount of \$92,500 (exc. GST) to Architectus Pty Ltd, and**
- 4. Council awards contract DQ2007-018 (Part D); DCP & S94 Plan for Tweed Heads for the amount of \$97,500 (exc. GST) to JBA Pty Ltd, and**
- 5. Council awards contract DQ2007-018 (Part E); South Tweed Heads Locality Plan for the amount of \$130,000 (exc. GST) to JBA Pty Ltd, and**

6. Council awards contract DQ2007-018 (Part F); Urban Release Strategy for the amount of \$51,044 (exc. GST) to GHD Pty Ltd, and
7. The General Manager be given delegated authority to approve variations up to 20% of the initial contract sum, and
8. The award of the above contracts be subject to variation pertaining to the public consultation costs of each project. The General Manager be delegated authority to negotiate these variations to reduce these tenders if a separate coordinated approach to the public consultation for these contracts can provide a better outcome.

REPORT:

This report has been prepared for Council's consideration on the conclusions and recommendations of the tender evaluation for the recently tendered LEP Stage II review projects comprising of the preparation of:-

- Locality Plan for Pottsville
- Locality Plan for Kingscliff
- Locality Plan for Tweed Heads South
- Employment Lands Strategy
- Urban Release Strategy
- DCP and S94 Plan for Tweed Heads

Nineteen consulting firms responded to the project briefs, comprising: -

APP Corporation Consortium Pty Ltd
Douglas Jardine Consortium Pty Ltd
GHD Pty Ltd
Parsons Brinckerhoff Australia Pty Ltd
SMEC Australia Pty Ltd
Marco Plan Pty Ltd
Urban Economics Pty Ltd
Hill PDA Pty Ltd
Core Economics Pty Ltd
Planning Workshop Australia Pty Ltd
AEC Group Pty Ltd
Habitation Pty Ltd
Architectus Pty Ltd
CityPlan Services Pty Ltd
GeoLink Pty Ltd
Andrews Neil Pty Ltd
JBA Urban Planning Consultants Pty Ltd
Buckley Vann Pty Ltd
Ruker & Associates Pty Ltd

Each of the tendered proposals has been evaluated by a Planning Reforms 'Project Officer' and the Coordinator Planning Reforms, and a consultancy firm has been identified for each of the projects, as discussed below.

Basis of Evaluation

The 'Value Selection' (VS) method is the nominated means of process for evaluating tendered proposals. It is a weighted point score system that allows both price and non-priced attributes to be taken into account in the selection of the most appropriate consultant. Value Selection ensures freedom from any suggestion of favouritism, influence or inconsistency with public interest. It objectively assesses ability and merit and provides a clear indication of the most appropriate consultant on a '**value for money**' basis.

Value Selection allows for objective assessment by taking a range of attributes into account, these include:

- Track record
- Relevant Experience
- Appreciation of the project
- Methodology
- Price.

Evaluation Conclusions

The table below lists the tendered projects against the consultancy firm evaluated as providing the best value for money for that project.

Project	Consultancy	Price (GST exc)	Price range (GST exc)
Pottsville locality plan	Architectus	\$92,500	\$70,200 - \$96,900
Kingscliff locality plan	Architectus	\$92,500	\$75,200 - \$150,000
South Tweed Heads locality plan	JBA	\$130,000	\$92,500 - \$134,942
Urban release strategy	GHD	\$51,044	\$29,780 – \$83,297
Employment land strategy	GHD	\$71,273	\$36,030 - \$80,000
DCP & S94 Tweed Heads	JBA	\$97,500	\$87,500 - \$125,000

Table 1 – Primary Evaluated Tenderer

Background on Primary Consultants v Project Brief

There were approximately eleven (11) tendering consultancies for each project, comprising a mix of single project and multiple project tenders. The consultancy firms listed in Table 1 were identified as having a thorough comprehension of the scope of work identified in the brief, and demonstrated their capacity, through a sound methodology and appropriate level of resources, technical skills and experience, to undertake and deliver on the project within an agreed time frame and price. Importantly, all of the primary tenderers' demonstrated a high degree of public and stakeholder engagement in their methodology, which will be a critical contributing factor to the successful accomplishment and implementation of each of the projects.

It should be noted however that the consultancies listed in Table 1 may not necessarily possess the best non-priced attributes, that is, there may be another consultancy evaluated as having more experience or better management skills, but, based on the price of the tender bid, which may not necessarily represent the lowest price, provides the best value for money from our perspective. This is interpreted as comprising a consultancy with an appropriate level of skills and resources to deliver on the project milestones and outcomes, to be provided at a competitive price. A competitive price structure is critical to the budgetary allocation of funds for other LEP related planning projects that are yet to be put out to tender.

Generally, those consultancies not listed as the preferred tenderer in Table 1 fell short in one or more of the non-price attributes. The main areas where proposals were precluded were; insufficient evidence of experience in similar projects, inadequate public/stakeholder consultation in the methodology, unrealistic timeframes of project delivery and insufficient appreciation of the project brief. There were also limited instances of uncompetitive price structures.

Timetable for Projects

Subject to an affirmative resolution on this Report's recommendations, each of the project consultancies will be immediately contacted and a project inception meeting will be arranged. A Planning Reform Officer has been nominated as a 'Project Leader' for each of the projects and work on collating the background information and identifying relevant stakeholder groups has begun. As the completion time for the projects varies between 5 – 8 months it is essential that the project be commenced as soon as possible if the Stage II LEP review is to remain on schedule.

Each Project Leader will provide an-update report to Council on the progress of their project following completion of key milestones.

Project Consultation

Council is currently in the process of reviewing its community consultation policy and practices. The findings of this review may have direct impacts on each of the projects listed above and the corresponding tenders. Each consultant has included a community consultation component within its tender, therefore depending on the eventual findings and recommendations of the community consultation review Council may need to renegotiate the consultation component of the successful tenderer. To cater for this situation it is recommended that Council delegates to the Director of Planning and Regulation the authority to negotiate this aspect of the tender contract if the need arises.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The financial implications of approving the project contracts is a pre allocated funding cost of \$534,817 (exc. GST). The breakdown of this cost is set out in Table 1 of this report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Confidential Attachments:

1. Tender Evaluation Spreadsheet for Employment Lands Strategy for the amount of \$71,273 (exc. GST) to GHD Pty Ltd (DW 1605387)
 2. Tender Evaluation Spreadsheet for Kingscliff Locality Plan for the amount of \$92,500 (exc. GST) to Architectus Pty Ltd (DW 1605419)
 3. Tender Evaluation Spreadsheet for Pottsville Locality Plan for the amount of \$92,500 (exc. GST) to Architectus Pty Ltd (DW 1605421)
 4. Tender Evaluation Spreadsheet for DCP & S94 Plan for Tweed Heads for the amount of \$97,500 (exc. GST) to JBA Pty Ltd (DW 1605422)
 5. Tender Evaluation Spreadsheet for South Tweed Heads Locality Plan for the amount of \$130,000 (exc. GST) to JBA Pty Ltd (DW 1605424)
 6. Tender Evaluation Spreadsheet for Urban Release Strategy for the amount of \$51,044 (exc. GST) to GHD Pty Ltd (DW 1605425)
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