



AGENDA

PLANNING COMMITTEE MEETING

Tuesday 2 October 2007

Chairman: Mr Max Boyd AM

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



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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

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] Tweed Local Environmental Plan 2008

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2006

SUMMARY OF REPORT:

Council is currently in the process of reviewing Tweed Local Environmental Plan (LEP) 2000. It is undertaking this in two stages.

The first stage of the LEP review is intended to generally roll over Council's existing LEP provisions into the format of the standard template provided by the Department of Planning. The Planning Reform Unit has completed a draft Plan consistent with these objectives and has forwarded it to the DoP requesting issue of a Section 65 Certificate to enable formal public exhibition of the draft Plan.

The second stage of the LEP review is intended to be a more comprehensive review of Council's LEP and Council's planning provisions. Tweed LEP 2008 is intended to include:

- A review of Council's urban framework and zones;
- Zoning of additional urban land (residential, employment land) where required;
- Implementation of objectives and recommendations provided in completed Locality Plans for the Shire's towns and villages;
- Review of planning provisions to bring it up to best practice models;
- Review of urban design provisions;
- Review of environmental/biodiversity provisions;
- Review of Heritage Items.

A series of background planning studies will need to be undertaken to support Tweed LEP 2008 including an Urban Residential Release Strategy; Employment Land/Commercial Strategy, Locality Plans, review biodiversity data etc. A number of these projects are currently in progress and are at various stages of completion.

Notably, it is not intended to undertake a rural land use study as part of the Stage 2 LEP Review.

The Department of Planning has advised that Council needs a new Section 54 resolution to formally commence Stage 2 of the LEP Review. The purpose of this Council report is for Council to formally resolve to prepare Stage 2 of the LEP Review and to forward this resolution to the Department of Planning.



RECOMMENDATION:

That:

- 1. In accordance with Section 54 of the Environmental Planning & Assessment Act 1979, Council resolves to prepare a new Shirewide Local Environmental Plan and informs the Director-General of its decision.**

- 2. Council notes that the Stage 1 Review of the LEP has been drafted and is currently awaiting approval from the Department of Planning for public exhibition.**

REPORT:

Council is currently in the process of reviewing Tweed Local Environmental Plan (LEP) 2000. It proposes to do this in two stages. The first stage of the LEP review is intended to generally translate Council's existing LEP provisions into the Standard Template provided by the Department of Planning. The second stage of the project is intended to undertake a comprehensive review of Council's planning controls and prepare a new LEP by 2008.

Tweed LEP 2008 includes:

- A review of Council's urban land uses;
- Zoning of additional urban land (residential, employment land) where required;
- Implementation of objectives and recommendations provided in completed Locality Plans for the Shire's towns and villages;
- Review of planning provisions to bring it up to best practice models;
- Review of urban design provisions;
- Review of environmental/biodiversity provisions;
- Implementation of planning provisions relating to Seniors Living;
- Review of Heritage Items.

Projects

To undertake this project the following studies are required:

1. Update Socio-Demographic Analysis.
2. Urban Residential Land Release Strategy.
3. Employment Land/Commercial Study.
4. Review of Vegetation/Environmental Studies.
5. Locality Plans - Tweed Heads, Tweed Heads South, Kingscliff, Pottsville, Murwillumbah.
6. Site Specific Local Environmental Studies for land identified for future urban release (Dunloe Park, Employment Lands).

Studies required to complement the LEP include:

1. Landscape Development Control Plan.
2. Employment Land Development Control Plan.
3. Retail/Commercial Development Control Plan.
4. Heritage Development Control Plan.
5. Biodiversity/Habitat Management and Environmental Buffers Development Control Plan.
6. Koala Plan of Management.

Timing

The timeframe provided to complete this project is tight with expectations of a draft Plan being produced by April/May 2008.



Conclusion

Council formally resolves to proceed with a comprehensive review of its LEP with a view to preparing a new LEP by 2008.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The majority of background planning studies to be prepared to support the LEP are budgeted for and contracts have been let for the work.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P2 [PR-PC] Development Application DA07/0173 for Multi Dwelling Housing Comprising Five (5) Dwellings at Lot 6 DP 1088746, No. 57 Bione Avenue, Banora Point

ORIGIN:

Development Assessment

FILE NO: DA07/0173

SUMMARY OF REPORT:

The development application before Council seeks consent to construct a 5x3 bedroom multi dwelling housing development within a two storey configuration. On-site car parking is provided within garages on the ground level, which are accessed internally from the proposed driveway. Three (3) visitor car spaces are provided on-site. The site is accessible from Bione Avenue.

The subject site is irregular in shape and slopes away from Bione Avenue increasing steeply in gradient towards the rear of the site. The site has approximately 20m frontage and access to Bione Avenue. The site is 2616m² and is currently vacant. According to the Statement of Environmental Effects the site is clear of any vegetation of ecological significance or habitat. The site contains a number of existing title restrictions including easements for water and electricity and use in relation to noise and acoustic treatment of future dwellings. The easement to drain water is situated over the southern section, south-western boundary and eastern boundary of the site. The easement for electricity purposes is situated in the northern western corner of the site.

The predominant land use in the surrounding area is residential consisting of a mix of low and medium density developments. Additionally, a small neighbourhood business centre is located approximately 500 metres walking distance from the subject site. Given the variety of housing forms and densities and the existence of retail and commercial enterprises in close proximity to the subject site, the general character of the area is not representative of a typical 2 (a) Low Density area with a predominately detached housing character. As such the proposed development is considered to be of appropriate design quality, density, scale and height for the area.

The application has been amended to increase the number of units proposed and include staging since its lodgement. As such, the development application has been advertised twice. Five submissions have been received regarding the recent amendment which includes a petition with 20 signatures.

RECOMMENDATION:

That Development Application DA07/0173 for multi dwelling housing comprising five (5) dwellings at Lot 6 DP 1088746, No. 57 Bione Avenue, Banora Point be approved subject to the following conditions: -

GENERAL

1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
3. The development shall be completed in two (2) stages. Stage 1 - Construction of Units 1, 2 and 3 and landscaping. Stage 2 - Construction of Units 4 and 5, landscaping, internal driveway/visitor spaces.
[GENNS01]
4. Stormwater disposal from the dwellings and overflow water from the rainwater tanks shall be discharged into rubble pit/s on site in accordance with the provisions of the Section 88b instrument attached to the property title.
[GENNS01]
5. Bicycle parking shall be provided in accordance with Section A2 – Site Access and parking Code of the Tweed DCP.
[GENNS01]
6. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos A1.0, A1.1a, A1.2, A1.2, A1.3 and A1.4 prepared by AA Drafting Services and dated 21/06/2007 (as amended in red), except where varied by the conditions of this consent.
[GEN0005]
7. The development is to be carried out in accordance with Tweed Shire Councils adopted Development Design and Construction Specifications.
[GEN0125]
8. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.
[GENNS05]
9. All fencing shall not be constructed from brushwood, treated pine or bamboo materials.
[GENNS05]
10. All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the habitable building shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 3.
[GENNS05]
11. The landscaping as shown on the plans shall not be permitted within the easement for electricity situated in the north-western section of the site. Landscaped bays shall not be constructed within the easement to drain water situated along the eastern boundary of the site.
[GENNS05]

12. **Construction of units 1 and 2 shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 2.**

[GENNS04]
13. **Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the structure.**

[GENNS04]
14. **Where the rear of the proposed structure is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per AS 2419.1-2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.**

[GENNS03]
15. **Construction of units 3, 4 and 5 shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire – prone areas' Level 3. Construction of the northern and eastern facades of these units shall comply with Australian Standard AS3959-1999 'Construction of buildings in bush fire-prone areas' Level 2.**

[GENNS03]
16. **At the commencement of building works and in perpetuity the property around the building to a distance of 15 metres or the boundary if less, shall be maintained as an 'Inner Protection Area' (IPA) as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.**

[GENNS02]
17. **The proposed structure shall be located no closer than 15 metres from the southern boundary.**

[GENNS02]
18. **To allow for emergency service personnel and residents to undertake property protection activities a defensible space that permits unobstructed pedestrian access is to be provided around the building.**

[GENNS02]
19. **Water, electricity and gas are to comply with Section 4.1.3 of Planning for Bush Fire Protection 2006.**

[GENNS02]
20. **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.**

[GEN0245]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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. 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) Sector2_4	\$4,425
(b) Open Space (Structured): S94 Plan No. 5	\$750
(c) Open Space (Casual): S94 Plan No. 5	\$160
(d) Shirewide Library Facilities: S94 Plan No. 11	\$662
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$139
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$193
(g) Extensions to Council Administration Offices & Technical Support Facilities	\$1,919.72

S94 Plan No. 18	
(h) Cycleways	\$338
S94 Plan No. 22	
(i) Regional Open Space (Structured)	\$2,236
S94 Plan No. 26	
(j) Regional Open Space (Casual)	\$822
S94 Plan No. 26	
<u>Stage 2</u>	
(a) Tweed Road Contribution Plan:	\$6,638
S94 Plan No. 4 (Version 4.0)	
Sector2_4	
(b) Open Space (Structured):	\$1,020
S94 Plan No. 5	
(c) Open Space (Casual):	\$218
S94 Plan No. 5	
(d) Shirewide Library Facilities:	\$900
S94 Plan No. 11	
(e) Eviron Cemetery/Crematorium Facilities:	\$180
S94 Plan No. 13	
(f) Emergency Facilities (Surf Lifesaving)	\$262
S94 Plan No. 16	
(g) Extensions to Council Administration Offices & Technical Support Facilities	\$2,611.02
S94 Plan No. 18	
(h) Cycleways	\$460
S94 Plan No. 22	
(i) Regional Open Space (Structured)	\$3,042
S94 Plan No. 26	
(j) Regional Open Space (Casual)	\$1,118
S94 Plan No. 26	

[PCC0215/PSC0175]

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

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

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

Stage 1

Water DSP4: 1.4 ET @ \$9997 \$13,996

Sewer Banora: 2 ET @ \$4804 \$9,608

Stage 2

Water DSP4: 1.6 ET @ \$9997 \$15,995

Sewer Banora: 2 ET @ \$4804 \$9,608

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]

- 24. 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]

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

[PCC1125]

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

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]

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

[PCC1155]

28. 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]

PRIOR TO COMMENCEMENT OF WORK

29. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:

- (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
30. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
31. Residential building work:
- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and

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

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

[PCW0235]

32. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
(b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

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

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

[PCW0255]

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

- (a) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
(b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
(c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
(i) the method of protection; and
(ii) the date of installation of the system; and

- (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
- (iv) the need to maintain and inspect the system on a regular basis.

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

[PCW0775]

35. 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 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 any future 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]

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

[PCW0005]

38. Prior to the issue of a Construction Certificate, the Applicant will submit a detailed Landscape Plan to Council for the approval of the Director Planning and Regulation in consultation with the Chair of Planning, which will include:

- a) A 1:100 plan of the exterior area with proposed surfaces, trees, plants and other landscape element;
- b) Details of any proposed earthworks;
- c) Details of the drainage and watering system; and
- d) A Management Plan for the landscaped area post completion of the building.
- e) wherever possible native or drought tolerant species to be utilised.

DURING CONSTRUCTION

39. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
- [DUR0005]
40. 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]
41. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.
- [DUR0245]
42. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
- [DUR0375]
43. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.
- [DUR0395]
44. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.
- [DUR0405]
45. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR0445]
46. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications and Development Control Plan, Part A14 - Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority.
Please note timber retaining walls are not permitted.
- [DUR0835]
47. 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]

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

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

[DUR1005]

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

[DUR2185]

50. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

51. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2505]

53. 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]

54. 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]

- 55. 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]

- 56. A system of mechanical exhaust ventilation, which complies with the provisions of Australian Standard AS 1668.2 - "Mechanical ventilation for acceptable indoor air quality" and which discharges outside the building, shall be provided to the ground floor bathroom, laundry and sanitary compartment and the first floor sanitary compartment to units 2 and 3.

[DURNS01]

- 57. The ground floor sanitary compartment shall observe a minimum 2.10 metre ceiling height in accordance with the deemed to satisfy provisions of part 3.8.2.2 of the Building Code of Australia.

[DURNS02]

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

Such to specifically include the following:

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

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

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

[DUR0065]

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

- A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the

background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

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

[DUR0215]

60. 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]

61. 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]

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

[DUR0815]

63. 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]

64. 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]

65. 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]

66. Provision to be made for the designation of 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]

67. 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]

68. 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]

69. The provision of 13 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

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

[DUR1015]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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. 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]

73. 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]

74. 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]

75. 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

76. 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]

REPORT:

Applicant: Mr D Williams and Mr GLC Maddisson
Owner: Matilda Constructions Pty Ltd
Location: Lot 6 DP 1088746 No. 57 Bione Avenue, Banora Point
Zoning: 2(a) Low Density Residential
Cost: \$400,000

BACKGROUND:

On 21 May 2004 Council granted consent for a 17 lot staged subdivision in which the subject site was created (DA03/1348).

The subject site is irregular in shape and slopes away from Bione Avenue increasing steeply in gradient towards the rear of the site. The site has approximately 20m frontage and access to Bione Avenue. The site is 2616m² and is currently vacant. According to the Statement of Environmental Effects the site is clear of any vegetation of ecological significance or habitat. The site contains a number of existing title restrictions including easements for water and electricity and use in relation to noise and acoustic treatment of future dwellings. The easement to drain water is situated over the southern section, south-western boundary and eastern boundary of the site. The easement for electricity purposes is situated in the northern western corner of the site.

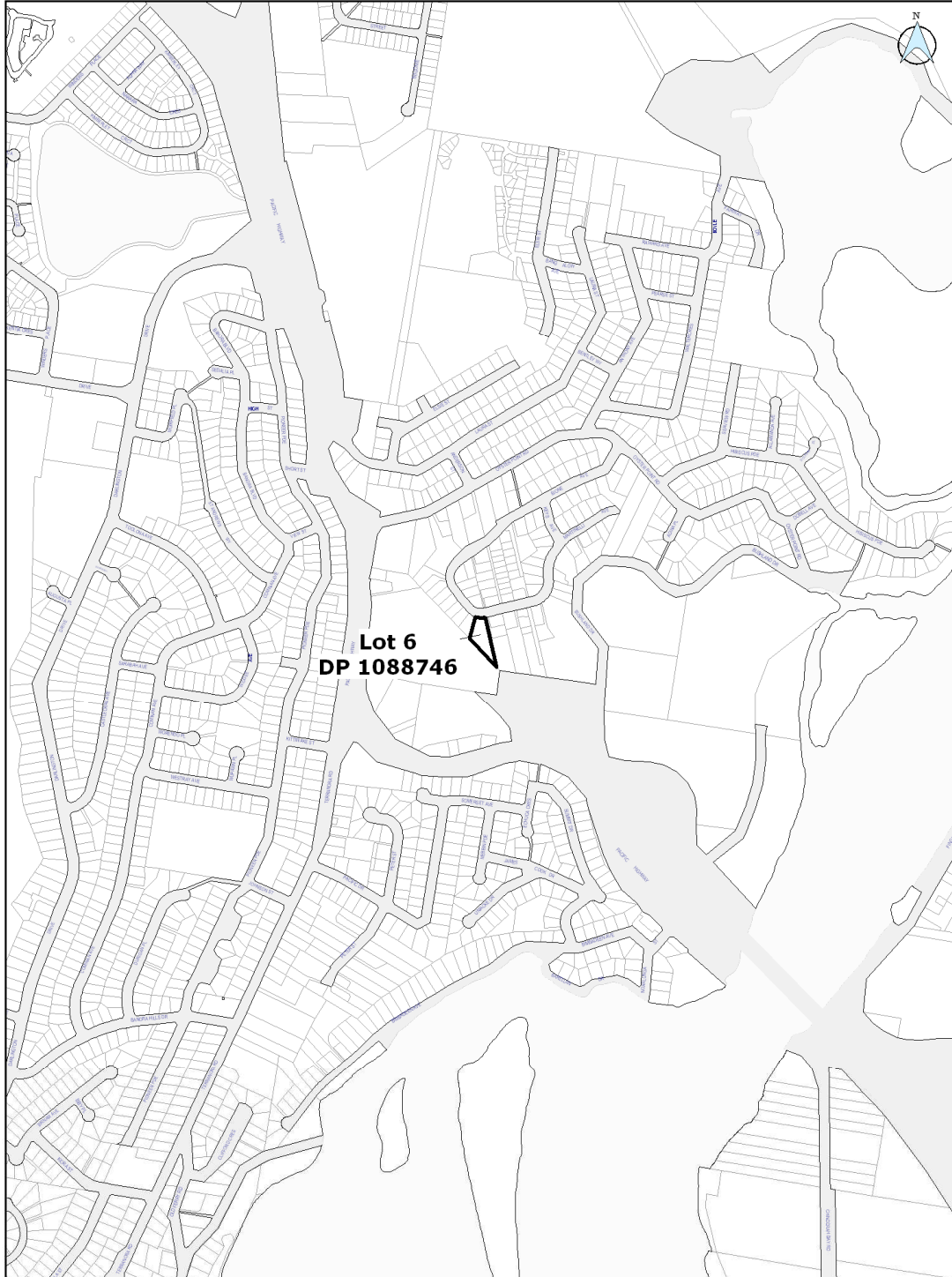
A development application was lodged on 21 February 2007 for the construction of 3x3 bedroom units within a two storey configuration. The applicant submitted amended plans on 15 May 2007 to increase the number of units to 5x3 bedroom units and to stage the development. The amended development is to remain a two storey configuration.


The current application proposes the following staging; stage 1 involves the construction of units 1, 2 and 3 and stage 2 involves the construction of units 4 and 5, landscaping, the internal driveway and visitor car spaces.

On-site car parking is provided within garages on the ground level, which are accessed internally from the proposed driveway. Three (3) visitor car spaces are provided on-site. The site is accessible from Bione Avenue.

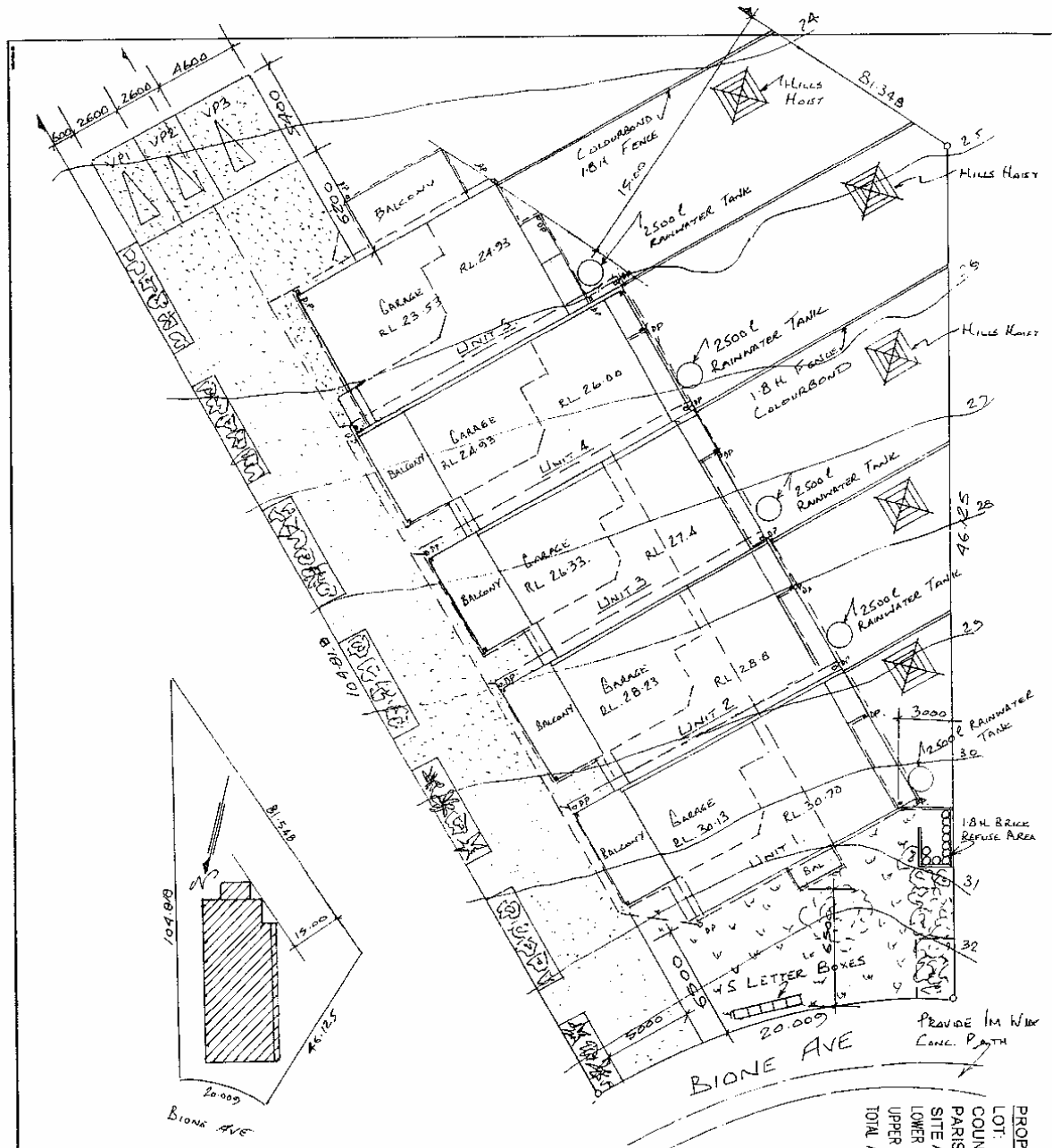
The development application has been advertised twice as a result of the applicant amending the proposal. Five submissions have been received regarding the recent amendment including a petition with 20 signatures.

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 6 DP 1088746 57 Bione Avenue, Banora Point</p>		<p>PLANNING REFORMS UNIT Site Plan</p>	
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>	<p>Author: B. Ingram</p>	<p>Date: 19/Sept/2007</p>	<p>Scale: 1:10,000</p>	<p>Sheet: 1 of 1</p>

DEVELOPMENT PLANS:



PROPERTY DESCRIPTION
 LOT: 7 ON R.P.
 COUNTY OF: ROUSE
 PARISH OF: BANORA
 SITE AREA = ...sq.m
 LOWER FLOOR = 617sq.m
 UPPER FLOOR = 580sq.m
 TOTAL AREA = 1207sq.m

Dr. K. Chatterton
 Date: 13-01-07
 Scale: 1:200
 Page: 1 of 10

A1.0
 SITE PLAN

STAGE 2-PROPOSED 5 UNIT DEVELOPMENT FOR MESSRS.
 G.MADDISON & D.WILLIAMS AT LOT 7
 BIONE AVENUE-BANORA POINT.

NOTES:
 1. DIMENSIONS ARE IN METERS OR MILLIMETERS
 2. ALL DIMENSIONS TO BE CHECKED
 3. ALL SITUATE TO LOCAL COUNCIL AUTHORITY REQUIREMENTS
 4. ALL WORK OBTAINED TO VARIOUS TANKS & PITS

AA DRAFTING SERVICES
 Keith Chatterton - Principle
 License No: 31258
 Phone: (07) 55 77 5244
 5 Viola Avenue, Hollywell 4216

ELEVATION B

ELEVATION A

**STAGE 2-PROPOSED 5 UNIT DEVELOPMENT FOR MESSRS.
G.MADDISSON & D.WILLIAMS AT LOT 7
BIONE AVENUE-BANORA POINT.**

ELEVATIONS:

A1.2

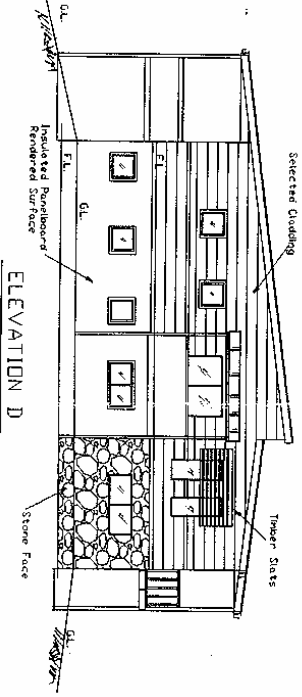
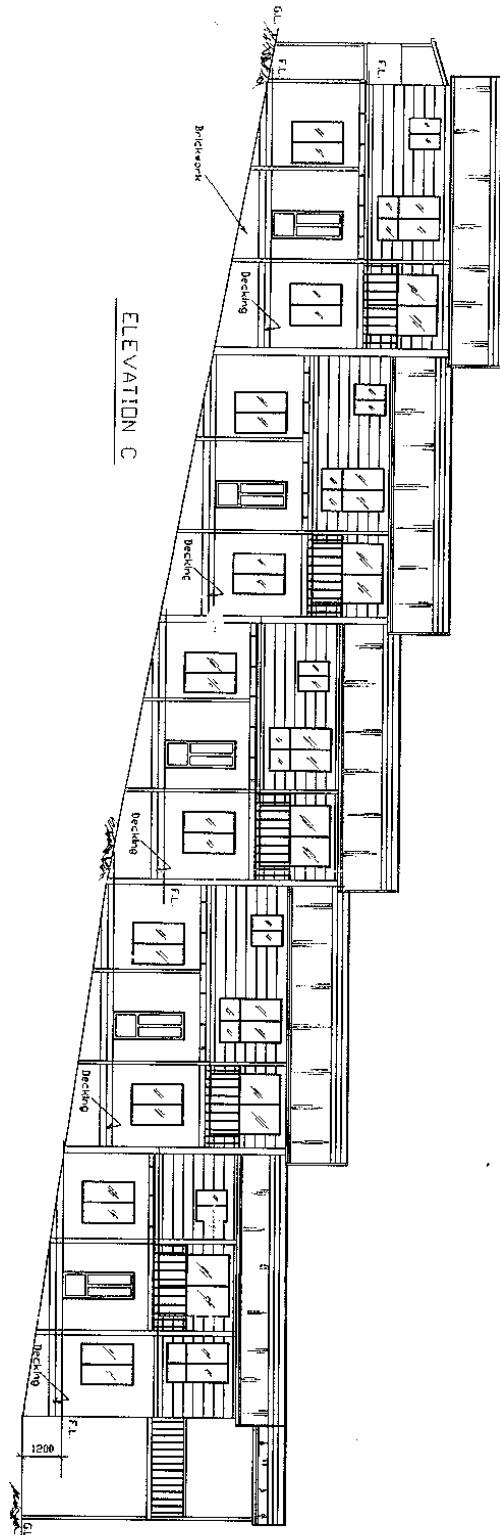
NOTES:

- ALL DIMENSIONS ARE IN METRES OR MILLIMETRES
- ALL DIMENSIONS TO BE CHECKED FROM TO CORNER/CENTRE OF ORIENTATION
- ALL SHALL BE TO LOCAL COUNCIL UTILITY REQUIREMENTS
- ALL ROOF INWARDS TO STREET

A A DRAFTING SERVICES

Keith Chatterton - Principle
 License No.: 31258
 Phone: (07) 55 77 5244
 6 Viola Avenue, Hollywell 4215

By: K. Chatterton
 Date: 11-05-07
 Scale: 1:125
 Page: 4 of 10



STAGE 2-PROPOSED 5 UNIT DEVELOPMENT FOR MESSRS.
 G.MADISSON & D.WILLIAMS AT LOT 7
 BIONE AVENUE-BANORA POINT.

NOTES:
 1. ALL WINDOWS TO BE INSTALLED ON
 INTERIORS
 2. ALL WINDOWS TO BE OPENED
 FROM THE EXTERIOR
 3. ALL WALLS TO LOCAL COUNCIL
 AUTHORITY REQUIREMENTS
 4. ALL ROOF FINISHED TO SHEET

A A DRAFTING SERVICES
 Keith Chatterton - Principle
 License No.: 31258
 Phone: (07) 55 77 5244
 6 Vico Avenue, Hollywell 4215

ELEVATIONS

A1.3

By: K. Chatterton
 Date: 13 - 03 - 07
 Scale: 1:125
 Page: 5 of 10

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 (TLEP)

The subject site is located within the 2(a) Low Density Residential Zone. Multi dwelling housing is permissible within the zone with consent.

Clause 8 requires the consent authority to be satisfied that the development is consistent with the primary objective of the applicable zone. The primary objective of the 2(a) zone is to provide land for low-density residential development, with a predominately detached housing character and amenity. The zone does, however, allow for some diversity in housing types through a secondary objective, provided they achieve good urban design outcomes and the density and scale is compatible with the primary objective.

Despite the nature of the proposed multi dwelling housing development, it is still considered consistent with the objectives of the 2 (a) zone given that this area of east Banora is characterised by both single detached dwelling houses and multi dwelling housing developments and varied densities.

The proposed development will largely appear from Bione Avenue as a two (2) storey dwelling house. The adjoining subdivision pattern to the subject site's east is similar to the layout of the proposed development.

The development is considered to be of appropriate design quality, density, scale and height for the area. The articulation and materials proposed particularly on the Bione Avenue elevation results in a development which will contribute in a positive manner to the streetscape. The proposed density and scale are considered to be appropriate for the subject site and are discussed later in this report. The proposed height of the development is consistent with the surrounding developments and the number of storeys permitted by the TLEP. The proposed development also provides for diversity in housing types.

For the reasons outlined above, the proposed development is considered consistent with the objectives of the 2 (a) zone.

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

Clause 16 of the TLEP requires that development be carried out in accordance with the allowable height limit. The proposed development is consistent with the allowable height of three (3) storeys.

Clause 39A relates to the assessment of the threat from bushfire to built assets, people and ecological and environmental assets. The application was

referred to the NSW Rural Fire Service (RFS) for comment as the site is identified as being bush fire prone. The RFS raised no objection to the proposal subject to conditions of consent.

North Coast Regional Environmental Plan 1988 (NCREP)

Clause 32(b) of the NCREP applies to the subject site as it is affected by the NSW Coastal Policy 1997.

The proposed development is considered to be consistent with the strategic actions and principles of the Coastal Policy. The proposal is consistent with the Coastline Management Manual and the North Coast: Design Guidelines. The proposal will not affect access to the foreshore.

The development will not result in beaches or adjacent open space being overshadowed.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The subject site is located within a sensitive coastal location. The application was assessed in accordance with Part 2 Clause 8 Matters for consideration was necessary. Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The site is surrounded by residential development, including dwelling houses and multi dwelling housing. The proposed development is consistent with the character of the area.

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

The applicant has submitted a Basix certificate, which demonstrates that the proposal meets the requirements for sustainability.

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

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

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

Section A1 – Multi Dwelling Housing

The development application has been assessed with regards to the acceptable solutions and the performance criteria in accordance with the DCP. An assessment in accordance with the DCP is provided below:

Standard	Acceptable Solution	Proposed	Consistent
Floor Space Ratio	0.5:1	0.22:1	✓

Standard	Acceptable Solution	Proposed	Consistent
Minimum Landscaped Area	30% site area = 784.9m ²	Approximately 1,500m ²	✓
Building Envelope	45° from 3.5m high at the side and rear boundary	Proposed development is within the envelope	✓
Setbacks	Bione Avenue – 6m Eastern side- 3m Western side – 3m Rear– 3m	6.5m 6.2m 3m to 13.4m Min 20m	✓ Includes allowable encroachment for the balcony on Unit 1
Views, Visual and Acoustic Privacy	Direct views between living area windows of adjoining dwellings should be screened/obscured where ground floor and first floor windows are within a 9m radius from any part of the window of the adjoining dwelling and other windows within a 12m radius. Direct views from living rooms of dwellings into the principal open space area of another dwelling should be screened/obscured within a 12m radius.	Please refer to notes below	✓
Private Open Space	20% of site area with minimum dimension of 3m = 523.2m ² One part minimum 25m ² with minimum dimension of 4m directly accessible from a living area	Total: 542m ² Unit 1 = 42.5m ² Unit 2 = 81.71m ² Unit 3 = 120.15m ² Unit 4 = 146m ² Unit 5 = 152m ² Communal open space = Approximately 600m ²	Refer to the assessment below.
Daylight & Sunlight	Sunlight to the principal area of ground level private open space of adjacent properties is not to be reduced to less than 2 hours	The proposed development will result in overshadowing of adjoining properties between 9am to 3pm,	✓

Standard	Acceptable Solution	Proposed	Consistent
	between 9am and 3pm on June 21. Where existing overshadowing by buildings is greater than this, sunlight is not further reduced by more than 20%.	however the extent of overshadowing will not result in the open space areas of adjoining developments being unreasonably reduced.	

Views, Visual and Acoustic Privacy

The design of the proposed development ensures that there is sufficient distance between it and the adjoining developments to provide for visual and acoustic privacy.

The location of the internal driveway within the subject site and the location and design of the adjoining developments to the site's immediate east, results in approximately 17m distance between the developments. This physical separation will assist in alleviating any overlooking issues into adjoining properties. Given the height at which the balconies are situated, residents of the subject site are likely to look beyond adjoining developments rather than into them.

There is approximately 5m distance from the proposed development to the existing dwelling to the site's west. Secondary balconies are situated along this elevation however these are not anticipated on being used as a primary area for recreation given their dimensions.

The proposal has been designed to avoid direct views from living areas into the adjoining developments' open space areas.

Private Open Space

The 25m² open space area for each unit is situated on the ground floor which is not directly accessible from a living area. A main balcony is situated on the first floor of each unit which is directly accessible from the living area.

The proposed private open space areas are of a suitable size and dimension to cater for the likely needs of the future residents. It is also noted other opportunities for recreation exist on site within the large communal area situated at the rear of the site.

The proposed private open space areas provided are considered to be acceptable.

As a result of the restrictions on the rear of the site, approximately 600m² of the site is available for communal open space.

Given the above it is considered that the area provided for open space is sufficient.

Section A2 –Site Access and Parking Code

The proposal has been assessed in accordance with Section A2 of the DCP which indicates sufficient on-site car parking has been provided.

Standard	Requirement	Proposed
Multi Dwelling Housing	2 spaces per unit & 1 space for visitor parking	10 spaces & 3 visitor car spaces
	Total: 11 spaces	Total: 13 spaces

Vehicular access to the site is proposed via a 5 metre common driveway from Bione Avenue.

Council’s Development Engineer has advised that the development will not affect the surrounding traffic network. Council’s Development Engineer raised no objection to the proposed development subject to conditions of consent.

Conditions of consent have been recommended requiring bicycle parking to be provided in accordance with Section A2 – Site Access and parking Code of the DCP and requiring that one visitor space be appropriately marked as a car wash bay.

Section A9 – Energy Smart Homes Policy

The proposal is consistent with Section A9 and the requirements of SEPP Building Sustainability Index: BASIX 2004.

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

Clause 92(a) NSW Coastal Policy 1997

The land is identified as being affected by the Coastal Policy. The site is not affected by the Coastal Erosion Zones, is unlikely to be affected by the coastal processes, will not overshadow foreshore reserves and does not restrict public access to the coast. Therefore the proposed development is not in conflict with the policies and strategies contained within the 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

There are no further impacts associated with the proposed development in addition to those previously discussed in this report.

(c) Suitability of the site for the development

The suitability of the site for the proposed development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control

Plan. Despite the limitations of the subject site including easements and the bushfire hazard the proposed development results in a development which is functional and complementary to the surrounding developments.

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

The development application was initially advertised for a period of 14 days in March 2007. The proposal at this time consisted of 3x3 bedroom units. In response to this proposal three (3) submissions were received. The issues raised in the submissions are outlined below.

Issue	Comment	Assessment
Traffic	Concern was raised regarding the capacity of Bione Avenue for additional vehicular movements associated with the development.	<p>As previously discussed, Council's Development Engineer has reviewed the proposal and advised the additional traffic likely to be generated by the proposal is considered minimal and will not affect the surrounding traffic network.</p> <p>The development comprises of 3 on-site visitor car spaces, which exceeds Council's requirements as per the DCP.</p> <p>This matter does not warrant refusal of the development application.</p>
Impacts	Concern was raised regarding the cumulative impact of further multi dwelling unit developments being approved within the precinct with regards to the character of the area and the impact on drainage systems.	<p>Multi dwelling housing developments are permissible within the 2(a) zone and currently exist within proximity to the subject site.</p> <p>Council's Development Engineer has reviewed the development application and raised no concern with regards to the impact on the drainage system as a result of this development. The capability of the drainage network would have been considered as part of the subdivision application of the area.</p> <p>This matter does not</p>

Issue	Comment	Assessment
Development Potential	Concern was raised regarding the development potential of the subject site as the original notification of the subdivision indicated single occupancy for the lot. Since then the site has been advertised by the developer and realtor for dual occupancy development and now multi dwelling housing.	<p>warrant refusal of the development application.</p> <p>The manner in which the development potential for land is advertised by private parties is a civil matter.</p> <p>A review of Council's records does not indicate the lot was restricted for single dwelling house development. Multi dwelling housing is permissible within the 2(a) zone with development consent as per the Tweed Local Environmental Plan 2000.</p> <p>As detailed within this report, the applicant submitted a development application for the construction of 3x3 bedroom units. The applicant then amended the application to consist of 5x3 bedroom units in two stages.</p> <p>This matter does not warrant refusal of the development application.</p>
Suitability	Concern was raised regarding the development's consistency with the existing surrounding developments.	<p>As discussed previously, there are existing multi dwelling housing developments within proximity to the subject site. The proposed development is similar in design to that of surrounding developments.</p> <p>This matter does not warrant refusal of the development application.</p>
Design	Concern was raised regarding the 3 metre easement running along the eastern boundary of the subject site as to whether the applicant will be able to fence this area or use it for vehicular access purposes.	Should development consent be issued, a condition has been recommended advising that the landscaping shall not be permitted within the

Issue	Comment	Assessment
		<p>easement for electricity nor are the landscaped bays permitted as a result of the easements on the site.</p> <p>Council's Development Engineer has reviewed the proposal and raised no issue with regards to the proposed driveway.</p> <p>This matter does not warrant refusal of the development application.</p>
Development and construction	A request was received to ensure that the development and associated activities including stockpiling of materials, drainage or asset protection purposes were not undertaken on a nearby property.	<p>Should development consent be issued, it will relate to the subject site only.</p> <p>Council's Development Engineer has advised that the proposed development does not alter the existing approved stormwater management proposal however the prior approved subdivision has an open trail discharge tail-out onto an adjoining property.</p> <p>This matter does not warrant refusal of the development application.</p>

The applicant provided the following response to the matters raised in the submissions.

'The submitters incorrectly refer to a previously approved density for this site. The site has never had a density 'approved' over it, other than the permissible development standard which has applied since 7 April 2000 under Tweed LEP 2000, which is 1 dwelling per 450m². This development standard equates to a density of 5.8 dwellings.

The proposed development and amendment to the development which includes 5 units is well within the prescribed density pursuant to Tweed LEP 2000.

The submitters raise an issue that the proposal comprising of greater than one dwelling would be out of character with the surrounding development. The development of the surrounding land comprises linear integrated type housing accessed off a common driveway. This built form

is essentially similar in configuration and built form to the proposed development. A similar development is also located on the opposite side of Bione Avenue.

A duplex is under construction on the property to the west (Lot 7) which has an area of 929.2m². That neighbouring development represents a density of 1 dwelling per 464.65 m².

Accordingly, the amended proposal which now comprises only 1 dwelling per 523.2 m² with a linear built form that steps down the site (with the topography of the land) is consistent with the character of the area.

Traffic is likely to be generated by the amended proposal (5 units) is not likely to exceed 5 trips in the peak hour. That is less than one vehicle movement every 12 minutes. Accordingly, the proposed development is unlikely to result in adverse traffic generation and the objectors' concerns are not well founded'.

As a result of the application being amended to include 5x3 bedroom units in two stages, the development application was re-advertised for a period of 14 days. In response to this proposal five (5) submissions were received, including a petition with 20 signatures. The issues raised in the submissions are outlined below.

Issue	Comment	Assessment
Traffic	Concern was raised regarding the capacity of Bione Avenue for additional vehicular movements associated with the development. It was advised that limited area is available within Bione Avenue for on-street parking.	<p>As previously discussed, Council's Development Engineer has reviewed the proposal and advised the additional traffic likely to be generated by the proposal is considered minimal and will not affect the surrounding traffic network.</p> <p>The development comprises of 3 on-site visitor car spaces, which exceeds Council's requirements as per the DCP.</p> <p>This matter does not warrant refusal of the development application.</p>
	The amount of traffic that this development would generate would be at least four times as much as dwelling according to the RTA's guide to traffic generating developments. This additional traffic will have a significant impact on the amenity that	As previously discussed, Council's Development Engineer has reviewed the proposal and advised the traffic likely to be generated will not affect the surrounding traffic

Issue	Comment	Assessment
	it currently enjoyed by the residents.	network. This matter does not warrant refusal of the development application.
Impacts	The development will result in loss of property value, and increased noise within the street.	Loss of property values cannot be assessed as per the Environmental Planning & Assessment Act 1979. The proposed development was reviewed by Council's Environmental Health officer who did raise concern regarding the noise likely to be generated by the future residents of the development. This matter does not warrant refusal of the development application.
	The windows and balconies facing east and west will have a significant impact on the privacy and amenity of neighbours.	Visual privacy has been discussed previously in this report in the assessment of the Development Control Plan. It is considered that the design of the development will not result in adverse impacts on the adjoining residents' amenity. This matter does not warrant refusal of the development application.
Development Potential	Concern was raised regarding the development potential of the subject site as the original notification of the subdivision indicated single occupancy only for the subject lot. Since then the site has been advertised by the developer and realtor for dual occupancy development and now multi dwelling housing.	The manner in which the development potential for land is advertised by private parties is a civil matter. A review of Council's records does not indicate the lot was restricted for single dwelling house development. Multi dwelling housing is permissible within the 2(a) zone with development consent as per the Tweed

Issue	Comment	Assessment
		<p>Local Environmental Plan 2000.</p> <p>As detailed within this report, the applicant submitted a development application for the construction of 3x3 bedroom units. The applicant then amended the application to consist of 5x3 bedroom units in two stages.</p> <p>This matter does not warrant refusal of the development application.</p>
Site Suitability	The proposed development is not consistent with the primary objective of the zone as it does not maintain the low density residential environment.	<p>This matter has been discussed previously in this report in the assessment of the Tweed Local Environmental Plan 2000. It is considered that the proposed development is consistent with the objectives of the zone.</p> <p>This matter does not warrant refusal of the development application.</p>
Design	The backyards proposed are inadequate in size and dimension. These useless areas will force residents into the driveway, the communal front yard and into the street for their open space enjoyment.	<p>This matter has been previously discussed in this report in the assessment of the Development Control Plan. The areas proposed are considered to be functional and appropriate.</p> <p>This matter does not warrant refusal of the development application.</p>
	The proposed location of the garbage refuse area is inappropriate as it is next door to an adjoining developments' front door.	<p>The refuse area has been positioned in the front of the property to enable the bins to be easily placed for collection.</p> <p>This matter does not warrant refusal of the development application.</p>
	The proposed development runs a fence, driveway and plant beds or	As discussed previously, should development

Issue	Comment	Assessment
	boxes along the length of the property's existing boundary covering the easement to drain water and limiting future access to these services.	<p>consent be issued a condition has been recommended advising that the landscaping shall not be permitted within the easement for electricity nor are the landscaped bays permitted as a result of the easements on the site.</p> <p>Council's Development Engineer has reviewed the proposal and raised no issue with regards to the proposed driveway.</p> <p>This matter does not warrant refusal of the development application.</p>
Bushfire Classification	The reclassification of the adjoining grasslands to bushlands is questionable. 'Where are the Council's determinations, expectations and or position in regard the pursuit of this contentious reclassification for clear financial benefit and motivation?'	<p>The NSW Rural Fire Service agreed in consultation with the developer to the reclassification of the adjoining vegetation to woodlands. This reclassification resulted in changes to the required asset protection zone and construction standards.</p> <p>This matter does not warrant refusal of the development application.</p>
Development and construction	A request was received to ensure that the development and associated activities including stockpiling of materials, drainage or asset protection purposes were not undertaken on a nearby property.	<p>Should development consent be issued, it will relate to the subject site only.</p> <p>Council's Development Engineer has advised that the proposed development does not alter the existing approved stormwater management proposal however the prior approved subdivision has an open trail discharge tail-out onto an adjoining property.</p>

Issue	Comment	Assessment
		This matter does not warrant refusal of the development application.

The applicant did not wish to provide a response to the matters raised above as they had previously responded to the objections received.

(e) Public interest

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

OPTIONS:

1. Resolve to approve the development application with conditions.
2. Resolve to refuse the development application with reasons.

CONCLUSION:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P3 [PR-PC] Development Application DA06/1035 for a Self Storage Facility at Lot 2 DP 863736, No. 942 Cudgera Creek Road Cudgera Creek

ORIGIN:

Development Assessment

FILE NO: DA06/1035 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application to construct a self-storage facility on a parcel of land zoned 1(a) Rural. The proposed facility is to be located adjacent to an existing landscape supply business on the subject parcel.

The proposed facility involves the construction of four (4) single storey self storage buildings with a total GFA of 1768m².

The main issues associated with the application are:-

- Compliance with provisions of Clause 8(2);
- Implications on Council's plans for future industrial estate in the vicinity;
- Compatibility of proposed use with the objectives of the 1(a) Rural zone;
- SEPP No.1 Objection in relation to Clause 24 of the Tweed LEP pertaining to setbacks from designated roads;
- Issues raised in two (2) letters of objection received during the public exhibition period; and
- Flooding considerations.

Each of these issues is addressed within the body of the report.

RECOMMENDATION:

That Development Application DA06/1035 for a self storage facility at Lot 2 DP 863736, No. 942 Cudgera Creek Road Cudgera Creek be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos 02-06/A01 - A03 (Rev. B) prepared by Steel Storage Group and dated 16/05/06, except where varied by the conditions of this consent.**

[GEN0005]

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

[GEN0065]

3. The storage sheds are to stand a minimum of 22.4 metres from the northern boundary of the property.
[GEN0095]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
5. The development is to be carried out in accordance with Councils adopted Development Design and Construction Specifications.
[GEN0125]
6. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
7. The storage shed area shall not be used for residential purposes.
[GENNS01]
8. The storage sheds are to be dismantled and removed within two (2) years of the gazettal of any industrial zoned land within a five (5) kilometre radius of the subject site. At that time, this consent is to be surrendered in accordance with Sections 80A 1(b) and 6 of the Environmental Planning and Assessment Act 1979 (as amended).
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. The developer shall provide 2 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.

The access, manoeuvring and parking areas shall be provided with a bitumen sealed or similar surface.

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

[PCC0065]

10. Section 94 Contributions

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

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

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

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in

the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- (a) Tweed Road Contribution Plan: \$8,168
S94 Plan No. 4 (Version 4.0)
Sector11_4
- (b) Extensions to Council Administration Offices
& Technical Support Facilities \$1,632.38
S94 Plan No. 18

[PCC0215]

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

[PCC0285]

12. 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]

13. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill

material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

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. 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]

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

[PCC0585]

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

All building materials used below Council's design flood level must not be susceptible to water damage.

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.

Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

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

- (a) vehicular access to the property, 7m wide at the boundary and 9m wide at the edge of the road pavement.

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. **Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.**
- (a) **copies of compliance certificates relied upon**
 - (b) **four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:**
 - **earthworks**
 - **roadworks/furnishings**
 - **stormwater drainage**
 - **water supply works**
 - **sewerage works**
 - **landscaping works**
 - **sedimentation and erosion management plans**
 - **location of all service conduits (water, sewer, Country Energy and Telstra)**

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

[PCC0985]

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

- (i) Shake down area along the haul route immediately before the intersection with the road reserve.
- (ii) all hard stand is to be treated as per D7. Uncontrolled discharge to the table drain is not acceptable. Any WSUD is not to be supported by MUSIC analysis.

[PCC1105]

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

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

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]

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

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

[PCC1155]

22. 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 levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCCNS01]

23. In order to minimise the flooding risk to the storage shed development and adjoining land, design details shall be submitted for approval prior to the issue of a construction certificate to demonstrate the following:-

- a) **Minimum floor level of all storage unit buildings shall be RL 13.9m AHD.**
- b) **The storage unit buildings shall be configured to minimise the obstruction of any flood flows through the site. Buildings shall be aligned in a general west-west direction. Buildings shall be spaced such that no less than 50% of any cross section of the development site (in north-south direction) is available for the free flow of flood water.**
- c) **Fencing of the storage unit compound shall be constructed to allow for the free flow of flood waters.**
- d) **Site filling works shall be minimised to match as closely as practicable the existing ground level, while providing adequate surface drainage for stormwater.**

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0015]

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

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

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

[PCW0255]

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

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

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

[PCW0985]

DURING CONSTRUCTION

29. 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]

30. The provision of 2 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be

in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

- 31. 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]

- 32. 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]

- 33. 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]

- 34. 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]

- 35. 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]

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

[DUR0985]

37. 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]

38. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind

[DUR1005]

39. 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]

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

[DUR1045]

41. 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]

42. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

43. 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]

44. 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]

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

[DUR1885]

- 46. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.**

[DUR2015]

- 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. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.**

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

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

[DUR2405]

- 51. 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.**

DUR2435]

- 52. 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]

53. Soils within the previous cattle dip site area shall, not be disturbed or exposed and vegetation shall not be removed or disturbed.

[DURNS01]

54. Any soils which are excavated or disturbed for the construction of the storage sheds or associated infrastructure shall be stored on site and shall not be removed outside the property boundary. This material shall not be stored less than 30m from Cudgera Creek. Adequate provision shall be made to prevent wind or water erosion of this stockpiled material.

[DURNS02]

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

[DURNS03]

56. 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 Council's adopted Development Design and Construction Specifications.

[DURNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

57. 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]

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

[POC0205]

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

[POC0475]

60. 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]

61. The storage shed compound shall be provided with perimeter security fencing to the satisfaction of the Director of Environment and Community Services, and which is effective in preventing any person from accessing the previous cattle dip site from the storage compound.

[POCNS01]

62. A separate water closet shall be provided on site for use in association with commercial activities. This toilet shall be constructed and operational prior to the use of the proposed storage facilities. The toilet and updated OSSMF and wastewater disposal field shall be inspected by Council's EHO prior to use of the storage facilities.

[POCNS02]

USE

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

[USE0125]

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

[USE0145]

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

-

- * 8.00am to 5.00pm - 7 days per week

[USE0185]

66. 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]

67. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer

[USE0245]

68. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines.

[USE0255]

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

[USE0525]

70. The premises shall be maintained in a clean and tidy manner.

[USE0965]

71. Offensive noise shall not be caused or permitted to be emitted from the premise. Noise shall not be audible within any habitable premise between 5pm and 8am (night), and shall not exceed background levels by more than 5dB(A) between 8am and 5pm (day).

[USENS01]



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

[USENS02]

73. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1979.

[USENS03]

REPORT:

Applicant: Ms K Everingham and Mr M Sauer
Owner: MC Everingham and Mr NJ Everingham
Location: Lot 2 DP 863736, No. 942 Cudgera Creek Road Cudgera Creek
Zoning: 1(a) Rural
Cost: \$205,000

BACKGROUND:

Council is in receipt of a development application to construct a self-storage facility on a parcel of land zoned 1(a) Rural. The proposed facility is to be located adjacent to an existing landscape supply business on the subject parcel.

The proposed facility involves the following works:-

- Regrading the site to facilitate stormwater drainage;
- The construction of four (4) single storey self storage buildings in two (2) stages as follows:-

Stage 1

- Building A containing 32 units and having a gross floor area (GFA) of 504m²;
- Building B which is an open 'lean to' structure having an under roof area of 400m²;

Stage 2

- Building C containing 32 units having a GFA of 504m², and
 - Building D containing 23 units having a GFA of 360m².
- The provision of a new access point from Cudgera Creek Road.

The total GFA of the proposed development is 1768m². The proposed buildings are to be constructed using colourbond external walls, roofing and roller doors. The maximum roof height of Buildings A, C and D would be 3.06m above the finished ground level with building B at 3.75m. The proposed facility is to be managed by the operators of the existing landscape supply business on the subject site.

The application was subject to extensive deliberation with respect to flooding considerations and Clause 8(2) matters. Concern regarding the flooding situation arose from conflicting accounts between the applicant and local residents as to whether the subject land was flood liable. Similarly, flood model data provided by the applicant differed from that obtained by Council. Resolving these discrepancies saw the processing time for the application increase substantially. Further discussion on these issues is provided below.

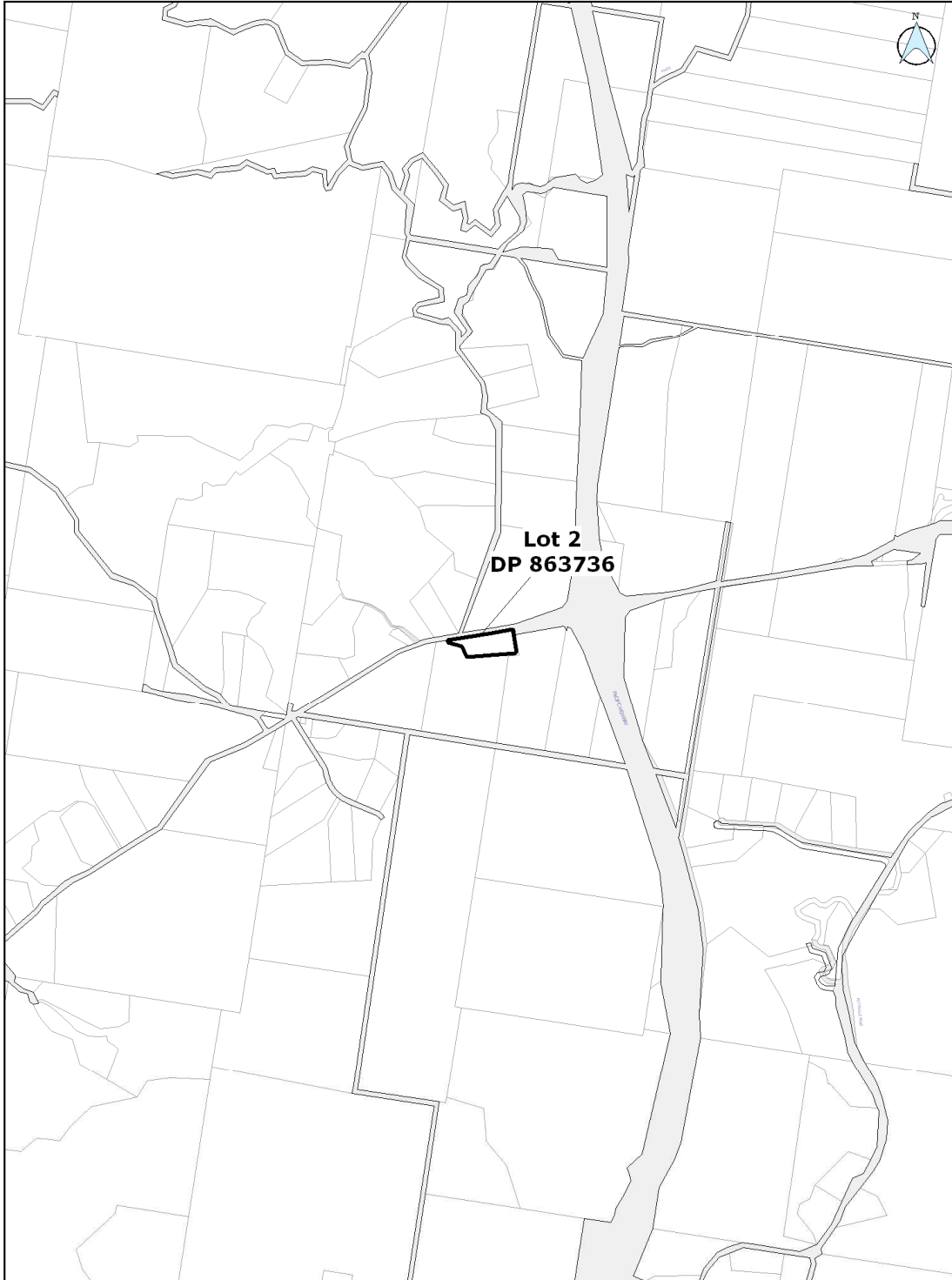



The subject site is located on the southern side of Cudgera Creek Road, opposite the Reserve Creek Road intersection, approximately 350 metres to the west of the Pacific Highway.

The eastern portion of the site contains an existing residence and landscape supply business. The remainder of the site is vacant comprising gravel and scattered grassland.

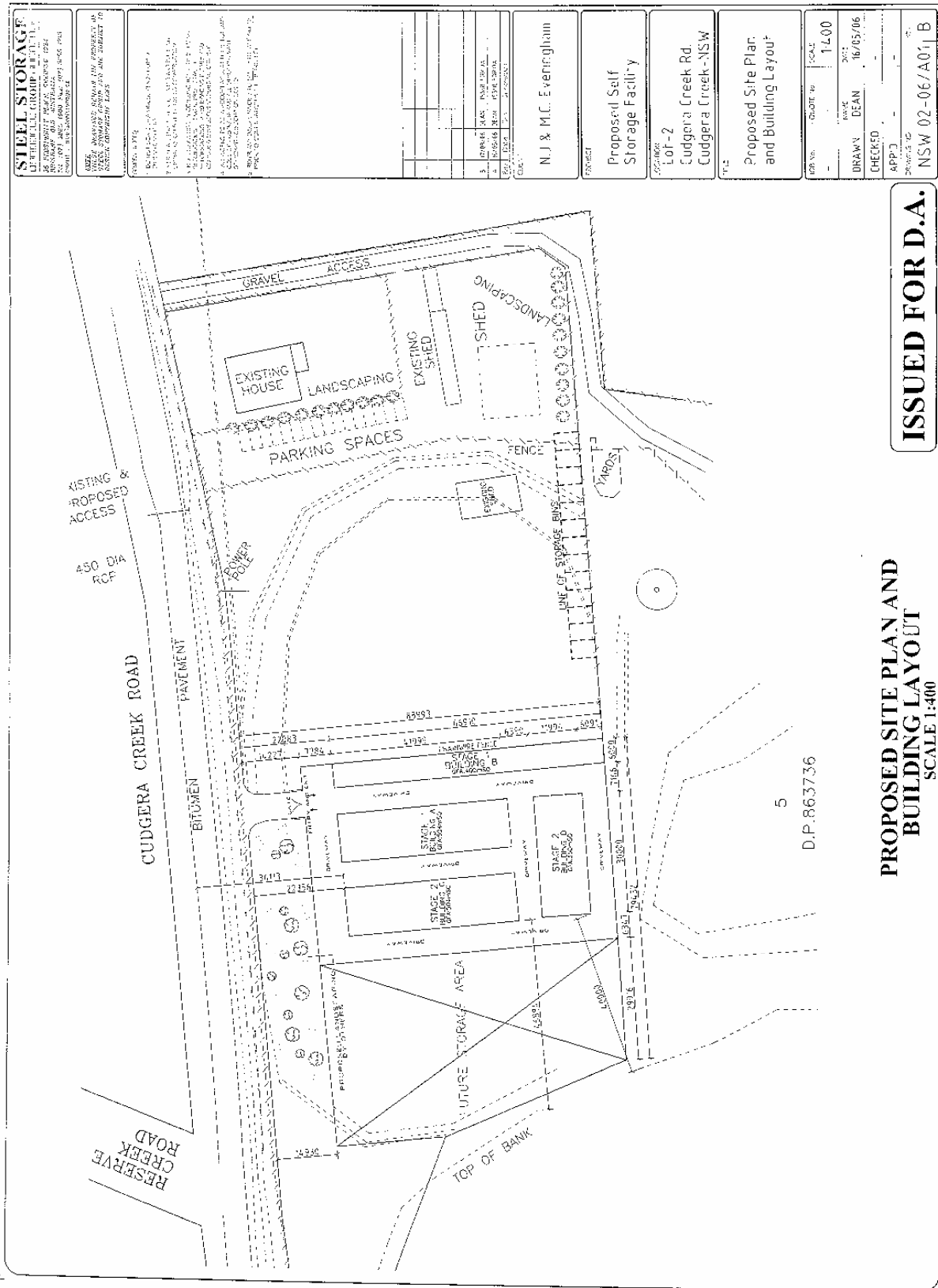
The site is within a rural location which is characterised by rural housing on various sized allotments and agricultural pursuits (primarily grazing). The land is generally flat and does not contain any significant vegetation.

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 2 DP 863736 942 Cudgera Creek Road, Cudgera Creek</p>		<p>PLANNING REFORMS UNIT Site Plan Sheet: 1 of 1</p>
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>		<p>Author: B. Ingram</p>	<p>Date: 19/Sept/2007</p>
<p>Scale: 1:20,000</p>		<p>Scale: 1:20,000</p>	

DEVELOPMENT PLANS:



STEEL STORAGE
 LUDWIG GROUP PTY LTD
 25 ANTHONY PLACE, CUDGERA NSW
 NSW 2454 (02) 6671 2008 (02) 6671 2009

DATE: 16/05/06
PROJECT: STEEL STORAGE
CLIENT: LUDWIG GROUP PTY LTD

SCALE: 1:100

DRAWN: DEAN
DATE: 16/05/06

APPD: [Signature]
DATE: 16/05/06

SCALE: 1:100

PROJECT: STEEL STORAGE
CLIENT: LUDWIG GROUP PTY LTD

SCALE: 1:100

DRAWN: DEAN
DATE: 16/05/06

APPD: [Signature]
DATE: 16/05/06

PROPOSED SELF STORAGE FACILITY

LOCATION: Lot-2 Cudgera Creek Rd Cudgera Creek-NSW

PROPOSED ELEVATIONS FOR BUILDINGS A, B, C & D

SCALE: 1:100

PROJECT: STEEL STORAGE
CLIENT: LUDWIG GROUP PTY LTD

SCALE: 1:100

DRAWN: DEAN
DATE: 16/05/06

APPD: [Signature]
DATE: 16/05/06

EAST ELEVATION BUILDING A & C
SCALE 1:100

WEST ELEVATION BUILDING A & C
SCALE 1:100

SOUTH ELEVATION BUILDING A & C
SCALE 1:100

NORTH ELEVATION BUILDING A & C
SCALE 1:100

WEST ELEVATION BUILDING D
SCALE 1:100

NORTH & SOUTH ELEVATION BUILDING D
SCALE 1:100

EAST ELEVATION BUILDING D
SCALE 1:100

WEST ELEVATION BUILDING B
SCALE 1:100

SOUTH ELEVATION BUILDING B
SCALE 1:100

NORTH ELEVATION BUILDING B
SCALE 1:100

ISSUED FOR D.A.

PROPOSED TYPICAL ELEVATIONS FOR BUILDINGS A, C & D

SCALE 1:100 @ A1
SCALE 1:200 @ A3

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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 1(a) Rural under the provisions of the Tweed LEP 2000.

The proposal is defined as a “storage unit” which is permissible with Council’s consent subject to satisfying the provisions of Clause 8(2) of the Tweed LEP 2000.

Clause 8(2) provides as follows:-

- (2) The consent authority may grant consent to development specified in Item 3 of the Table to Clause 11 only if the applicant demonstrates to the satisfaction of the consent authority that:-
 - (a) the development is necessary for any one of the following reasons:
 - (i) it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,
 - (ii) it meets an identified urgent community need,
 - (iii) it comprises a major employment generator, and
 - (b) there is no appropriate site on which the development is permitted with development consent (other than as advertised development) in reasonable proximity, and
 - (c) the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and
 - (d) the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.

A summary of the points made by the applicant addressing Clause 8(2) matters is provided below:-

- 1) The Pottsville area is expanding with the residential estates of Koala Beach, Seabreeze and Black Rocks coming on-line at a steady rate. The increase in population and changing demographics of the area create a need for a storage facility such as that proposed.

- 2) The most appropriate zones for self storage facilities are with the 4(a) Industrial or 3(c) Commerce and Trade zones. There are no Industrial or Commerce & Trade zones with Pottsville or surrounding areas. Due to the absence of any suitably zoned land, the next most logical place to provide such a facility is on a site within reasonable proximity to the township, where good access is available and where there would be minimal conflict with surrounding land uses. The subject site meets these criteria and furthermore, because a landscape supply business already exists on site, there would be minimal change to the character of the area.

The applicant contends that Points 1 and 2 above demonstrate that the proposal is satisfactory with respect to Clause 8(2)(a)(i).

- 3) As demonstrated above, there is no other appropriate site, within reasonable proximity, on which storage units are permitted with consent. The subject sites location near to several main roads in/out of Pottsville and the existing approved commercial use (landscape supplies) clearly distinguishes it from other sites in the surrounding locality.

The applicant contends that Point 3 above demonstrates that the proposal is satisfactory with respect to Clause 8(2)(b).

- 4) The proposal is consistent with the primary objectives of the 1(a) Rural zone as:-
- the proposal would result in the ecologically sustainable development of the land without affecting existing or potential agricultural uses or natural resource utilisation, and
 - the design of the development and its setting, adjacent to the landscape supply business ensures that rural character and amenity is protected.

The applicant contends that Point 4 above demonstrates that the proposal is satisfactory with respect to Clause 8(2)(d).

Given the absence of any suitably zoned land in the area and in light of the points raised by the applicant above, it is considered that the proposal is satisfactory in meeting the provisions of Clause 8(2).

The existing landscape supply business on the subject site reduces any impact that the proposed storage units may have otherwise had on the amenity of the area. The location, current land use and overall characteristics of the site are considered to support the applicants claim that the land is suitable in accommodating the proposal – despite the zoning of the land and the requirements of Clause 8(2).

Also relevant to Clause 8(2) matters are strategic considerations such as the likely timing for the provision of any proposed industrial land in the vicinity. In

this respect, the following comments have been provided by Council's Planning Reform Unit:-

"Council undertook an Industrial Land Investigation Study (2000) which identified a shortfall of industrial/commerce trade areas along the Tweed Coast between Chinderah and Pottsville. The report recommended land be identified within the Pottsville locality to address current and future demand for industrial/commerce and trade land. On 13 June 2006, Council resolved to prepare an LEP amendment over Lot 12 DP 1015369, Lot 4 DP 753328 and Lot 1 DP 1080884, Pottsville Road, Pottsville. Whilst the Department of Planning initially recommended that the draft Plan not proceed, the site has been included within the Far North Coast Strategy as a future employment node. It is proposed to reactivate the draft Plan and investigate the sites potential to accommodate future industrial uses.

The land subject to the current DA for industrial storage sheds appears to be located within relative close proximity to the proposed industrial site.

The crucial issue is that there is an identified demand to undertake industrial/commerce and trade uses in the Pottsville locality. Timing for the rezoning of the proposed industrial site, coupled with acquiring necessary DA approvals, construction of the site etc, is anticipated to be up to 5 years.

It is therefore recommended that consideration be given to temporary approval of the subject DA (5 years) or a condition be imposed to enable Council to re-assess the subject land use in light of the establishment of a future industrial estate in the vicinity. This type of recommendation may have implications for building materials utilised to construct the self storage sheds and their ability to possible be dismantled, re-located and re-erected in the future."

Based on the comments of Council's Planning Reform Unit, it is proposed impose the following condition in order to limit the use of the site for storage sheds until such time as industrial land becomes available:-

"The storage sheds are to be dismantled and removed within two (2) years of the gazettal of any industrial zoned land within a five (5) kilometre radius of the subject site."

The applicant is aware of this arrangement and has indicated that they would be agreeable to such a condition and consider relocating the business to any newly created industrial land once it has been constructed. Limiting the consent in this way will ensure that the viability of any new industrial land is maintained and reduce the likelihood of a pseudo-industrial estate being created on the surrounding rural land.

In relation to the other relevant clauses within the Tweed LEP:-

Clause 15 relates to the availability of essential services and requires that consent must not be granted for a development unless a water supply and facilities for the removal or disposal of sewage and drainage are available. Toilet facilities are already available on site for employees of the landscape supply business. The proposal would not increase the number of employees and no additional toilets are required. The proposal does not generate demand for additional water or sewage services.

Clause 22 applies to land which has a frontage to a designated road. Cudgera Creek Road is a designated road from the Pottsville Road intersection to the Reserve Creek Road intersection – i.e. the subject site is the last property to the west that has frontage to that point of Cudgera Creek Road which is designated for the purpose of this clause.

The proposed storage units are considered satisfactory with respect to the provisions of Clause 22 with matters relating to traffic safety and efficiency, traffic noise and scenic quality all considered suitably addressed by the applicant.

Clause 24 applies to land within the Rural 1(a) zone which has frontage to a designated road and prescribes a minimum setback of 30 metres for certain building including storage units.

The proposed self storage units provide a setback of 22.4 metres to Cudgera Creek Road and therefore fail to comply with the 30 metre development standard. A SEPP No.1 Objection has been lodged in this regard and is addressed later in this report.

Clause 31 applies to land that adjoins the mean high water mark (or bank) of a waterbody. The subject site is adjacent to Cudgera Creek. This clause requires consideration of the impacts of development on adjoining waterbodies, with particular emphasis on scenic quality, water quality, aquatic ecosystems, flora/fauna and public accessibility. With the implementation of proposed erosion and sediment control measures, the impacts associated with the proposal are considered to be within reasonable limits. The application is therefore considered satisfactory with respect to the Clause.

Clause 34 applies to land that is likely to be subject to flooding. The subject land is in the vicinity of Cudgera Creek and is identified as flood liable however no specific design flood levels are available. After significant consideration and debate on the required level, it was determined that the proposed development was satisfactory with respect to flooding considerations and the provisions of the Clause. Further discussion on this issue is provided in the 'Suitability of the Site' section of this report.

North Coast Regional Environmental Plan 1988

The proposed storage facility is considered consistent with the objectives of the REP, particularly pertaining to Clauses 12 and 15 pertaining to Impacts on Agricultural Activities and Wetland or Fishery Habitats respectively.

State Environmental Planning Policy No.1 – Development Standards

The applicant has lodged an objection under SEPP No.1 to Clause 24 of the Tweed LEP which requires a 30 metre setback to a designated road. The principal objective of the development standard is to ensure that a satisfactory standard of visual amenity and traffic safety is maintained along designated roads.

In the case of the proposed development, the storage sheds are located 22.3 metres from Cudgera Creek Road.

The applicant has raised the following arguments in support of the variation sought:-

- The design of the storage units is characteristic of farm sheds in rural locations. A business already exists on the site which is essentially a “non traditional” use for a rural location. The proposed development would therefore be compatible with the character of the area and be visually acceptable.
- Screen landscaping is to be provided along the frontage thereby minimising the visual impact.
- The existing dwelling on the site has a lesser setback than the proposed storage units.
- The proposal will have minimal impact on the capacity of Cudgera Creek Road and the new access point is satisfactory with respect to sight distance and safety.
- Requiring strict compliance with the 30 metre setback in this instance would not achieve any improved outcomes in terms of either visual impacts or traffic safety/convenience.

Having regard to the minor extent of the variation sought and in light of the comments raised by the applicant and outlined above, it is considered that a departure from development standard requiring a 30 metre setback is acceptable in this instance.

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

No draft EPI's applicable.

(a) (iii) Development Control Plan (DCP)**Section A2 – Site Access and Car Parking**

Under the provisions of Section A2 of Council's Consolidated DCP the proposed storage units are required to provide:-

- *0.5 spaces per staff member (with a minimum of two (2)), plus*
- *parking adjacent to each unit with aisle widths to be sufficient to accommodate parking plus through traffic.*

An existing car parking area is provided for the landscape supply business. The area is informal but has capacity to accommodate up to sixteen (16) vehicles. The applicant has indicated that the proposed storage facility is to be operated by the same staff associated with the existing landscape supply business and therefore, no additional staff parking is required.

The proposed circulation lane is of sufficient width to allow for customer parking in front of the storage units as required by the DCP. There is also adequate area for a delivery vehicle to enter the site and exit in a forward direction.

The proposal is considered satisfactory with regard to the requirements of the DCP.

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

Satisfactory.

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

The applicant has made the following submission in relation to visual amenity and the likely impacts of the proposal:-

“The subject site is relatively flat and low lying and is not visually prominent. The proposed storage units are to be constructed of colourbond material with non-reflective, earthy tone exterior colours. The type of construction is typical of sheds in rural areas. The site already contains a landscape supply business therefore there would be minimal impact on the character of the area as a result of the proposal. In addition, to screen the sheds from Cudgera Creek Road, a 14.9 metre landscape buffer would be provided.”

The presence of the existing landscape supply business is considered to substantially reduce the existing scenic/visual amenity on the subject site. The area of the site earmarked for the sheds is highly disturbed and does not

possess any significant vegetation or notable scenic qualities. Whilst the scale of the proposed sheds is considered to exceed that of a typical farm shed, a suitably designed landscaping buffer would likely assist in reducing any impact. A condition of consent is proposed requiring detail in this regard prior to the issue of any Construction Certificate.

Noise

The applicant has indicated that the proposed units would only be accessible during the business hours of the landscape supply business – i.e. generally between 8:00am and 5:00pm. The type of noise likely to be generated would be limited to the movement of vehicles, the opening/closing of roller doors, unloading of goods, etc. Noise generating activities are likely to be intermittent, limited to daylight hours and generally of a non-offensive nature. The noise impacts are therefore considered to be within reasonable limits.

(c) Suitability of the site for the development

Traffic and Access

The proposed development incorporates a new driveway from Cudgera Creek Road to provide access to the storage units. The sight distances in either direction from the proposed access driveway are in excess of 200 metres and comply with the relevant Australian Standards. The applicant has nominated that the proposed development would result in traffic generation rate of approximately eight (8) vehicles per day and would not affect the current level of service along Cudgera Creek Road. Council's Development Engineer has reviewed the proposal with respect to car parking, traffic and access and raised no objection.

Contamination

The proposed storage sheds are located within 200 metres of the decommissioned Cudgera Creek Dip. The applicant has undertaken significant investigatory work at the request of Council's Environmental Health Officer with respect to contamination issues. Based on the results of this work and the evidence of certain long term residents of the area, the proposal is considered suitable for conditional approval.

Flooding

The issue of flooding has been the subject of an extensive investigation.

As Council has no flood records for the locality, the applicant was asked to provide anecdotal evidence of historic flood levels so that an appropriate design flood level could be established.

While this information was eventually provided (indicating that the subject land did not flood), Council has received conflicting reports from adjoining

landowners that the land did in fact become inundated during periods of heavy rain.

Council then obtained results of a WBM flood model (prepared for the RTA in relation to the nearby motorway) that included the subject land within the study area. The flood model predicts inundation of the subject land and on this basis, the applicant was advised that the application may warrant refusal.

To address this, the applicant submitted a separate flooding report (prepared by SMEC Australia) demonstrating that the subject site was in fact above the ARI 100 year flood level and therefore is therefore suitable in terms of flood risk for the proposed storage unit development.

Council's Infrastructure Engineer has provided the following comments in relation to the conflicting information:-

Interpretation of Information

In my assessment, I have been unable to determine definitively which of the above information regarding the flood liability of the site is the most reliable. Submitted survey plans from the applicant are consistent with recently obtained ground contours from Council's ALS project, so are not the source of contradiction. From inspection, it is possible that concrete bins associated with the landscaping activities on the site, together with large topsoil stockpiles along the southern site boundary may have prevented flood waters from entering the property to the extent predicted by the model. An upgraded tabledrain along the site's road frontage may have also assisted in diverting flood waters around the site.

The statutory declarations provided by the applicants are legal documents and should be considered to be honest statements. Without access to the WBM modelling, such statements are generally sought in rural areas when determining the suitability of development proposals in the floodplain.

WBM Oceanics strongly support the predictions of their model, however the flood observations used to calibrate the modelling were obtained after the flood event, based on debris marks and the like, and there is no way to verify their accuracy. WBM also doubt the validity of the findings of the SMEC report, due to the lack of available historical data in accurately predicting ARI 100 year flows in Cudgera Creek, but concur that the June 2005 flood is a suitable event to use as the design flood for the development.

Recommendation

Given due consideration of the information at hand, the subject application is recommended for conditional approval, subject to the reconfiguration of the storage sheds to allow for the passage of any flood flows through the site. Modelled flood levels will still be used as the basis for minimum floor levels for the sheds, to ensure that private property stored in the sheds is adequately protected from flood damage. Any filling works to achieve these levels would

be expected to have insignificant impact based on the observations of the June 2005 flood event.

Based on the findings of Council's Infrastructure Engineer as outlined above, the subject site is considered suitable in accommodating the proposed development subject to certain conditions of consent.

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

The application was notified for two (2) weeks in accordance with Council's Notification Policy. During this period, two (2) letters of objection were received. The issues raised in the objections are discussed below:-

Issue: The proposed storage sheds does not attain compliance with the provisions of Clause 8(2) of the Tweed LEP 2000.

Comment: An assessment of the proposal against the provisions of Clause 8(2) is provided earlier in this report. The conclusion of this assessment was that the proposal manages to meet the requirements of the Clause as the proposal:-

- is considered necessary for the locality in which it is proposed to be carried out – primarily because of the absence of any suitably zoned land in the vicinity;
- is considered generally consistent with the scale and character of existing development in the immediate area – particularly given the existing landscape supply business operating from the subject site; and
- is considered consistent with the an identified objective of the Rural 1(a) zone as it would result in the ecologically sustainable development of the land without affecting existing or potential agricultural uses or natural resource utilisation;

As discussed, it is proposed to limit the timeframe of any consent so that the viability of any future industrial land isn't compromised. Approving the development on this basis is considered reasonable as it caters to the immediate needs of the local population while ensuring the integrity of Council's future industrial release area is maintained.

Issue: Contamination

Comment: Given its proximity to a decommissioned dip site, Council's Environmental Health Officer has undertaken a thorough analysis of the contamination issues affecting the subject land. Advice from Council's EHO in this regard has indicated that as the development does not involve any residential component, the risk of contaminants exceeding relevant thresholds is considered very unlikely.

Issue: Flooding

As discussed above, the issue of flooding has been the subject of extensive debate and investigation. Conflicting accounts for local residents combined with inconsistencies in flood modelling data make it difficult to draw definite conclusions. Despite this ambiguity, Council's Infrastructure Engineer has indicated that the application is suitable for conditional approval.

Issue: Non-compliance with conditions of consent relating to DA06/1035 (Landscape Supply Business).

Comment: In their submission, the objector has indicated that the existing landscape supply business is in breach of conditions imposed on the original consent relating to hours of operation, stormwater management, proximity to the decommissioned dip site and restrictions preventing the business from undertaking in any retailing direct to the public. A site inspection has confirmed that there may indeed be merit in the concerns of the objector however, these matters are to be pursued separately and are considered independent of the application before Council.

(e) Public interest

Subject to conditions of consent, the proposed storage shed development is considered to warrant approval.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed storage sheds are recommended for conditional approval. Issues relating to flooding and Clause 8(2) considerations have been addressed and found to be satisfactory subject to certain conditions of consent. Whilst it is acknowledged that approving industrial uses in rural zones is not to be encouraged, it is considered the attributes of the subject site make it acceptable in this instance. Of particular relevance in this regard is the site's proximity to the Pacific Motorway and the village of Pottsville as well as the already highly disturbed nature of the site. These characteristics ensure that



the proposal does not set any kind of precedent for similar industrial development in other rural locations.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P4 [PR-PC] Development Application DA07/0055 for Site Rehabilitation (Earthworks Which Involve Filling) at Lot 71 DP 819194, Duranbah Road, Duranbah

ORIGIN:

Development Assessment

FILE NO: DA07/0055 Pt1

SUMMARY OF REPORT:

Council has received an application for rehabilitation and filling at Lot 71 DP819194 on Duranbah Road, Duranbah. Sand extraction has previously been undertaken on the northern part of the site, resulting in two large lakes. The applicant is seeking to fill the southern portion of the site (adjacent to on-site lakes) and treat acid sulfate soil to allow for improved pastures for grazing.

In summary, it is proposed to remove the existing top-soil and fill the southern part of the site with approximately 78,000m³ of sand. On-site agricultural drains will be filled and re-installed (above a minimum of 0.5m AHD) and top-soil replaced. The process also includes treatment of soils and drainage channels with lime, to reduce existing acid soil oxidation.

The main issues associated with the application relate to the technical methods proposed to reduce the existing acid sulfate issues on-site. The applicant has submitted a *Supplementary Rehabilitation Management Plan* (SRMP) which has been reviewed and modified to satisfy Council's Environmental Health Officer in this regard.

Council received four objections during the notification period. Submissions raised concerns in relation to increased risk of flooding, haulage, air quality / dust and hours of operation.

Council Officers are satisfied that on-site lakes have sufficient flood storage capacity to accommodate the fill. The applicant has indicated that fill will be sourced from adjoining Kings Forest and haulage vehicles can use internal access routes to transport fill, without affecting public roads or shared right-of-carriageways. The submitted SRMP includes implementation strategies for managing erosion and sediment control, potential impacts from dust and revegetation (etc.). It is also considered that erosion and sediment can be adequately controlled through conditions.

Blacks Creek traverses the site. Whilst Blacks Creek is highly modified, the Department of Water and Energy (DWE) have indicated that a licence is required under both the *Water Act 1912* and the *Rivers and Foreshores Improvement Act 1948* to undertake the works. The proposal is therefore Integrated Development.



The DWE have concerns in relation to suitability of the proposal, it's economic feasibility and sustainability. The DWE have opposed the proposal and declined to issue general terms of approval.

Part 91A (4) of the *Environmental Planning and Assessment Act* (EP&A) states that the consent authority must refuse the application if the approval body (DWE) will not grant the required approval.

RECOMMENDATION:

That Development Application DA07/0055 for site rehabilitation (earthworks which involve filling) at Lot 71 DP 819194, Duranbah Road, Duranbah be refused for the following reasons: -

- 1. Council is unable to issue Consent as the Department of Water and Energy oppose the proposal and have declined to issue general terms of approval.**

REPORT:

Applicant: Project 28 Pty Ltd
Owner: South East Excavations Pty Ltd
Location: Lot 71 DP 819194 Duranbah Road, Duranbah
Zoning: 1(a) Rural
Cost: \$700,000

BACKGROUND:

Council approved a sand quarry at the subject site (D95/0176) on 28 August 1996. Since operations of the quarry commenced, various amendments to the consent were issued (reference D95/8176 approved 24 February 1999 and reference D96/9176 approved 9 July 1999).

The sand quarry operations have allowed for extraction of a maximum of 750,000m³ of sand and the hydraulic transportation of this material off-site. Operations have involved both dry excavation and dredging activities.

Quarry operations have now finalised and resulted in the formation of two on-site lakes separated by a central bund. The lakes currently collect runoff from the surrounding catchments (largely agricultural / grazing lands) via open drains. Rehabilitation works are currently being conducted within the quarry area in accordance with the rehabilitation plan detailed in the Environmental Impact Statement and conditions associated with the consent for sand extraction. Council is currently assessing compliance with remediation conditions.

The following consents have also been issued over the site:

- Application for a machinery shed (reference DA02/0959) approved 11 July 2002.
- Backflow devices (reference BFD00111) approved 13 September 2006.
- Application for a pipeline construction - hydraulics transport and placement of fill (reference DA04/0456) approved 8 October 2004.

Proposal

Council is in receipt of a development application for site rehabilitation (earthworks that involve fill) to allow for future grazing and a potential dwelling (subject to a future application).

The proposal includes importation of fill (from an approved source) to approximately 0.5 metres above the current surface level as well as construction and re-surfacing of agricultural drains to drain the fill material. The fill is proposed to be located at the southern end of the site, adjacent to the existing lakes.

Rehabilitation works include the following steps:

1. Existing drainage line to be bunded at the northern extent of the works.
2. Topsoil to be stripped and stockpiled.
3. Existing drain sides to be limed.
4. Existing drains to be filled with pine mulch and sand to a minimum level of 0.5m AHD.
5. Agricultural drainage pipes to be installed above existing drains and backfilled with pine mulch and sand.
6. Construction of new drainage channel sections (sides to be limed).
7. Rehabilitation of existing drainage channel (sides to be limed).
8. Import and place approximately 78,000m³ of fill to achieve final grade.
9. Replace topsoil.
10. Seed with pasture.

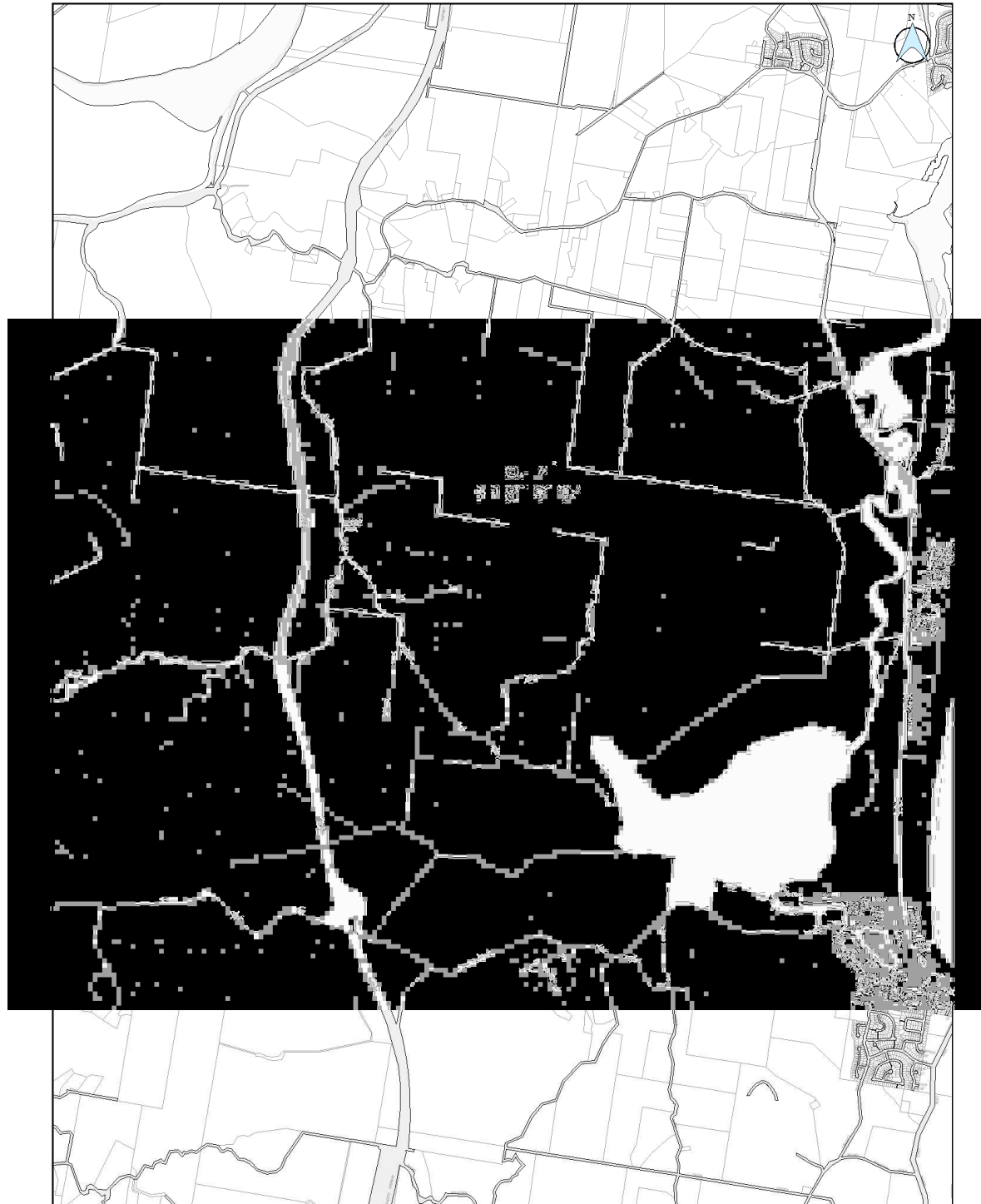
Site Details


The subject site is approximately 54.4800 ha in size and situated south of Kings Forest. Access to the site is from Duranbah Road.

Whilst the northern part of the site is characterised by lakes, the balance of the site has largely been used for cattle grazing purposes. Open pit drains have previously been constructed to direct runoff flowing from upstream dams (to allow for improved drainage for grazing purposes).

The applicant has identified that previous land uses and constructed drains have resulted in the oxidisation of acid sulfate soils, declining water quality and headward erosion.

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 71 DP 819194 Duranbah Road Duranbah</p>		<p>PLANNING REFORMS UNIT Site Plan</p>	
<p>File: N:\Munsys\A4P - SITE PLAN.Wor</p>	<p>Author: B. Ingram</p>	<p>Date: 21/Sept/2007</p>	<p>Scale: 1:40,000</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 8 – Zone Objectives

The site is located within the Rural Zone 1 (a).

The primary objective of the rural zone is to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural utilisation purposes and associated development and to protect rural character and amenity.

The applicant has indicated that proposed earthworks and rehabilitation will improve the current drainage pattern across the site and assist in treating existing acid sulfate soils to allow for improved pasture. This will allow for greater opportunity for grazing and future use of the site as intended by the zone. The proposed rehabilitation and filling is not contrary to the zone objectives.

Clause 15 – Essential Services

Services are not required for the proposed earthworks. Any future dwellings proposed on the subject allotment will be required to demonstrate adequate connection to services as part of a future application.

Clause 16 – Height of Buildings

Buildings are not proposed as part of this application and assessment against this clause is not required.

Clause 17 – Social Impact Assessment

Given the scale and nature of the works, it is not considered there is a requirement for the preparation of a Social Impact Assessment. The proposed rehabilitation works are unlikely to create any social or economic impacts.

Clause 35 – Acid Sulfate Soils

The subject site is identified on Councils 'Acid Sulfate Soil Planning Maps' as having potential for acid sulfate soil (class 2 and class 3). The applicant has indicated that the proposed rehabilitation will seek to reduce the potential for further oxidation of acid sulphate soils, neutralise acidic discharges and improve environmental integrity.

Management of acid sulfate soils is addressed in detail below.

Clause 31 – Development Adjoining Waterbodies

The purpose of this clause is to ensure that scenic quality, water quality and aquatic ecosystems of adjoining waterways are protected. Objectives also seek to ensure that adequate public access is provided to waterways.

The clause is applicable given the on-site lakes and Blacks Creek.

As identified above, the site is significantly degraded and currently experiencing acid sulfate soil issues. Ongoing oxidation of acid sulphate soils on the southern portion of the site is resulting in the discharge of acidic waters into the lake system. The applicant has submitted that works will allow for improved habitat values and hydraulic systems as works will assist to reduce oxidisation of acid sulfate soils which currently reduce surrounding water quality.

With regards to public foreshores, the site is not located within any public foreshore area and access is not limited by this proposal.

Scenic quality of the area will be maintained given re-vegetation of working areas is proposed within the SRMP.

The proposal is consistent with the intent of clause 31.

Clause 38 – Remediation of Contaminated Land

This clause provides that the consent authority considers whether the land is contaminated, based on a preliminary investigation of the land.

This clause is not considered relevant at this stage, given no change of use is proposed.

Clause 39A – Bushfire Protection

The site is identified as being partly bushfire prone.

Given that subdivision or special fire protection purposes are not proposed it is not integrated and referral to the Rural Fire Service is not required.

Notwithstanding, Clause 39A requires that the Consent Authority take into account a variety of issues. In considering these matters, the proposal is not considered to increase risk of bushfire as on-site access and on-site water supply are not limited. Further, the proposal does not impose any additional demand on fire services as it does not introduce any new population to the site.

The proposal satisfies clause 39A and complies with *Planning for Bushfire 2006*.

Clause 54 – Tree Preservation Order

A small portion of the site is covered by a Tree Protection Order 2004. Filling works is not proposed in this area.

Flora and fauna issues are discussed in greater detail below.

North Coast Regional Environmental Plan 1988

Clause 12 – Impact on Agricultural Activities

The intent of this Clause is to ensure that development does not result in the loss of prime crop or pasture land. Whilst the site is not considered to be a significant farmland site, the applicant has indicated that filling is proposed to allow for establishment of pasture for grazing.

The proposal does not include any building works or subdivision resulting in loss of agriculture activities in accordance with the clause.

Clause 15 – Wetland or Fishery Habitats

This clause applies to development within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat.

This clause is applicable due to Blacks Creek.

The above clause requires that Council considers various matters in assessment, including the need to maintain or improve the quality or quantity of water flows to the waterbody, loss of habitat, access to public foreshore, pollution resulting from the development, proximity of the development on fisheries reserves, conservation of native vegetation surrounding the wetland.

As identified above, the submitted SRMP includes implementation strategies to manage potential impacts on flora and fauna and water quality management. The SRMP incorporates a water quality monitoring program and erosion and sediment control strategies.

It is considered these strategies comply with the intent of Clause 15.

State Environmental Planning Policies

SEPP No. 55 – Remediation of Land

As identified above, land contamination matters are not relevant at this stage as no new land use is proposed.

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

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

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

Section A 2 – Site Access and Parking Code

This DCP is particularly concerned with the provision of access and vehicle parking.

There is sufficient area on-site for car parking of employees while works are being undertaken. The use does not generate the requirement for additional car parking in the long-term as no new uses are proposed at this stage.

With regard to access, the applicant has indicated that fill will be sourced from the adjoining Kings Forest and haulage of fill material can occur over private land not impacting upon public roads.

The proposal is consistent with the intent of Section A2 of the DCP.

DCP No. 51 – Tweed Coast Strategy

The subject site is located within the area of the Tweed Coast Strategy, however it is not nominated within any precinct in the DCP Structure Plan map.

There are no provisions relevant to the subject site.

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

The proposal is consistent with the Coastal Policy as outlined above.

Buildings or demolition of buildings are not proposed as part of the application. Fire safety considerations and requirements for upgrading of buildings are not applicable.

(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

Context and Setting

The proposal does not result in any built form or structures and will not impose on the rural character of the area.

Access and Traffic

As indicated above, the applicant proposes to source the proposed fill from adjoining Kings Forest via internal access roads. The traffic generated by the proposal will not have an adverse impact on the surrounding public road system given truck movements will be confined to private lands with the same ownership.

Water Quality

The SRMP includes satisfactory strategies for implementing water quality monitoring, erosion control strategies, acid treatment and re-vegetation.

Flora and Fauna

The Flora and Fauna Assessment Report submitted with the application (prepared by Peter Parker, dated December 2006) identified four vegetation communities on-site including: woodland, shrubland, sedgeland and grassland. No threatened plant species were recorded on-site and the proposal will not result in the removal or modification of threatened species habitat or any Endangered Ecological Community.

A review of threatened vertebrate species known from the vicinity was included in the report. The likelihood of threatened species occurring at the site was assessed together with an assessment against section 5A and 5C of the EP&A Act.

The Flora and Fauna Assessment concluded that there would be no significant effect on threatened species, populations, ecological communities or their habitats due to the degraded nature of existing habitats and the proposed preservation of habitats with conservation significance. Further, proposed rehabilitation of the site is intended to improve the on-site habitat and remove environmental weeds.

The Flora and Fauna Assessment report includes recommendations to use native sedges, rushes and grasses in the upper drainage channels as planting stock.

Soils

As identified above, the subject site is identified as having a high acid sulfate potential. The applicant has argued that proposed filling, relocation of drains to within the fill and treatment with lime, will remove the exposure of existing potential and actual acid soil to oxygen.

Council's Environmental Health Officer has assessed the proposal and is satisfied that the existing situation will not be worsened, nor will it impede rehabilitation works associated with the adjoining sand extraction area.

Council's Environmental Health Officer recommended conditions for approval as follows:

- Rehabilitation should be in accordance with the Supplementary Rehabilitation Management Plan (SRMP) and associated modifications prepared by Gilbert and Sutherland;
- All actual or potential acid sulfate soil shall be appropriately identified prior to disturbance. Appropriate identification shall include all soil analyses required to adequately neutralise subject soils immediately on disturbance / excavation.
- Agriculture drain pipes are not permitted to be placed within any acid sulfate soil profile and shall be constructed to drain the imported fill material only.

Flooding and Drainage

Council's Engineer has assessed the proposal and is satisfied that the on-site lakes have a surface area of approximately 15.8ha. It is noted that perimeter bunds provide approximately 1m of freeboard above the normal standing water level and as such, the lakes provide approximately 158,000m³ of additional flood storage. As the development proposal is to import approximately 78,000m³, there is still a net gain in flood storage for the locality.

Survey plans of the lake perimeter show that flood flows are able to enter the lake system in the south-eastern corner to utilise this storage. As such, the proposed filling will not have an adverse impact on flooding in the locality.

The main drainage channel through the site has been designed to cater for the ARI 10 year storm, which is satisfactory for the rural / agricultural site. Larger events will sheet flow over the filled site in much the same manner as currently occurs. Council's Engineer has concluded that the proposed filling does not appear to obstruct or prevent flows from adjoining properties from discharging to the main drain.

Council's Engineer recommended the following conditions of approval:

- An easement benefiting adjoining land holders is recommended over the trunk drainage channel and its connections, to ensure discharge rights are preserved.
- All fill shall be graded to an approved permanent drainage system. Filling activities must not obstruct or prevent overland stormwater flows from adjoining land from discharging to the main drainage channel through the site. Filling activities must not result in ponding on adjoining land.

- An easement benefiting adjoining upstream landholders shall be registered over the main drainage channel and its connecting drains, to preserve the discharge rights for those landholders.

(c) Suitability of the site for the development

Given the existing degraded nature of the site, the proposed fill and rehabilitation is considered an improvement to the current situation. Filling will enable improved pastures for grazing in accordance with the zone objectives.

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

Council received a total of 4 objections during the public notification period. The matters raised by submitters are summarised below, followed the Council Officer's comments.

Flood level

There is concern that surrounding properties may be impacted from flooding given the amount fill proposed.

Comment

As identified above, the applicant has provided modelling and ground level details to demonstrate that the lakes have sufficient flood storage capacity. Council's engineer is satisfied the filling will not result in flood impacts to adjoining properties.

Traffic and Haulage

There is concern that truck volumes required for haulage of fill will impact on use and safety of roads and shared right-of-carriageways.

Comment

The applicant has indicated that fill will be sourced via private access tracks from adjoining Kings Forest. Dust abatement measures will be undertaken as outlined in the SRMP.

Hours of Operation

It is considered that the proposal should only operate between the hours of Monday to Friday 7.30 to 5pm.

Comment:

Councils standard conditions allow for works to occur between the hours of 7am to 7pm Monday to Saturday. For consistency, these hours are considered acceptable in this instance.

Dust and Air Quality

There is concern that the proposal will result in reduced air quality which will impact on the drinking water.

Comment:

The SRMP has identified various implementation strategies for air quality and dust management. These include staging of works, erosion and sediment control measures, re-vegetation of bunds, minimal stockpiling, damp ground surfaces, ceasing activities where wind speed exceeds 10m/sec and minimising the use of traffic on disturbed areas.

Corrective actions are also proposed where complaints are received.

Water Supply

Adjoining Lots 7 and 11 currently have legal easement to pump water from the on-site water body marked 'swamp'. There is concern that the proposal will impact upon this existing arrangement.

Comment:

The filling does not extend as far south as the abovementioned waterbody and works will not impact on this arrangement.

Public Authority Submissions

Department of Water and Energy

The proposal was forwarded to the Department of Water and Energy (DWE - formally the Department of Natural Resources) for confirmation as to whether the application would trigger Integrated Development (correspondence forwarded 7 February 2007).

Responses were received from the DWE (received 28 May 2007 and 20 July 2007) indicating that approval was required under the *Water Act 1912* to alter the course of Blacks Creek and fill the site. A Part 3A (section 22B) is also required under the *Rivers and Foreshores Improvement Act 1948* to undertake erosion control work within Blacks Creek.

DWE met with the applicant on-site (27 July 2007) and subsequently requested further information to enable a more detailed assessment of the proposal.

Correspondence was subsequently received from the DWE (received 18 September 2007) advising Council that the DWE remained opposed to the development proposal and declined to issue general terms of approval (refer letter attached).

(e) Public interest

The proposal is compliant with the intent of the zone and the relevant regional and local policy documents.

The proposal is not considered to be contrary to any public, government or community interests.

OPTIONS:

1. Refuse the matter in accordance with section 91A of the Act, given the approval body (DWE) has informed Council that it will not grant an approval.

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:

Council has received an application for rehabilitation and filling at Lot 71 DP 819194, Duranbah Road Duranbah.

Council Officers have assessed the relevant issues associated with the application, including management of acid sulfate soils, flooding, internal haulage routes and is satisfied that potential impacts from works can be adequately managed. The SRMP submitted by the applicant includes management implementation strategies for a range of issues including water quality, revegetation, acid treatment, erosion and sediment control and air quality.

Council received four submissions in relation to the proposal and it is considered that the matters raised are adequately addressed given the flood storage capacity of the on-site lakes and proposal source of fill.

Notwithstanding Council Officer's assessment, the DWE have declined to issue General Terms of Approval required for licences under the Water Act and Rivers and Foreshore Act. Council is therefore required to refuse consent to the application.

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. Letter from Department of Water and Energy dated 18 September 2007 (DW 1668462).
 2. Development Plan (DW 1657462)
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P5 [PR-PC] Development Application DA07/0297 for 2 x 2 Storey Residential Dwelling Buildings Consisting of 4 Units Each for Seniors & Disabled Living - Total Eight Residential Dwellings at Lots 10, 11 DP 532065, No. 20 & 22 Water Street, Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: DA07/0297 Pt1

SUMMARY OF REPORT:

This application from the NSW Land & Housing Corporation seeks Council's consent for the development of aged accommodation in accordance with the provisions of State Environmental Planning Policy (Seniors Living) 2004.

The site is legally described as Lots 10 and 11, in Deposited Plan No.532065 and more commonly referred to as No.20-22 Water Street, Tweed Heads South.

The proposed development incorporates the construction of two separate buildings containing four dwelling each. The buildings will be in a two storey configuration. The development also seeks approval for the demolition of the two existing dwellings.

Aged housing of this nature would meet an identified need within the Tweed Local Government Area due to our aging population.

The key issues for consideration include (but are not limited to):

- The impact on surrounding residences;
- The suitability of the site for the development; and
- The general public interest.

Having considered all of these issues in addition to the statutory assessment the proposed development is recommended for conditional approval.

RECOMMENDATION:

That subject to the NSW Land & Housing Corporation agreeing to the proposed conditions, the Development Application DA07/0297 for a 2 x two storey residential dwelling buildings consisting of 4 units each for seniors & disabled living - total eight (8) residential dwellings at Lot 10, 11 DP 532065, No. 20 Water Street Tweed Heads South No. 22 Water 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 1-8 prepared by Resitech and dated December 2006, Landscape Plan No, LA 01, prepared by Resitech, dated 4/12/06 except where varied by the conditions of this consent.
[GEN0005]
2. Advertising structures/signs to be the subject of a separate development application (where statutorily required).
[GEN0065]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
4. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.
[GEN0265]
6. That a 1.8 metre high privacy screen shall be installed along the southern edge of the balcony off Unit 4.
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. The developer shall provide a minimum of 5 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code and the provisions of SEPP Senior Living 2004.
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. 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.

The certificate of compliance is to be obtained prior to construction work commencing.

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

Water DSP4: 2.2 ET @ \$9997 \$21,993

Sewer Banora: 3.25 ET @ \$4804 \$15,613

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

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

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

[PCC0275]

10. 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]

11. All imported fill material shall be from an approved source. Prior to works commencing details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council' General Manager or delegate for approval.

[PCC0465]

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

[PCC0865]

14. Council will allow this development to be constructed over Council's sewer main, provided all footings are designed and constructed to ensure that the structural integrity of Council's sewer main is not impacted upon.

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

Footings shall be constructed in accordance with Council's *Sewers – Work in Proximity Policy*.

[PCC0935]

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. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for any works pursuant to this consent located within the road reserve. Engineering details provided with the application shall include (but not be limited to) the following works: -

- (a) Removal of existing laybacks and the construction of a new driveway access in accordance with Council's "Driveway Access To Property – Part 1 – Design Specification".
- (b) Construction of vertical face kerb and gutter (with associated sub-surface) along the full frontage of the site to Water Street, on an approved alignment to Tweed Shire Council specifications. Associated road widening to the approved alignment shall be constructed in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.
- (c) A longsection of the proposed kerb and gutter along Water Street, extending a minimum of 20m either side of the subject site.

(d) Construction of a 1.2m wide concrete ribbon footpath along the full frontage of the site to Water Street in accordance with Councils Development Design and Construction Specifications.

(e) Provision for services.

The Applicant may make application to Council to make payment in the form of a contribution towards the road and footpath works in lieu of undertaking the works at the time of development. The applicant shall provide Council with detailed drawings and supporting costings with any such application.

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

[PCCNS01]

17. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act prior to the issue of a Construction Certificate for building works for any water, sewerage or drainage works, including (but not limited to);

- the connection of a private stormwater
- drain to a public stormwater drain,
- the installation of stormwater quality control devices,
- erosion and sediment control works,
- sewerage works, including;
 - (a) the construction of a new sewer manhole over the existing old clay sewer pipe at the upstream end of the reach within the subject site.
 - (b) removal of the remaining old clay sewer pipe within the subject site and replacement with uPVC Class SN8 (not concrete encased) in accordance with Council's Design and Construction Specifications,
 - (c) construction of a new sewer manhole at the downstream end of the reach within the subject site.

[PCCNS02]

18. Council will allow this development to be constructed over Council's sewer main, provided all footings are designed and constructed to ensure that the structural integrity of Council's sewer main is not

impacted upon. All structures shall be designed such that all structure loads will be transferred to the foundation material outside of the zone of influence of any public infrastructure.

Footings shall be constructed in accordance with Council's *Sewers – Work in Proximity Policy*.

[PCCNS02]

19. The legal point of discharge for piped stormwater from the site is via direct connection into the "to be constructed" kerb and gutter along the sites frontage to Water Street. If the Applicant negotiates with Council to make payment to Council in the form of a contribution towards the road and footpath works in lieu of undertaking the required works at the time of the development, then pipe connection shall be made to the existing grass swale within Water Street. Surcharge pits, grading all overland flow to the street drainage in Water Street shall be installed as required.

Full engineering details of this connection shall be submitted with the Section 68 Stormwater Application.

[PCCSN02]

20. The Construction Certificate Application shall include a detailed Stormwater Management Plan (SWMP) prepared in accordance with Councils *Development Design Specification D7 - Stormwater Quality*.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

21. Sewer main within the site is to be accurately located prior to start of any building works.

[PCW0965]

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

[PCW0005]

23. 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]

24. 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 relevant department officer 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]

25. Prior to start of building works provide a certificate of adequacy of design, signed by a practising Structural Engineer on the proposed retaining wall. 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]

26. 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.

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]

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

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

30. All 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]
31. 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]
32. 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]
33. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR0445]
34. 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]
35. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
- [DUR0795]
36. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
- [DUR0815]
37. 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]

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

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

[DUR1005]

39. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

40. The habitable floor area of the building is to be at a level not less than RL 3.1m AHD.

[DUR1435]

41. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

42. 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]

43. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to occupation of the buildings.

[DUR1875]

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

[DUR1885]

45. 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 from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate.

[DUR1955]

46. 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]

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

[DUR2195]

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. A screened, graded and drained garbage storage area shall be provided within the boundary.

[DUR2205]

49. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

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

[DUR2405]

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

[DUR2425]

52. 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]

53. 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]
54. 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]
55. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]
56. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
57. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
- [DUR2555]
58. 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]
59. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.
- [DUR2625]
60. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Building Contractor that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

61. Any retaining walls or similar structures to be constructed over or within the zone of influence of Council's sewer main shall be designed by a practising structural engineer so that footing loads are transferred below the zone of influence of the sewer main.

[DUR2705]

PRIOR TO OCCUPATION

62. 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]

63. Prior to the issue of an Occupation Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act (minimum \$1,000.00) which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

64. 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]

65. Prior to the occupation or use of the buildings a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

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

[POC1055]

67. All constructed retaining structures in excess of 1.2m in height are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted to the Principle Certifying Authority and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

[POCNS01]

68. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of a minimum 3m wide easement for drainage of sewer, centrally located over all reticulated sewer within the subject property. The easement shall be created in favour of Council.

[POCSN01]

69. Prior to the issue of an Occupation Certificate and also prior to the end of defects liability period, a CCTV inspection of the constructed sewer infrastructure intended to be dedicated to Council will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

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

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

[POCSN01]

USE

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

[USE0125]

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

[USE0175]

72. 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]

73. 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 offensive, or intrusive noise to any occupant of neighbouring or adjacent premises.

[USE0235]

74. 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 100B OF THE RURAL FIRES ACT 1997

1. At the commencement of building works and in perpetuity, the Asset Protection Zones as depicted in Appendix 5 - Asset Protection Zones prepared by Bushfire safe Ref:5052 and dated Oct 2005, shall be maintained as an 'Inner Protection Area' (IPA), as outlined within

- Planning for Bush Fire Protection and the Service's document 'Standards for asset protection zones'.
2. Construction shall comply with Australian Standard AS3959-1999, Construction of buildings in Bush Fire Prone Areas, Level 1.
 3. Roofing shall be gutter less or have leafless guttering and valley are to be screened to prevent the building up of flammable material. Any materials used shall have a flammability index of less than or equal to 5.
 4. A Bush Fire Evacuation Plan is to be submitted to the District RFS office of the NSW Rural Fire Service for approval. The evacuation plan is to detail the following:
 - (a) under what circumstances will the complex be evacuated
 - (b) where will all person be evacuated to.
 - (c) roles and responsibilities of persons co-ordinating the evacuation.
 - (d) roles and responsibilities of persons remaining with the complex after evacuation.
 - (e) a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

REPORT:

Applicant: Resitech
Owner: NSW Land & Housing Corporation
Location: Lots 10, 11 DP 532065, No. 20 & 22 Water Street, Tweed Heads South
Zoning: 2(a) Low Density Residential
Cost: \$1,520,000.00

BACKGROUND:The Subject Site

The subject site is legally described as Lots 10 and 11 Section 1 in DP 532065, known as No. 20 and 22 Water Street, Tweed Heads South.

The subject site possesses an area of 1505.45m² and has a standard rectangular configuration. In this regard, the site possesses frontage to Water Street of 49.23m and a depth of 30.58. The site is orientated on an east west axis, and contains two existing dwelling houses. The site is generally level with an RL varying from 1.5 m to 1.8 m AHD, across the site. The site is within a bushfire prone area, yet contains little in the way of vegetation other than garden vegetation. Council's sewer main exists along the rear of the property. Council's GIS indicates that an easement does not exist over this main.

The site is adjoined to the south, east and west by existing single dwelling houses. The property overlooks a channel of the Tweed River and Ukerebagh Island to the north. Surrounding development in the wider locality includes the Tweed Heads South Bowls Club and Tweed City Shopping Centre

The site is located within a reasonable distance to a range of commercial, retail and recreational services which are found in Tweed Heads South and Tweed Heads. Two bus stops in Dry Dock Road are within close proximity to the site.

Proposal

The proposed development incorporates the construction of two separate buildings containing four dwelling each. The buildings will be in a two storey configuration and comprise the following types of units:

Block 1 – 2 x 1 Bedroom Unit and 2 x 2 Bedroom Units; and
Block 2 – 3 x 2 Bedroom Units and 1x1 Bedroom Unit.

The proposal has been designed to provide suitable accommodation for Seniors or people with a disability, and in accordance with SEPP (Seniors Living) 2004.

A total of five car parking spaces are proposed within a centralised parking area, two which will be covered in a car port and three uncovered. Access is proposed from Water Street.



The development also seeks approval for the demolition of the two existing dwellings.

The proposed development incorporates a standard design that is functional to its purpose. Notwithstanding, the proposal incorporates traditional lines and roof pitches that will ensure that the proposal will remain a pleasant addition to the locality in the long term. Materials utilised include brick veneer cladding, colour bond roofing, and aluminium windows.

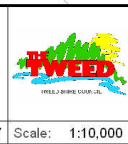
SITE DIAGRAM:



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 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.
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 P.O. Box 816 Tel: (02) 6670 2409
 Murwillumban, NSW, 2484 Fax: (02) 6670 2469

Tweed Shire Council
Lots 10 and 11 DP 532065
20 & 22 Water Street, Tweed Heads South

File: N:\Munsys\A4P - SITE PLAN.Wor Author: B. Ingram Date: 21/Sept/2007 Scale: 1:10,000 Sheet: 1 of 1



PLANNING REFORMS UNIT
Site Plan

DEVELOPMENT PLANS:

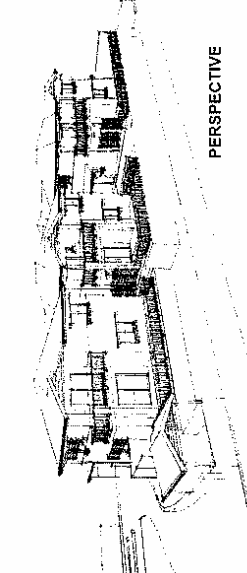
DEVELOPMENT APPLICATION

20-22 WATER STREET, TWEED HEADS

SENIORS LIVING

DEVELOPMENT DATA:

NO.	DESCRIPTION	PROPOSED	EXISTING
1	LAND AREA	1073.17	1073.17
2	COVERED AREA	1073.17	1073.17
3	PERMITS	1073.17	1073.17
4	PERMITS	1073.17	1073.17
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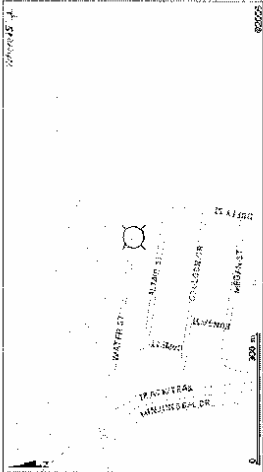


PERSPECTIVE

DRAWING SCHEDULE:

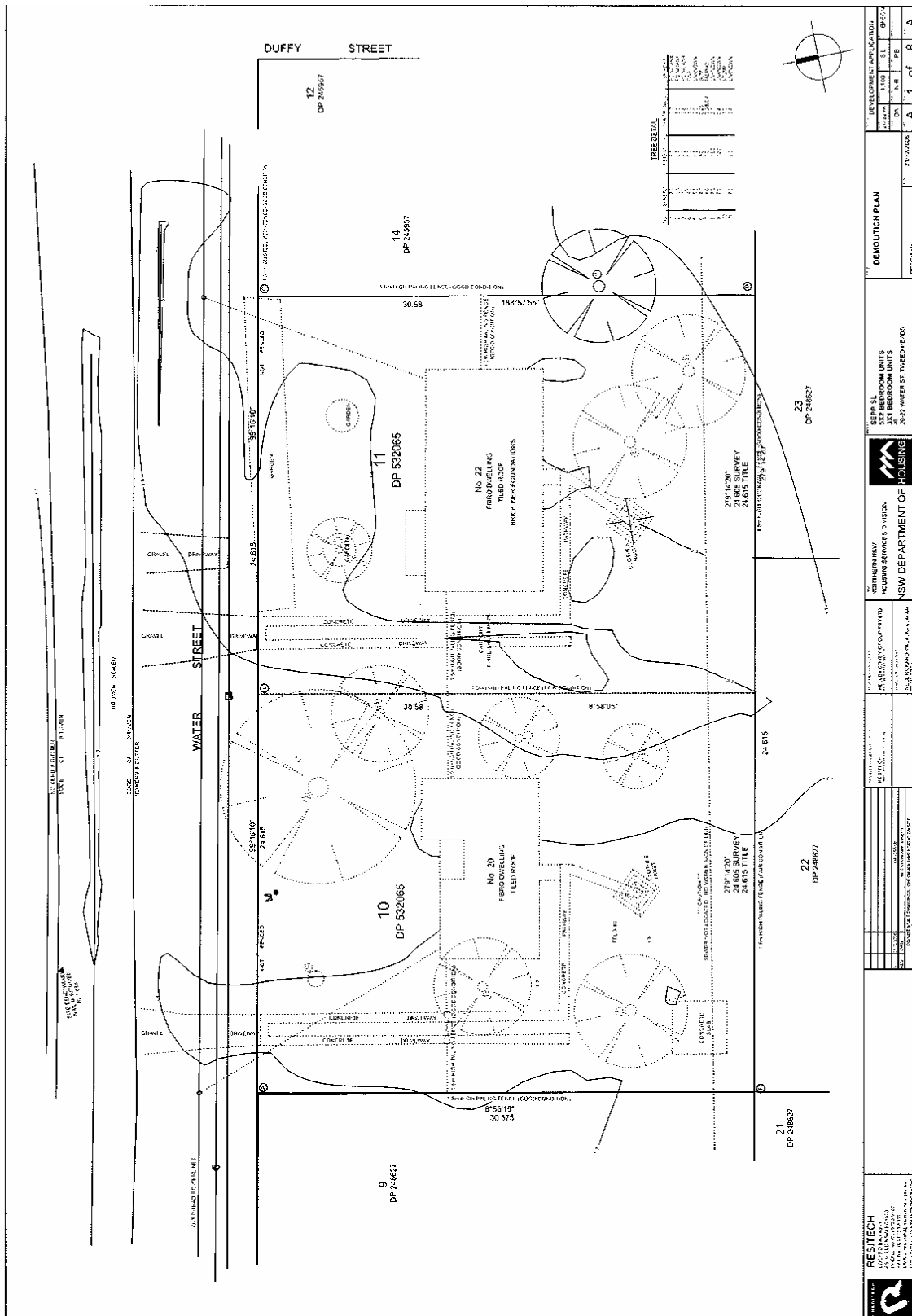
- ARCHITECTURAL
 - DEMOLITION PLAN _____ SHT 01 OF 8
 - SITE PLAN _____ SHT 02 OF 8
 - GROUND FLOOR PLAN _____ SHT 03 OF 8
 - FIRST FLOOR PLAN _____ SHT 04 OF 8
 - ROOF PLAN _____ SHT 05 OF 8
 - ELEVATIONS _____ SHT 06 OF 8
 - ELEVATIONS / SECTIONS _____ SHT 07 OF 8
 - SHADOW DIAGRAMS _____ SHT 08 OF 8
- LANDSCAPE
 - LANDSCAPE PLAN LA01
- HYDRAULIC
 - DRAINAGE PLAN TO BE ADVISED
- SURVEY
 - SURVEY PLAN TW060093-SV1A

LOCATION PLAN:

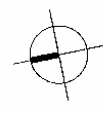
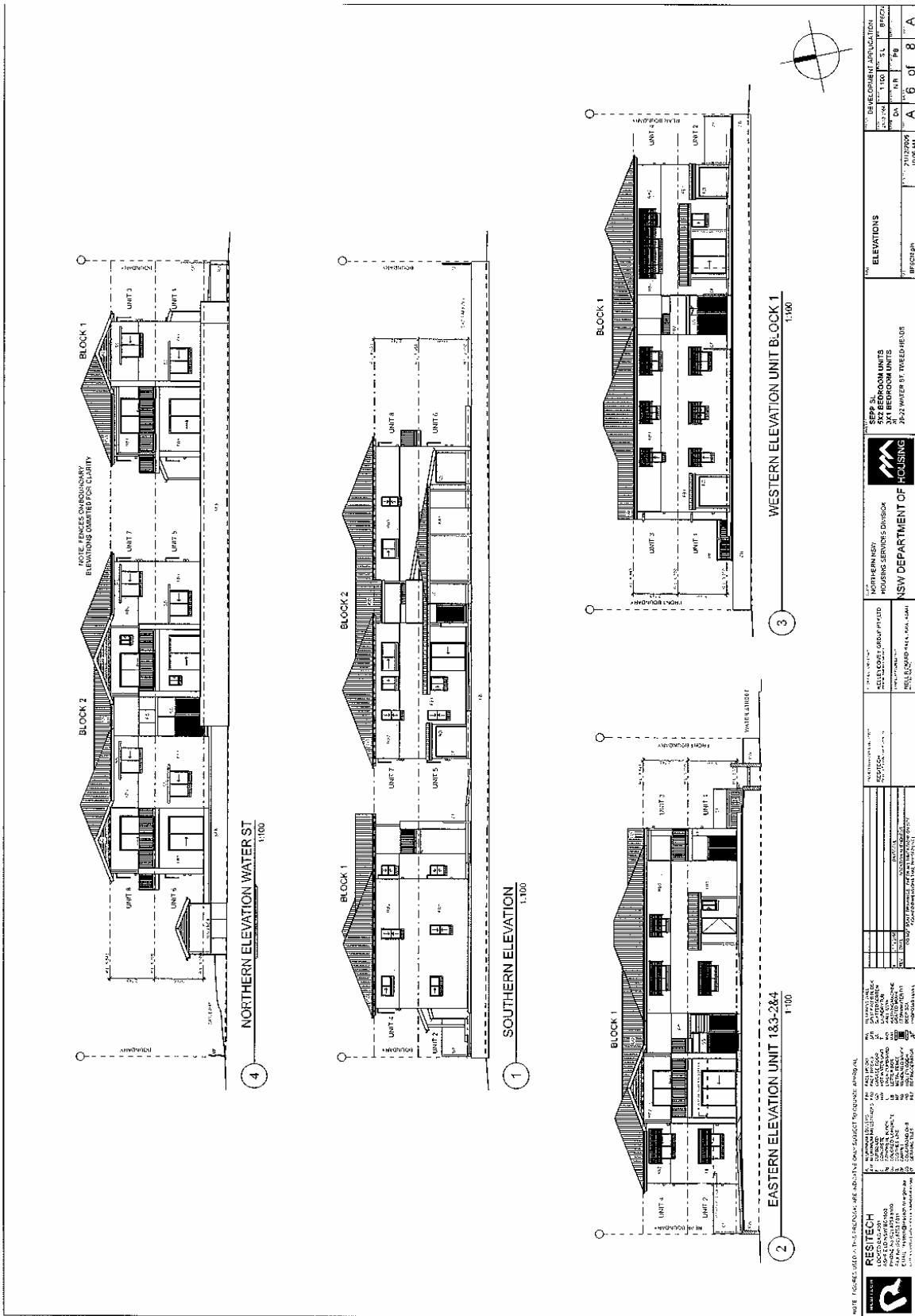


NOTE : FIGURES USED IN THIS PROPOSAL ARE INDICATIVE ONLY SUBJECT TO COUNCIL APPROVAL

<p>CLIENT NAME NORTHERN NSW HOUSING SERVICES DIVISION NSW DEPARTMENT OF HOUSING</p>		<p>PROJECT MANAGER & ARCHITECT RESITECH PH: 07 5533 8011 FAX: 07 5533 8011 RESITECH@NSW.DHS.GOV.AU</p>		<p>LOCKED BAG 4000 TWEED HEADS PHONE NO: 07 5533 8010 FAX NO: 07 5533 8011 RESITECH@NSW.DHS.GOV.AU BFGCN</p>	<p>DATE DECEMBER 2009</p>
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PESTECH 10/24 BROADWAY MURUMBidgee NSW 2486 PH: 08 9372 2222 FAX: 08 9372 2223 WWW.PESTECH.COM.AU	NORTH RIVER HOUSING SERVICES DIVISION NSW DEPARTMENT OF HOUSING		SEPP 51 24 BEDROOM UNITS 24 BEDROOM UNITS 20-27 WATER ST. TWEED HEADS	DEMOLITION PLAN		DEVELOPMENT PARTICIPATED BY	
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PESTECH ARCHITECTURE 1/100 RIVERVIEW DRIVE TWEED HEADS NSW 2486 PH: 07 5532 1111 FAX: 07 5532 1112 WWW.PESTECH.COM.AU		WHITE HOUSE DESIGN - THE ARCHITECTS WE ADVISE AND SUPPORT TO DESIGN AND BUILD 1/100 RIVERVIEW DRIVE TWEED HEADS NSW 2486 PH: 07 5532 1111 FAX: 07 5532 1112 WWW.WHITEDESIGN.COM.AU		NSW DEPARTMENT OF HOUSING HOUSING SERVICES DIVISION 2/100 RIVERVIEW DRIVE TWEED HEADS NSW 2486 PH: 07 5532 1111 FAX: 07 5532 1112 WWW.HOUSING.NSW.GOV.AU		NSW DEPARTMENT OF HOUSING 5/2 BEDROOM UNITS 3/4 BEDROOM UNITS 20-22 WATER ST TWEED HEADS		ELEVATIONS DRAWN BY: B. WILSON CHECKED BY: J. WILSON DATE: 10/10/07 DRAWING NO: A 6 of 8 A	
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1 EASTERN ELEVATION UNIT BLOCK 2
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2 WESTERN ELEVATION UNIT BLOCK 2
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3 SECTION STAIRWELL BLOCK 1
1:100

NOTE: ALL ELEVATIONS AND SECTIONS ARE ASSUMED TO BE SET TO GROUND LEVEL UNLESS OTHERWISE NOTED.

RESITECH
CORPORATION
PROJECT MANAGERS
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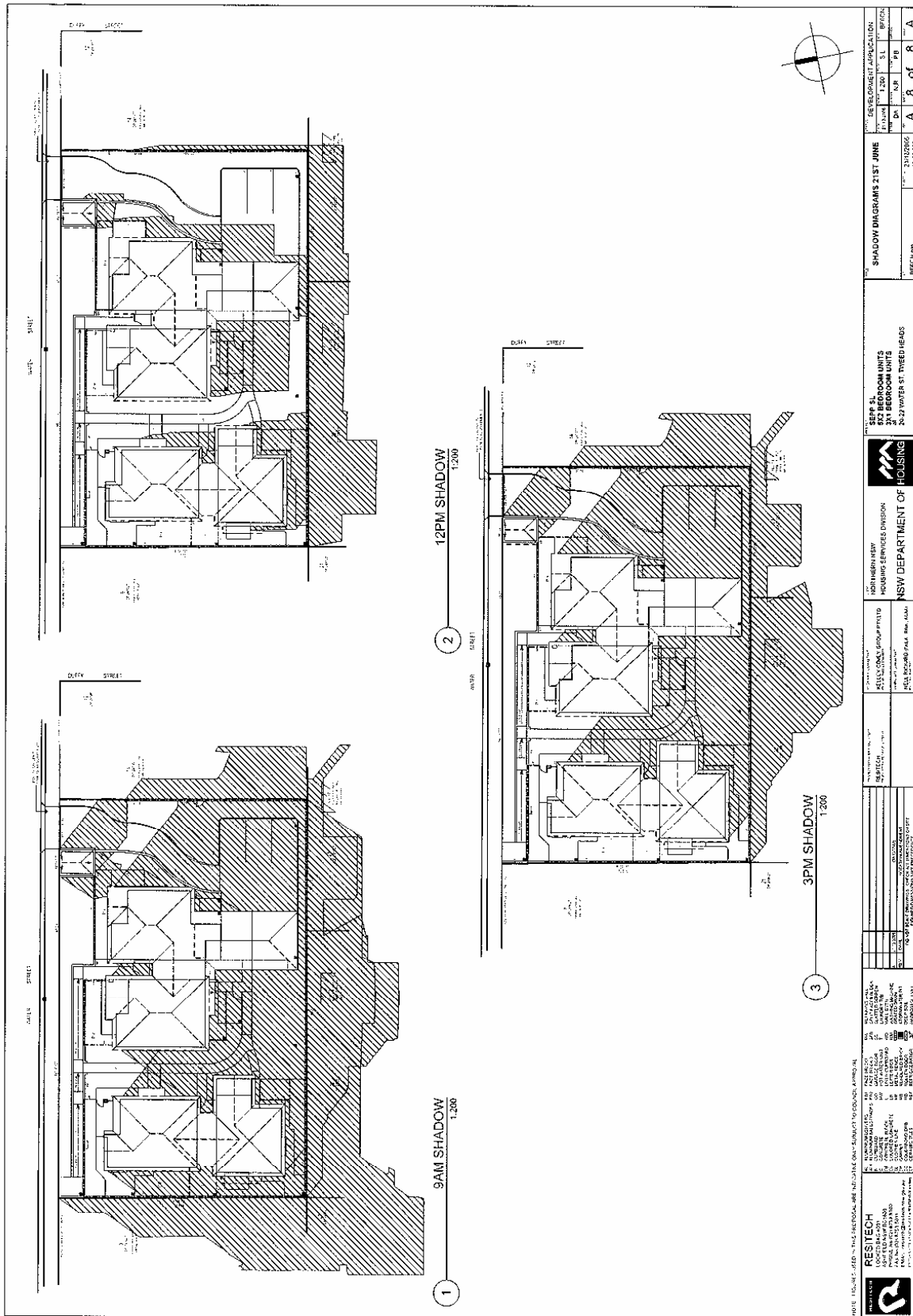
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HOUSING SERVICES DIVISION
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ELEVATIONS / SECTIONS
BLOCK 2A

DEVELOPMENT APPLICATION:
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DA 7020/07
DA 7020/07

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 RESITECH LOCAL GOVERNMENT ARCHITECTURAL CONSULTANTS 1/10-12/14 WILSON STREET TWEED HEADS NSW 2486 TEL: (07) 9434 9300 FAX: (07) 9434 9301 WWW.RESITECH.COM.AU	PROJECT NO: 07/00000000 DRAWING NO: 10000000 DATE: 10/10/07 SCALE: 1:200 SHEET NO: 8 OF 8	DEVELOPMENT APPLICATION NO: 2007/00000000 DATE: 20/07/07 TIME: 10:00 AM
	SHADOW DIAGRAMS 21ST JUNE BECH/pm	823 BEDROOM UNITS 20-22 WATER ST TWEED HEADS

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 8(1) - Consent Considerations**

- a) *The consent authority may not grant consent to development (other than development specified in Item 3 of the table to Clause 11) only if:*
- b) *It is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- c) *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 housing for older people or people with a disability satisfies Clause 8 of TLEP 2000.

Clause 11 – Zone Objectives

The subject site is located within the 2(a) Low Density Residential Zone pursuant to the provisions of TLEP 2000. The objectives of the 2(a) zone are as follows:

Primary objectives:

In the case of land within Zone 2 (a) between the Tweed Heads Bypass and Cobaki Bridge:

- *to minimise the number of dwellings subject to unacceptable aircraft noise and to limit development within the Kennedy Drive traffic catchment so that development is compatible with Kennedy Drive traffic capacity.*

In the case of all other land within Zone 2 (a):

- *to provide for and maintain a low-density residential environment with a predominantly detached housing character and amenity.*

Secondary objectives:

- *to allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective.*
 - *to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone.*
-

The Local Environmental Plan provides a definition for housing for older people or people with disabilities being: -

“Residential accommodation which is used permanently as housing for the accommodation of older people or people with a disability which may consist of a residential care facility, a hostel or a grouping of two or more self contained dwellings or a combination of these but does not include a hospital”.

The proposed use of the subject land for *In-fill self-care housing* is permissible under State Environmental Planning Policy (Senior Living) 2004. An assessment of the proposal against the SEPP is detailed in the following report. Based on that assessment, use of the subject land for the proposed purpose is permissible with consent.

Clause 15 – Availability of Essential Services

The subject site is adequately serviced by way of existing stormwater, electricity, telecommunications, sewer and water connections. It is noted that a sewer line is situated adjacent to the southern boundary and the development will be constructed in close proximity to the main.

Clause 16 – Building Heights

Clause 16 of TLEP 2000 states:

- (1) *To ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.*
- (2) *Consent must not be granted to the erection of a building, which exceeds the maximum height or number of storeys indicated on the Height of Buildings map in respect of the land to which the application relates.*

The subject site is located within an area possessing a three (3)-storey height limit. The proposal incorporates a two (2) storey form (as taken from natural ground level).

Clause 34 – Flooding

The subject site is identified as prone to flooding by Council under TDCP – Section A3 - Development of Flood Liable Land. In this regard, specific requirement pertaining to the flood proofing of development within that area identified as prone to flooding are contained within the DCP and has set the design flood level for the 1:100 year event at 2.6m AHD and a minimum habitable floor level of 3.1m AHD. The proposal accords with these requirements and therefore demonstrates consistency with the relevant provisions of TDCP – Section A3 and complies with the provisions of Clause 34 of TLEP 2000.

Clause 35 – Acid Sulphate Soils

Pursuant to the provisions of Clause 35 of TLEP 2000, the subject site is identified as possessing Class 2 Acid Sulfate Soils. The applicant submitted an ASS Management Plan which has been reviewed by Council's Environmental Health Officers, where no concerns were raised, subject to appropriate conditions being imposed on the consent. Given the need to fill the site to comply with Council's design flood level, minimal disturbance of existing soils will occur. It is concluded the proposed development will not compromise the provisions of Clause 35 of TLEP 2000.

Clause 39 – Remediation of Contaminated Land

Clause 39 of TLEP provides as follows:-

- (1) *To ensure that contaminated land is adequately remediated prior to development occurring.*
- (2) *State Environmental Planning Policy No 55—Remediation of Land applies to land to which this plan applies despite any other provision of this plan.*

The subject site provides for two residential allotments that have been utilised for this purpose for a number of years. Inspection of aerial photographs pertinent to the site and its history confirm that no intensive industrial or mining use of the site has occurred since its creation. The proposal is considered to be consistent with the relevant provisions of Clause 39 of TLEP 2000.

Clause 39A – Bushfire Protection

Clause 39A of the TLEP requires consideration of bushfire protection issues and the planning for bushfire guidelines in the development of areas mapped as bushfire prone. This clause, aims to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets. The applicant submitted a Bushfire Risk Assessment, which was referred to the Rural Fire Service in April 2007, who provided the following General Terms of Approval:

1. *At the commencement of building works and in perpetuity, the Asset Protection Zones as depicted in Appendix 5 - Asset Protection Zones prepared by Bushfire safe Ref:5052 and dated Oct 2005, shall be maintained as an 'Inner Protection Area' (IPA), as outlined within Planning for Bush Fire Protection and the Service's document 'Standards for asset protection zones'.*
2. *Construction shall comply with Australian Standard AS3959-1999, Construction of buildings in Bush Fire Prone Areas, Level 1.*

3. *Roofing shall be gutter less or have leafless guttering and valley are to be screened to prevent the building up of flammable material. Any materials used shall have a flammability index of less than or equal to 5.*
4. *A Bush Fire Evacuation Plan is to be submitted to the District RFS office of the NSW Rural Fire Service for approval. The evacuation plan is to detail the following:*
 - (a) *under what circumstances will the complex be evacuated*
 - (b) *where will all person be evacuated to.*
 - (c) *roles and responsibilities of persons co-ordinating the evacuation.*
 - (d) *roles and responsibilities of persons remaining with the complex after evacuation.*
 - (e) *a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.*

These conditions have been incorporated into the recommendation for approval.

Based on the above assessment the proposed development is considered to generally comply with the provisions of the TLEP.

North Coast Regional Environmental Plan 1988

Clause 32B(2) and (3) of the NCREP is applicable. This Clause requires the consideration of the NSW Coastal Policy, Coastline Management Manual and the North Coast Design Guidelines for proposals on coastal lands; and also contains provisions relating to public access to the foreshore. The development has been designed following site analysis incorporating North Coast Design Guidelines and Principles and is not considered to impact upon or impede public access to the foreshore.

Clause 43 of the NCREP is applicable. Clause 43 contains provisions relating to residential development. The development has addressed these provisions in relation to maximising the density over the site, not providing excessive road widths and ensuring erosion and sedimentation control measures are adopted. This has been enforced through the recommended conditions of consent.

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:**State Environmental Planning Policy No. 55 - Remediation of Land (SEPP No. 55)**

Based on the site history, site assessments and Council's Environmental Health Officers assessment, contamination is not considered a constraint for this development.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP No. 71)

The application has been assessed having regard to Clause 8 of the SEPP.

Clause 8 details sixteen matters for consideration all focussed on maintaining the quality of water bodies and maintaining adequate public access to foreshore areas. The matters for consideration are as follows:

- (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 provisions of SEPP No.71 affect the subject site. In this regard, the proposed development is not identified as State Significant Development and has been designed in accord with the relevant development control guidelines contained within the Policy, with particular reference to the matters identified under Section 8 of Part 2 of the Policy.

The proposed development does not offend or compromise the intent or specific provisions of State Environmental Planning Policy No.71 – Coastal Protection. In this regard the subject site is landward of the defined erosion zones, will not overshadow foreshore open space and will not restrict public access or the like to foreshore reserves and the like. The site is connected to the sewer and stormwater is to be disposed of in accordance with Council's requirements for urban development. It is considered the proposed development will not adversely impact upon the Coast or the marine

environment of surrounding waterways and is consistent with the aims and objectives of the SEPP.

State Environmental Planning Policy (Seniors Living) 2004

The proposed residential development has been designed to provide housing for seniors or people with a disability and in accordance with the provisions of SEPP (Seniors Living) 2004.

Clause 4 Land to which Policy Applies

The proposal is sited on residential land zoned 2(a) Low Density Residential under Tweed Local Environmental Plan 2000. Accordingly pursuant to the provisions of this Clause 4, this policy applies, as the zoning permits residential development.

Schedule 1 of the SEPP precludes development on land identified in another environmental planning instrument by descriptions such as coastal protection. In this regard the property is located within the Coastal Zone and as such State Environmental Planning Policy No. 71 Coastal Protection applies. It is pertinent to note however that the property is not identified under SEPP 71 as prone to suffering from processes that would require its specific designation as coastal protection. Rather, the site, by virtue of its proximity to a watercourse is simply subject to the provisions of the SEPP. Given the latter and having regard to the fact the site is not actually identified in a physical sense as requiring protection from coastal processes, it is submitted that the site is not prohibited from accommodating development under the SEPP.

Clause 14 Infill Self Care Housing

The proposed development is classified as ‘infill self care housing’ pursuant to the provisions of Clause 14 of the SEPP. The definition states:-

In this Policy, infill self care housing is seniors housing on land zoned primarily for urban purposes that consists of two or more self contained dwellings where none of the following services are provided on site as part of the development: meals, cleaning services, personal care, nursing care.

The following table provides an assessment of the proposed development in accordance with the relevant provisions of the SEPP.

Provision	Compliance
<p>Part 2 – Site Related Requirements</p> <p>Clause 25 Location and access to facilities</p> <p>(1) Consent authority must not grant consent to a development application unless it is satisfied by</p>	<p>The subject site is located within a reasonable distance to the Tweed Heads South and Tweed Heads Commercial Business Districts and town centre. Both Business Districts provide for a range of shopping, banking, retail and commercial services, public</p>

Provision	Compliance
<p>written evidence that residents of the proposed development will have access to:</p> <ul style="list-style-type: none"> a) shops, banks & other retail & commercial services that residents may reasonably require; b) community services & recreation facilities and c) the practice of a general medical practitioner. <p>(2) Access complies with this subclause if:</p> <ul style="list-style-type: none"> a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development, and the overall average gradient along the distance is not more than 1:14, although the following gradients along the distance are also acceptable: <ul style="list-style-type: none"> * 1:12 for a maximum of 15 metres at a time * 1:10 for a maximum of 5 metres at a time * 1:8 for a maximum of 1.5 metres at a time <p>Or</p> b) there is a transport service available to the residents who will occupy the proposed development. 	<p>swimming pools, beaches, community and recreation facilities, and doctor's surgeries. The area is also serviced by the Tweed Heads Hospital which is approximately three minutes drive from the site. A service station/ convenience store is located approximately 250 metres from the property on the Minjungbal Drive providing daily necessity such as milk, bread, newspapers and the like.</p> <p>The locality is serviced by Surfside Bus Lines and two bus stops are located within a short walking distance to the site on Water Street and Altair Street, both of which are within 400 metres of the site on a generally level grade. Surfside buses providing regular service to the area and into the commercial centres of Tweed Heads and Tweed Heads South during daylight and evening hours. It is considered the site has suitable access to all necessary facilities.</p>
<p>Clause 26 Bushfire Prone Land</p>	<p>A Bushfire Assessment Report has been submitted to Council and assessed by RFS, who raised no concerns subject to appropriate conditions of consent.</p>
<p>Clause 27 Water and Sewer</p>	<p>The site has adequate access to existing water and sewer infrastructure.</p>

Provision	Compliance
<p>Clause 28 Site Analysis</p> <p>Site Dimensions</p>	<p>The property has dimensions of 49.23 metres by 30.58 metres.</p>
<p>Topography</p>	<p>The site is generally level.</p>
<p>Services</p>	<p>The site has access to urban infrastructure including water, sewer, stormwater, power and telecommunications.</p>
<p>Existing vegetation</p>	<p>The site contains little in the way of vegetation other than garden species and lawn.</p>
<p>Micro Climates</p>	<p>The site is orientated to the north and sits on a traditional grid pattern layout for the area, providing good solar access into each of the proposed dwellings throughout the day. Further due to the sites proximity to the Tweed River, it is expected the property will be afforded cooling breezes of the water.</p>
<p>Location of Buildings and Other Structures</p>	<p>Two Dwellings are situated upon the property. These dwelling are to be demolished. A separate application has been submitted and approved by Council.</p>
<p>Views to and From the Site</p>	<p>The property is afforded views to the north of Ukerebagh Passage and Ukerebagh Island Nature reserve to the north.</p>
<p>Overshadowing by neighbouring structures</p>	<p>Adjoining buildings are single storey in height and no adverse overshadowing affects the subject site.</p>
<p>Clause 29 Design of In-fill self-care housing</p>	<p>The development has been designed in accordance with the provisions of the Senior's Living Policy: Urban Design Guidelines for Infill development.</p>
<p>Clause 31 Neighbourhood Amenity and Streetscape</p>	<p>It is considered the development is of a bulk, scale and height which will not detract from the streetscape or the amenity of the neighbourhood.</p>
<p>Clause 32 Visual and Acoustic Privacy</p>	<p>Due to the design of the building and materials proposed to be used, suitable noise insulation</p>

Provision	Compliance
	measures will be installed between each unit to ensure acoustic privacy is maintained. Screening is also proposed to upper level windows for visual privacy purposes. A condition will be imposed on the consent regarding a privacy screen on the balcony to minimise overlooking impacts.
<p>Clause 33 Solar Access and Design for Climate</p>	<p>Due to the orientation of the property to the north, adequate solar access is available to the main living areas of each unit through the provision of suitably sited windows and orientation of those rooms to accept sun throughout the day.</p> <p>The Basix Certificate demonstrates that each residential unit satisfies the relevant energy efficient requirements.</p>
<p>Clause 34 Stormwater</p>	<p>It is proposed to collect and treat stormwater in accordance with Tweed Urban Stormwater Quality Management Plan – Auspec D7.</p>
<p>Clause 35 Crime Prevention</p>	<p>The proposal provides for good visual surveillance of the street, internal driveway areas and the foreshore reserve.</p>
<p>Clause 36 Accessibility</p>	<p>The site is readily accessible to local facilities, the town centre and parks and other recreational opportunities with good public bus service linking the neighbourhood to the town environs.</p>
<p>Clause 37 Waste Management</p>	<p>Each Unit will have access to its own rubbish receptacle, and a centralised rubbish storage area is provided within the common landscaped area.</p>
<p>Clause 38 Development Standards</p> <p>Minimum Lot Size 1000 m²</p> <p>Site Frontage 20 metres</p>	<p>Pursuant to the provisions of subclause 5(a) the development standards do not apply to this development, as the application has been made by Department of Housing.</p>

Provision	Compliance
<p>Height Where residential Flat Buildings Are prohibited</p> <ul style="list-style-type: none"> - 8 metres - Buildings adjacent to boundary 2 storeys - Buildings in rear 25% of Site 1 storey 	
<p>Standards for Self Contained Dwellings</p>	
<p>Clause 52 Siting Standards</p> <p>Wheelchair Access Road Access Common Areas</p>	<p>Four of the eight proposed dwellings have direct wheelchair access from the public road with a gradient not exceeding 1:14. Wheelchair access is also freely available to the common areas of the properties.</p> <p>The four (4) upper level units do not provide for wheelchair access, however it is important to note that the proposed access stairs are adaptable such that wheelchair stair lifts are capable of being accommodated if required.</p>
<p>Clause 54 Security</p>	<p>Suitable garden lighting to be installed at the entrance to the property and adjacent to the driveway for security purposes.</p>
<p>Clause 55 Letterboxes</p>	<p>A centralised letterbox is proposed at the entrance of the property to Water Street and is able to be locked by way of a padlock or similar. The Letterboxes will be situated on a hardstand area connecting with the wheelchair ramp.</p>
<p>Clause 56 Private Car Accommodation</p> <p>Dimensions of 6 metres by 3.2 metres Entry height of 2.3 metres Floor to Ceiling Height of 2.5 metres Power Operated Roller Door or provision of a power point and area for plant to be installed retrospectively</p>	<p>Two covered car spaces have been designed to comply with the minimum dimensions of 6 m x 3.2 m. The car port is set at a minimum height of 2.3 metres.</p>

Provision	Compliance
<p>Clause 57 Accessible Entry</p> <p>Ramp Access of 1:40, Compliant with Clause 4.3.1 and 4.3.2 of AS4299, and Entry Door handles to comply with AS1428</p>	<p>Four of the eight dwellings have ramped entrances which will be constructed to comply with the gradient requirements. Entrances to comply with the relevant clauses to AS4299 and AS428 as stipulated.</p>
<p>Clause 58 Exterior Doors</p>	<p>All external doors to any one residential unit will be keyed alike.</p>
<p>Clause 59 Interior</p> <p>Internal Doors 800 mm Internal Corridors 1000 mm Width @ internal door approaches 1200 mm</p>	<p>Proposal has been designed to comply with these requirements. See Plans for greater detail.</p>
<p>Clause 60 Living and Dining Room</p> <p>Circulation Space of 2250 mm in diameter Set Out in accordance with Clause 4.7 of AS 4299 Provide a telephone jack adjacent to Power outlet.</p>	<p>Each Unit has been designed with generous proportions in the living and dining room to comply with the requirements of Clause 60.</p>
<p>Clause 61 Kitchen</p> <p>Under the provision of this clause various specifications apply to the Kitchen Fitout including width of 2.7 metres and a clear space of at least 1450 mm.</p>	<p>The proposal has been designed to comply with the provisions of the SEPP.</p>
<p>Clause 62 Main Bedroom</p> <p>Sufficient Area to accommodate a Queen Size Bed Two Double Power points at Bed Head End Single Power Point opposite Bed Head Telephone Jack next to power outlet adjacent to bed. Wiring for potential illumination of 300 lux</p>	<p>The main bedroom in each unit is of satisfactory size to accommodate a queen size bed. Wiring to be installed for telephones, power and lighting.</p>
<p>Clause 63 and 64 Bathrooms and Toilets</p> <p>Bathroom area that complies with AS1428. Slip Resistant surfaces. Visible toilet within the meaning of clause 1.2.12 of AS 4299 and installed in accordance with AS1428.</p>	<p>Bathrooms and toilets have been designed to comply with the provisions of the SEPP.</p>

Provision	Compliance
<p>Clause 65 Access to Kitchens main bedroom and Toilet</p> <p>In a multi storey dwelling must be located on ground Floor.</p>	<p>This clause does not apply to this development.</p>
<p>Clause 67 Laundry</p>	<p>Each residential Dwelling has been designed with a laundry space to fit a laundry tub and washing machine.</p>
<p>Clause 68 Storage</p> <p>Linen Cupboard 600 mm wide and adjustable shelving</p>	<p>Suitably sized Linen Presses are proposed for each residential unit and compliant with the provisions of the clause.</p>
<p>Clause 69 Doors</p>	<p>Door handles to be sited 900 to 1100 mm above the floor level and to be operated by one hand.</p>
<p>Clause 70 Surface Finishes</p>	<p>All Balconies and external Paved areas to have slip resistant surfaces.</p>
<p>Clause 71 Ancillary Items</p>	<p>Switches to be sited 900 to 1100mm above the floor level and all power outlets to be a minimum 600mm above the floor level.</p>
<p>Clause 72 Garbage</p>	<p>A centralised garbage area is to be provided within the common area which is readily accessible to all residents. See plans for detail.</p>
<p>Clause 73 Applications by Certain Housing Providers</p>	<p>The Department of Housing or applications made on its behalf, or local government or other community housing providers do not have to comply with the provisions of Clauses 52 and 59-71 for a dwelling that is located above the ground floor in a multi storey building.</p>
<p>Clause 81 Standards which cannot be used for grounds as refusal</p> <p>The consent authority must not refuse consent to a development application under this Part on the grounds of:</p> <p>a) building height: if all proposed buildings are 8 metres or less in height, or</p>	<p>The height of the proposed buildings (from finished ground level to ridge capping) is 7.6m.</p>

Provision	Compliance
b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less	The proposed development incorporates an FSR of 0.4:1.
c) landscaped area: a minimum of 35 m ² per dwelling – 280 m ² total.	Complies 522 m ² provided.
d) Deep Soil Zones: A minimum of 15% of the site area with two thirds of the area located at the rear of the site with minimum dimension of 3 metre.	Complies. It is noted an area of approximately 80 m ² and with suitable dimensions is provided at the rear of the property for landscaping purposes and deep soil planting.
e) Solar Access: Living Rooms and Private Open Space for 70% of the dwellings to receive a minimum of 3 hours direct sunlight between 9 am and 3 pm.	Due to the orientation of the development to the north the living rooms of each dwelling will receive the minimum amount of direct sunlight during midwinter.
f) Private Open Space: Ground Floor Dwellings 15 m ² with Dimensions of 3 metres and Upper level Dwellings a balcony of 10 m ² with Dimensions of 2 metres.	Units 1,2,5, and 6 have access to ground level private open space compliant with these requirements. The four upper level units have a balcony of suitable dimensions and area and is directly accessible from the living rooms.
g) Visitor Parking: One visitor spaces per six dwellings, and	The proposal complies, providing for a total of three visitor spaces.
h) Resident Parking: One resident space per five dwellings.	The proposal complies, providing for a total of two resident spaces within a covered car port.

It is considered the proposed development is consistent with the relevant provisions of State Environmental Planning Policy 2004 Senior Living.

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

No applicable draft EPI raises any issues of significance in relation to the proposed development.

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

Tweed Development Control Plan:

Section A2 Site Access & Parking Code

The proposed development does not need to comply with Council's Parking Controls as it has been lodged under SEPP Senior Living 2004. In this regard the development complies with the SEPP as detailed above.

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 A4 Advertising Signs

The development does not detail any signage as part of this application. A condition of consent is recommended to ensure that any future signage that requires development consent seeks separate Development Approval.

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 the application received one (1) submission, which has been considered as part of this assessment.

Section A14 Cut & Fill on Residential Land

The proposed development is considered to generally comply with this policy. Appropriate conditions are recommended.

Section B18 Tweed Coast Building Heights

The subject site is located within an area possessing a three storey height limit. However the proposal only incorporates a two storey high limit and is therefore considered acceptable.

(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

The proposal is considered unlikely to result in any significant adverse impacts on the existing natural or built environment. The proposed development is at a scale suitable to surrounding development and will not result in any significant adverse impacts on adjoining properties.

Significantly, the proposal will provide for additional accommodation for the aged in close proximity to all necessary services including health care, shopping, banking and recreational facilities. The demand for such housing is growing and the proposal responds accordingly to the needs of the aging demographics of region. Standard conditions of development consent are adequate to address potential impacts of the proposal, such as construction activities, hours of work, builders waste and the like.

(c) Suitability of the site for the development

The proposed development is considered to be an appropriate response to the topography of the site and its location in proximity to relevant commercial and social services including parks, public swimming pools and public transport. In terms of density, having regard to the proposal as accommodation for seniors or those with a disability, it is unlikely residential noise from this development will create a land use conflict or disrupt the amenity of the surrounding neighbourhood. Minor disruptions to the neighbourhood are likely to occur during construction, however it is anticipated these can be dealt with by way of conditions of consent to restrict hours of work and builders noise.

The site is adequately serviced by all necessary infrastructures such as water, sewer, stormwater, electricity and telecommunications. The site is not subject to any known hazards other than flooding and bushfire. In this regard the dwellings are to be ameliorated in accordance with Council's Flood Policy – TDCP Section A3 to ensure the development satisfies Councils Design Flood Level, whilst a Bushfire Threat Assessment Report has been prepared which has found the site to be spatially separated from the surrounding bushfire hazard to the east within the Ukerebagh Nature Reserve.

It is submitted that the subject site is suitable for the proposed residential development.

(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 residents within close proximity of the site. People were given two weeks (11 April 2007 – 26 April 2007) to view the application and provide a written submission to the DA.

During this period Council received one (1) letter of objection.

The issues raised are duplicated below with responses attached.

ISSUE 1: Zoning Restrictions do not allow for the development of units

The Local Environmental Plan provides a definition for housing for older people or people with disabilities being: -

“Residential accommodation which is used permanently as housing for the accommodation of older people or people with a disability which may consist of a residential care facility, a hostel or a grouping of two or more self contained dwellings or a combination of these but does not include a hospital”.

The proposed use of the subject land for *In-fill self-care housing* is permissible under State Environmental Planning Policy (Senior Living) 2004.

An assessment of the proposal against the SEPP is detailed in the following report. Based on that assessment, use of the subject land for the proposed purpose is permissible with consent.

ISSUE 2: Impacts on adjoining properties such as noise, security and privacy

It is considered that the application will not generate a significant noise impact as there only a total of 8 self care units will be provided for seniors and disabled persons. Council’s Environmental Health Officer, assessed the application and identified that the development is within an existing residential area and is unlikely to generate offensive noise that may impact upon neighbouring residents. However, appropriate conditions will be imposed on the consent to regulate noise.

In regards to security the application has been designed to ensure adequate surveillance over the property and has proposed to install suitable garden lighting at the entrance to the property and adjacent to the driveway for security purposes.

In relation to privacy and overlooking impacts it is considered that the development has been carefully designed to respect the amenity and surrounding residential properties, with new dwellings being carefully sited to provide an adequate level of spatial separation. There is approximately seven (7) metres from the rear dwellings’ balcony to the rear boundary; further to this the balcony is orientated on the side elevation to minimise any potential overlooking impacts. Nevertheless, it is considered appropriate to impose a condition on the consent, which will require a privacy screen to be installed on the southern edge of the balcony off unit No. 4.

ISSUE 3: Unsafe Work Practices

The proposed development will require the demolition of two existing dwellings and the subsequent construction of the seniors living development. Appropriate conditions will be imposed on the consent to ensure that all construction will be carried out in accordance with the Local and State Government requirements and occupational health and safety guidelines.

(e) Public interest

The proposed development is in the public interest and satisfies an urgent community need. In this regard, there is an identified shortage of housing for

seniors or people with a disability at present in the Tweed Heads area. The proposed development is considered to be a positive step in rectifying this situation. In conclusion the proposed development is unlikely to prejudice or compromise the public interest.

OPTIONS:

1. Should Council receive confirmation from the Department of Housing of acceptance of the recommended conditions, approve the application in accordance with those conditions.
2. If Council has not received confirmation from the Department of Housing, delegate determination of this application to the General Manager upon clarification of conditions.
3. If the proposed development is not supported, Council will need to refer the application to the Minister for determination, pursuant to the provisions of s116C of the EP&A Act.

CONCLUSION:

The proposed development complies with the requirements of SEPP Senior Living 2004 and meets Council's requirements.

The proposed development is considered to be suitable for the site and has been designed with regard to the adjoining properties, the changing character of the area and the need for aged care facilities within Tweed Shire. The recommended conditions of consent will enable management of the site during the construction phase and through to the operation of the facility.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the proposed development is not supported by Council and the applicant is dissatisfied with the determination of the Minister, the applicant may determine to lodge an appeal with the Land & Environment Court.

POLICY IMPLICATIONS:

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

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.
