



AGENDA

PLANNING COMMITTEE MEETING Tuesday 6 March 2007

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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

ITEM	PRECIS	PAGE
	REPORTS THROUGH GENERAL MANAGER	5
	REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT	5
P1	[PD-PC] Development Application DA06/1265 for a Mixed Use Retail and Commercial Development (DOP MP06-207) at Lot A & B DP 373378, No. 75 & 77 Wharf Street, Tweed Heads	7
P2	[PD-PC] Vegetation Rehabilitation – Lot 5 DP 1055843 Tanglewood Drive, Tanglewood	83
P3	[PD-PC] DA06/0706 for the Demolition of Existing Structures & the Erection of a Shop Building Comprising a Mini Supermarket (Likely Operator IGA) & Three (3) Other Tenancies (Real Estate, Solicitor and Butcher) at Lot 365 & 366 DP 755701, No. 11 & 13 Coro	87
P4	[PD-PC] Development Application DA05/0881 for Additions & Alterations to Church at Lots 35-39 DP 249808 Nos. 22-30 Sand Street, Kingscliff - S94 and S64 Contributions	131
P5	[PD-PC] Development Application DA06/0984 for the Demolition of Existing Structures and the Erection of an Attached Duplex at Lot 28 Section 2 DP 3123, No. 68 Charles Street, Tweed Heads	135
P6	[PD-PC] Review of Determination of Development Application 0622/2001DA for the Erection of a Dwelling at Lot 377 DP 250956, No. 40 Leeward Terrace, Tweed Heads	171

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REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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

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

MATTERS FOR CONSIDERATION

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

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P1 [PD-PC] Development Application DA06/1265 for a Mixed Use Retail and Commercial Development (DOP MP06-207) at Lot A & B DP 373378, No. 75 & 77 Wharf Street, Tweed Heads

ORIGIN:

Development Assessment Unit

FILE NO: DA06/1265 Pt1

SUMMARY OF REPORT:

Darryl Anderson Consulting Pty Ltd, on behalf of Masada Investments Pty Ltd, has lodged a major project application with the Department of Planning seeking approval for a mixed-use retail and commercial development on the corner of Wharf and Francis Streets, Tweed Heads.

The application is a Major Project and is required to be assessed in accordance with Part 3A of the Environmental Planning and Assessment Act. The Minister has delegated the assessment of the application to Council. A draft assessment report and conditions has been prepared by Council to send to the Minister. The Minister remains the consent authority.

The application proposes the following:

- Construction of a four-storey building to be known as “Wharf Central”, comprising a gross floor area of 4808m²;
- Ground floor office and retail with direct access to the footpath;
- First, second and third floor commercial office space;
- Two levels of basement car parking providing parking for 86 vehicles, bicycle storage areas, shower facilities and services room;
- Vehicular and primary pedestrian access off Francis Street;
- Contemporary building design, architectural style and external colours;
- Extensive landscaping, streetscape and road reserve refurbishments;

Key issues considered in the assessment of this proposal included:

- Remediation of the site
- Acid Sulfate Soils
- SEPP 1 objection for Floor Space Ratio
- Variation to Building Envelope restriction
- Car parking
- Traffic and pedestrian movements
- Landscaping and streetscape treatments

Council has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the Proponent's Statement of Commitments and Council's recommended conditions of consent, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, Council is satisfied that the site is suitable for the proposed development and that the project will provide social and economic benefits to the region. Generally, all statutory requirements have been met.

RECOMMENDATION:

That the attached draft report and conditions be sent to the Minister for Planning for consideration.

REPORT:



NSW GOVERNMENT
Department of Planning

MAJOR PROJECT ASSESSMENT:

**Construction of a Four Storey Mixed Use Retail & Commercial
Development, Tweed Shire Local Government Area.
Proposed by Darryl Anderson Consulting on behalf of Masada
Investments**

*Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979*

March 2007

Mixed Use Retail & Commercial Development
75-77 Wharf St Tweed Heads
Lots A & B DP 373378 Director-General's Report
Major Project 06_207

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NSW Department of Planning
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March 2007*

1. EXECUTIVE SUMMARY

1.1 The Proposal

This is a report on a development application seeking approval for the construction of a four-storey mixed-use retail and commercial development in the Tweed Local Government Area.

Darryl Anderson Consulting, on behalf of Masada Investments Pty Ltd (the Proponent) is proposing to construct the building at 75-77 Wharf Street Tweed Heads (Lots A and B DP 373378 ("the proposal").

Darryl Anderson Consulting Pty Ltd, on behalf of Masada Investments Pty Ltd, has lodged a development application with Tweed Shire Council seeking approval for a mixed-use retail and commercial development on the corner of Wharf and Francis Streets, Tweed Heads.

The application proposes the following:

- Construction of a four-storey building to be known as "Wharf Central", comprising a gross floor area of 4808m²;
- Ground floor office and retail with direct access to the footpath;
- First, second and third floor commercial office space;
- Two levels of basement car parking providing parking for 86 vehicles, bicycle storage areas, shower facilities and services room;
- Vehicular and primary pedestrian access off Francis Street;
- Contemporary building design, architectural style and external colours;
- Extensive landscaping, streetscape and road reserve refurbishments;

The centrally located commercially zoned site is appropriately suited to any type of mixed use re-development that will actively engage the street front whilst also providing useable upper floor space.

The proponent has provided the following statement in support of the project "Justification for undertaking the project is demonstrated by the ongoing success of Tweed Heads Town Centre in attracting substantial investment in residential and tourist accommodations development, which underpins demand for commercial services." This philosophy is discussed in greater detail in later sections of this report.

The estimated project cost of the development is \$5.15 million. The proposal will create 20 full time equivalent construction jobs and 150 full time equivalent operational jobs.

During the exhibition period, Council received no submissions in (addition to standard referral responses) from public authorities and no submissions from the public. Key issues considered in the assessment of this proposal included:

- Remediation of the site

- Acid Sulfate Soils
- SEPP 1 objection for Floor Space Ratio
- Variation to Building Envelope restriction
- Car parking
- Traffic and pedestrian movements
- Landscaping and streetscape treatments

Council has assessed the merits of the project and is satisfied that the impacts of the proposed development have been addressed via the Proponent's Statement of Commitments and Council's recommended conditions of consent, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. On these grounds, Council is satisfied that the site is suitable for the proposed development and that the project will provide social and economic benefits to the region. Generally, all statutory requirements have been met.

Council recommends that the project be approved, subject to conditions.

CONTENTS

- 1 EXECUTIVE SUMMARY
 - 1.1 The Proposal
 - 2 BACKGROUND
 - 2.1 THE SITE
 - 2.2 SITE HISTORY
 - 3 THE PROPOSED DEVELOPMENT
 - 3.1 PROJECT CHRONOLOGY
 - 3.2 PROJECT AMENDMENTS
 - 4 STATUTORY CONTEXT
 - 4.1 MAJOR PROJECT DECLARATION
 - 4.2 PERMISSIBILITY
 - 4.3 MINISTER'S POWER TO APPROVE
 - 4.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)
 - 4.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)
 - Application of EPIs to Part 3A projects
 - State Environmental Planning Policy (Major projects) 2005
 - State Environmental Planning Policy No. 1 – Development Standards
 - State Environmental Planning Policy No. 11 – Traffic Generating Developments
 - State Environmental Planning Policy No. 71 – Coastal Protection
 - North Coast Regional Environmental Plan
 - Tweed Local Environmental Plan 2000
 - 4.6 OTHER PLANS AND POLICIES
 - Development Control Plan No. 2 – Car parking and Site Access
 - Development Control Plan No. 15 – Advertising Signs Code
 - Development Control Plan No. 18 - Tweed Heads
 - NSW Coastal Policy 1997 and NSW Coastal Design Guidelines
 - Tweed Heads Town Centre Master Plan
 - 5 ASSESSMENT OF ENVIRONMENTAL IMPACTS
 - 5.1 DESIGN AND VISUAL AMENITY IMPACTS
 - 5.2 ENVIRONMENT AND COMMUNITY HEALTH ISSUES
 - 5.3 NATURAL HAZARDS
 - 5.4 WATER CYCLE MANAGEMENT
 - 5.5 INFRASTRUCTURE PROVISION
 - 5.6 TRAFFIC AND VEHICULAR ACCESS
 - 5.7 PEDESTRIAN ACCESS AND AMENITY
 - 5.8 FLORA AND FAUNA
 - 5.9 PUBLIC INTEREST
 - 6 CONSULTATION AND ISSUES RAISED
 - 6.1 PUBLIC EXHIBITION DETAILS
 - 6.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT
 - 6.3 SUBMISSIONS FROM PUBLIC AUTHORITIES
 - 6.4.1 NSW Department of Natural Resources
 - 7 CONCLUSION
 - 8 RECOMMENDATION
- APPENDIX A. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS
APPENDIX B. ENVIRONMENTAL ASSESSMENT

2. BACKGROUND

2.1 THE SITE

The subject site, legally known as Lots A & B DP 373378, 75-77 Wharf Street Tweed Heads, is located within the local government area of Tweed Shire and is owned by Masada Investments Pty Ltd.

The site has a total land area of 1808m² and is situated on a prominent corner in the central business district of Tweed Heads, with a 30.3 metre frontage to Wharf Street and 61.1 metres to Francis Streets.

Wharf Street is a Council designated road and is the main local transportation route between the Tweed Heads business centre and the Coolangatta commercial centre. The site is located approximately 2.5 km from the Gold Coast Highway.

Existing structures on the site include a two-storey brick office building at the south-eastern corner and a single storey concrete block building at the rear of the site along the western boundary. A large steel awning structure exists along the southern frontage to Francis Street between the two buildings and there are two underground fuel tanks located beneath this covered hardstand area. The remainder of the site is relatively flat and void of any significant vegetation. There is a slight slope with surface levels ranging from 3.8m AHD at the north-western corner to 4.3m AHD at the street intersection corner.

To the north of the site is a single storey commercial building, constructed of tilt up masonry panels and built to the site boundary. To the east of the site is Wharf Street with a paved footpath area, approximately 15 metres wide, between the front boundary and the road reserve. To the south is the Francis Street road reserve with multiple driveway crossovers to the site and on street parallel parking.

The surrounding area comprises a mix of retail, commercial and residential land uses, with Tweed Centro Shopping Centre on the opposite side of the Wharf Street road reserve and the Tweed River located approximately 400 metres to the east.

The site is zoned 3(a) Sub-Regional Business under the zoning table to clause 11 of the Tweed Local Environmental Plan 2000.

2.2 SITE HISTORY

The site was previously used as a car sales yard and the underground fuel storage tanks that serviced the vehicles on site were never removed. These are considered potentially contaminating due to the high likelihood for leakage of petrochemicals into both soils and groundwater in the vicinity of the tanks. As such, there is a requirement for removal of the tanks and full site remediation before re-development of the site can take place.

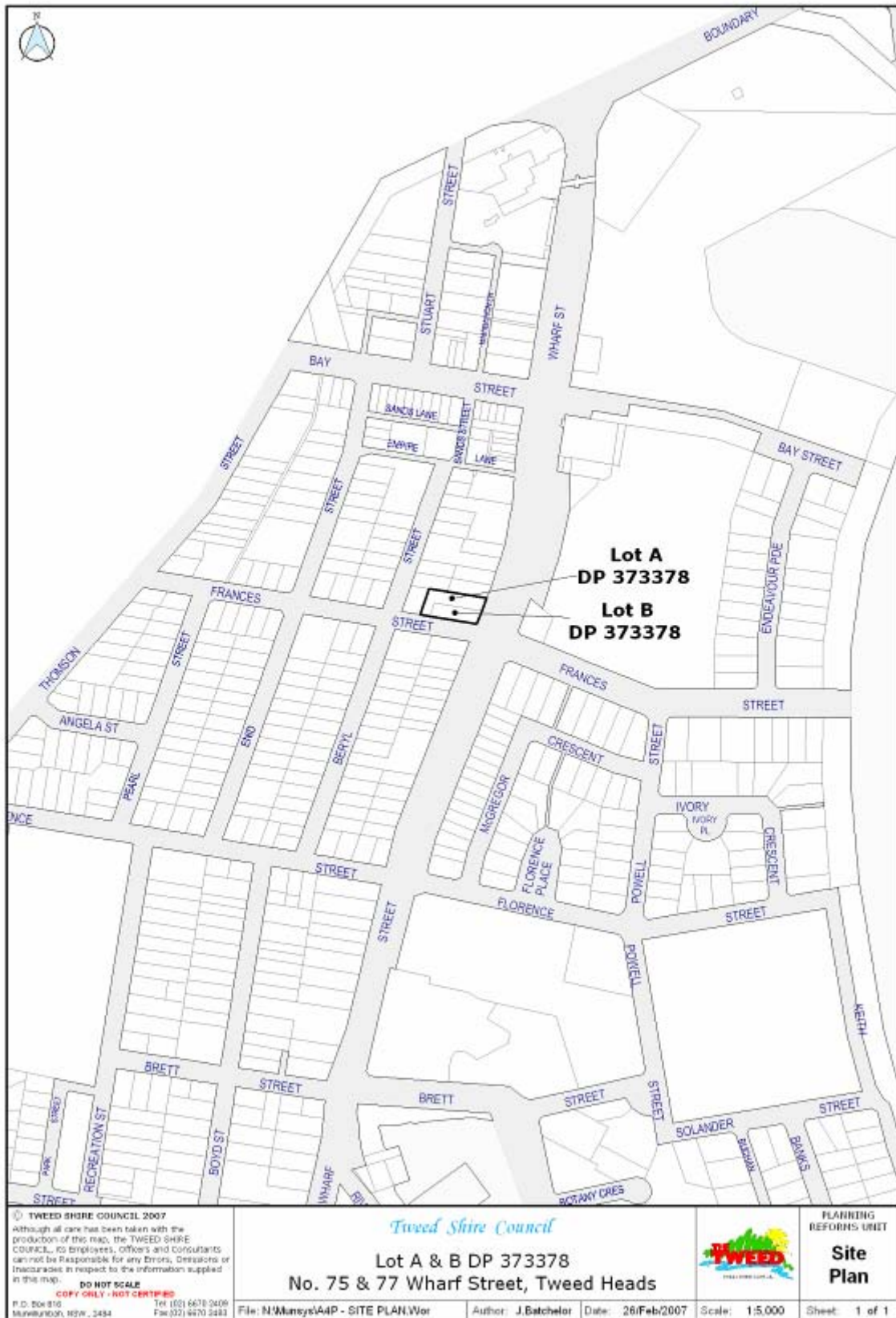
Tweed Shire Council recently approved a separate development application for the demolition of all structures on site, removal of the petrol storage tanks and remediation of the land in accordance with relevant procedures and legislation, particularly State Environmental Planning Policy No. 55.

Providing remediation works are completed in accordance with the remediation action plans, the land will be suitable for the intended re-development of the site and will not pose a threat to human health or any aspect of the environment.

Council records indicate there have only been two (2) development consents issued over the site:

- 1.1.1 Permit Number 7065 - Erection of an office block in conjunction with a car yard 21st August 1878.*
- 1.1.2 DA06/1108 - Demolition of existing structures removal of underground storage tanks & site remediation 11th January 2007.*

Figure 1 – Site location



3. THE PROPOSED DEVELOPMENT

This is an application for approval to carry out a project.

The application proposes the following:

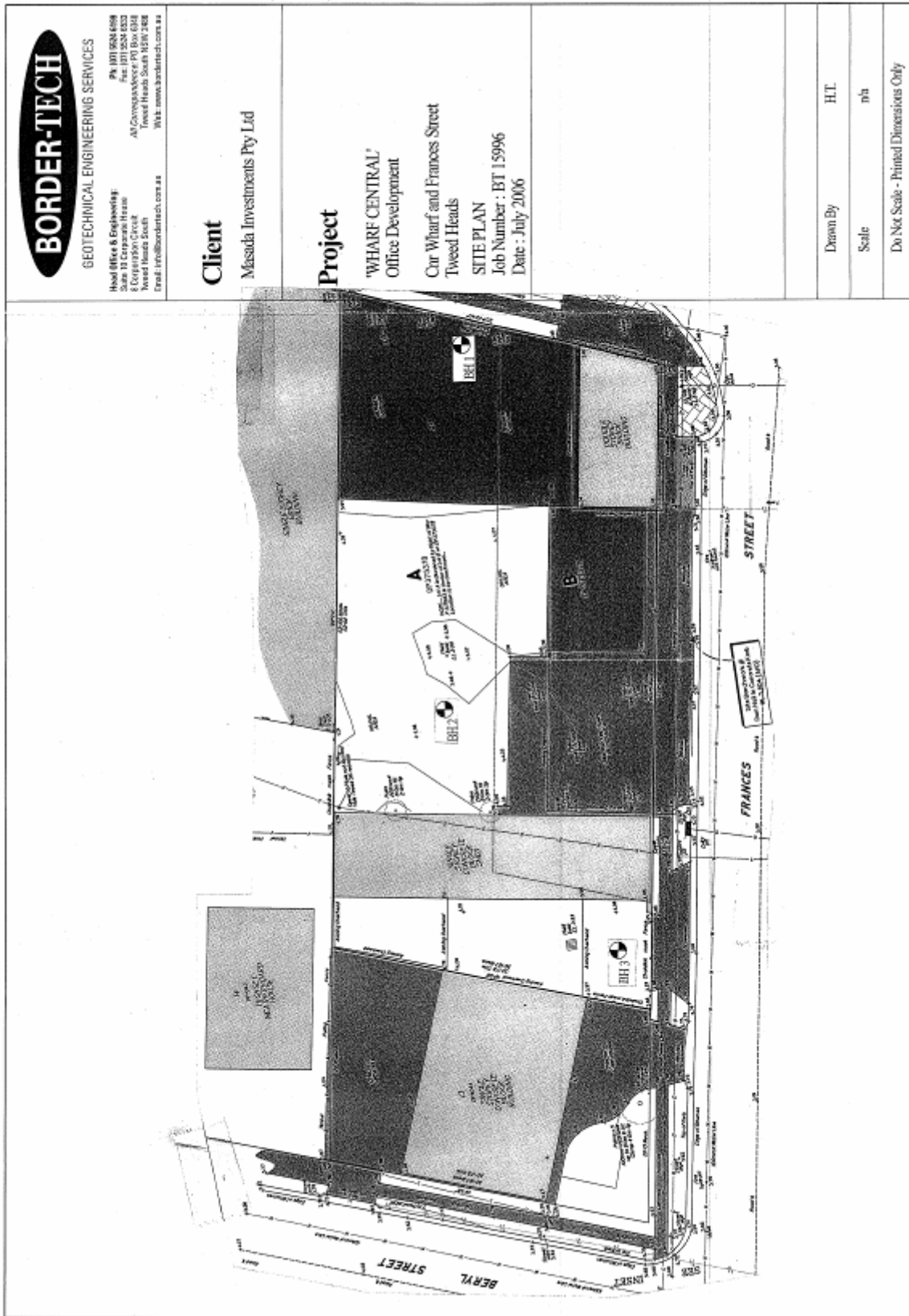
- Construction of a four-storey building to be known as “Wharf Central”, comprising a total floor area of 4808m² and gross floor area of 4732m².
- Ground floor office and retail with direct access to the footpath;
- First, second and third floor commercial office space;
- Two levels of basement car parking providing parking for 86 vehicles, bicycle storage areas, shower facilities and services room;
- Vehicular and primary pedestrian access off Francis Street;
- Contemporary building design, architectural style and external colours;
- Extensive landscaping, streetscape and road reserve refurbishments;

Table 1 – Development data

	Proposed	Relevant Development Standard (SEPP, REP, LEP, DCP)	Compliance
Lot size	1808m ²		n/a
Height	22.1m AHD 4 storeys	50m AHD 6 storeys (TELP 2000/THMP)	Yes
GFA	4732m ²		n/a
FSR	2.46:1	2:1 (TLEP 2000)	No*
Site coverage	63%		n/a
Setbacks	Wharf St – 3 m Francis St – 2.2m Northern – 0.15m Rear – 10.54	Wharf St – 0m ground; 1m for every 3m above 8m Francis St – 0m ground; 1m for every 3m above 8m Northern – 0m Rear -	No*
Landscaping	To be confirmed after adoption of Tweed Shire Streetscape Design Guidelines	Draft Tweed Shire Streetscape Design Guidelines.	Yes
Building Envelope	Building encroaches by approx 12m ² at the upper corner on each elevation	8m line vertical from site boundary then projected 72 degrees over property (DCP 18).	No*
Car parking	86 on site spaces	122 spaces, but with 70% reduction in accordance with s4.8 = 37 spaces (DCP 2)	Yes

* see discussion in sections on relevant planning instrument/policy

Figure 2 - The Site




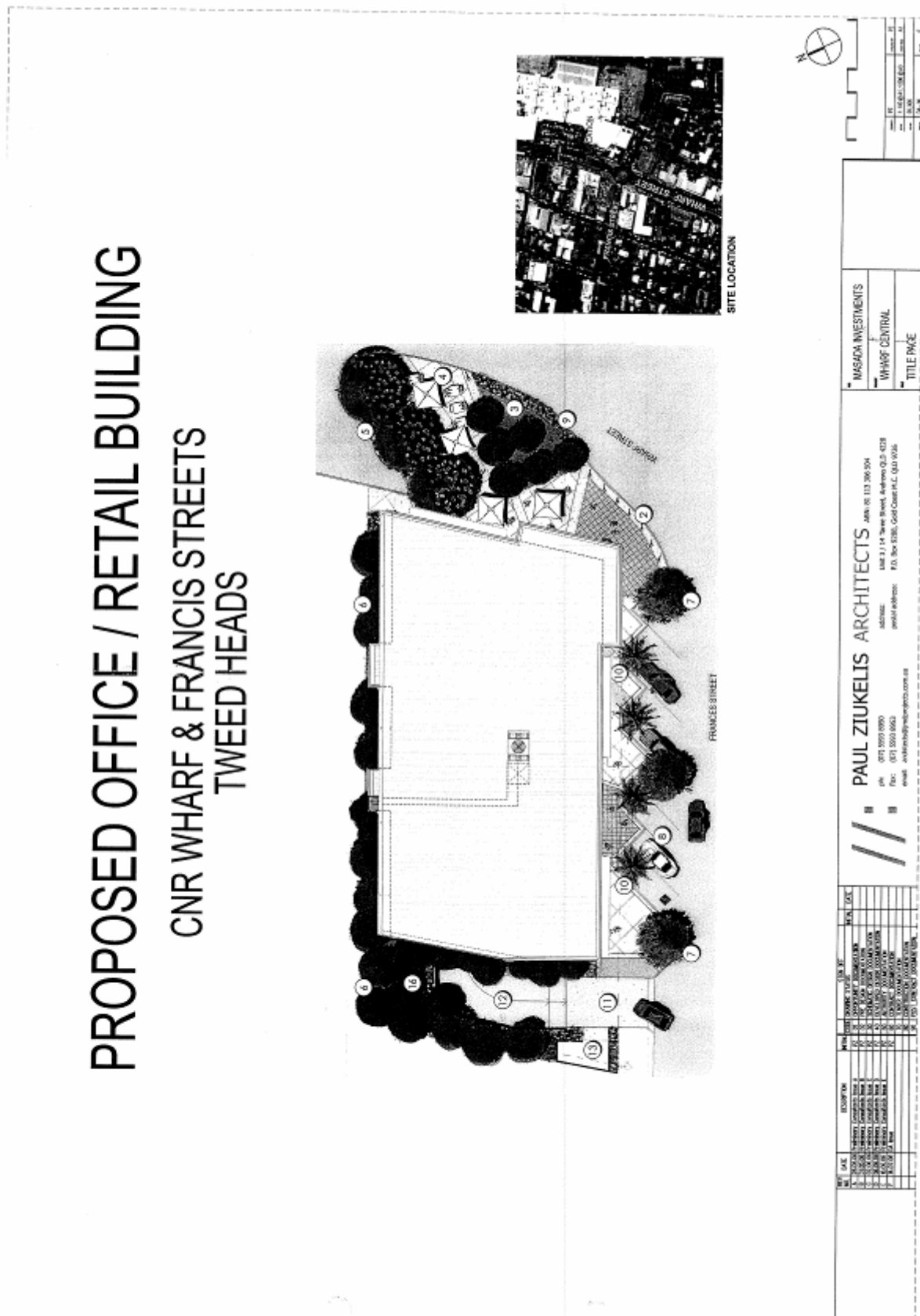
 <p>BORDER-TECH GEOTECHNICAL ENGINEERING SERVICES Head Office & Engineering: Suite 10 Corporate House 8 Corporation Circuit Tweed Heads South NSW 2488 Email: info@borderstech.com.au Web: www.borderstech.com.au</p> <p>PH: 071 924 6598 Fax: 071 924 6533 All Correspondence: PO Box 6348 Tweed Heads South NSW 2488</p>	<p>Client Masada Investments Pty Ltd</p>	<p>Project 'WHARF CENTRAL' Office Development Car Wharf and Frances Street Tweed Heads SITE PLAN Job Number : BT 15996 Date : July 2006</p>	<p>Drawn By HT</p>
	<p>Scale n/a</p>	<p>Do Not Scale - Printed Dimensions Only</p>	

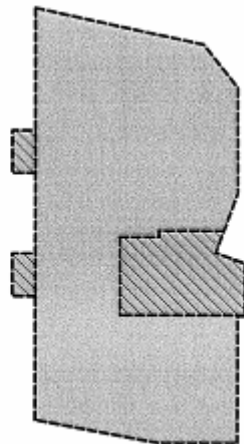
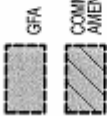
Figure 3 - Proposed development layout



DEVELOPMENT DATA

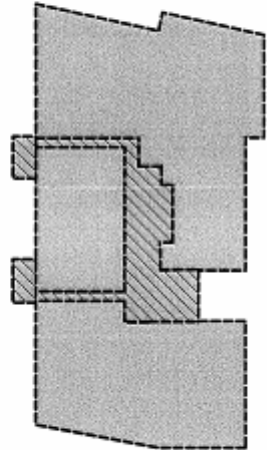
FLOOR SPACE RATIO	= 2:1 FLOOR RATIO - Proposed Zone 3(a)
SITE AREA	= 1888 msq
TOTAL GFA @ 2:1	= 3776 msq = 3674 msq
ENVELOPED	GROUND FLOOR - SHOPS / RESTAURANTS = 1200 msq
FIRST FLOOR - OFFICES	= 655 msq
SECOND FLOOR - OFFICES	= 1000 msq
THIRD FLOOR - OFFICES	= 1188 msq
TOTAL PROPOSED GFA	= 4043 msq @ 2:1 FLOOR RATIO
MA PROVIDED	= 814 msq
FIRST FLOOR	= 655 msq
SECOND FLOOR	= 1000 msq
THIRD FLOOR	= 1188 msq
TOTAL MA	= 4142 msq

KEY



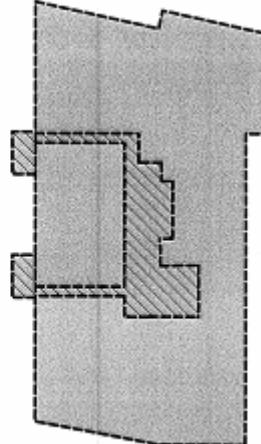
1135 msq TOTAL GFA
974 msq TOTAL MA

GROUND FLOOR AREAS
N.T.S.



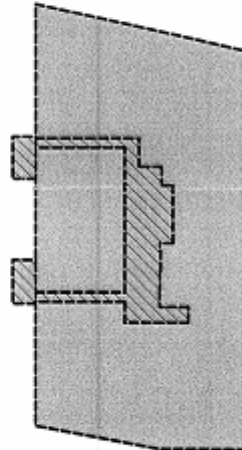
1225 msq TOTAL GFA
1053 msq TOTAL MA

FIRST FLOOR AREAS
N.T.S.



1280 msq TOTAL GFA
1060 msq TOTAL MA

SECOND FLOOR AREAS
N.T.S.



1188 msq TOTAL GFA
1028 msq TOTAL MA

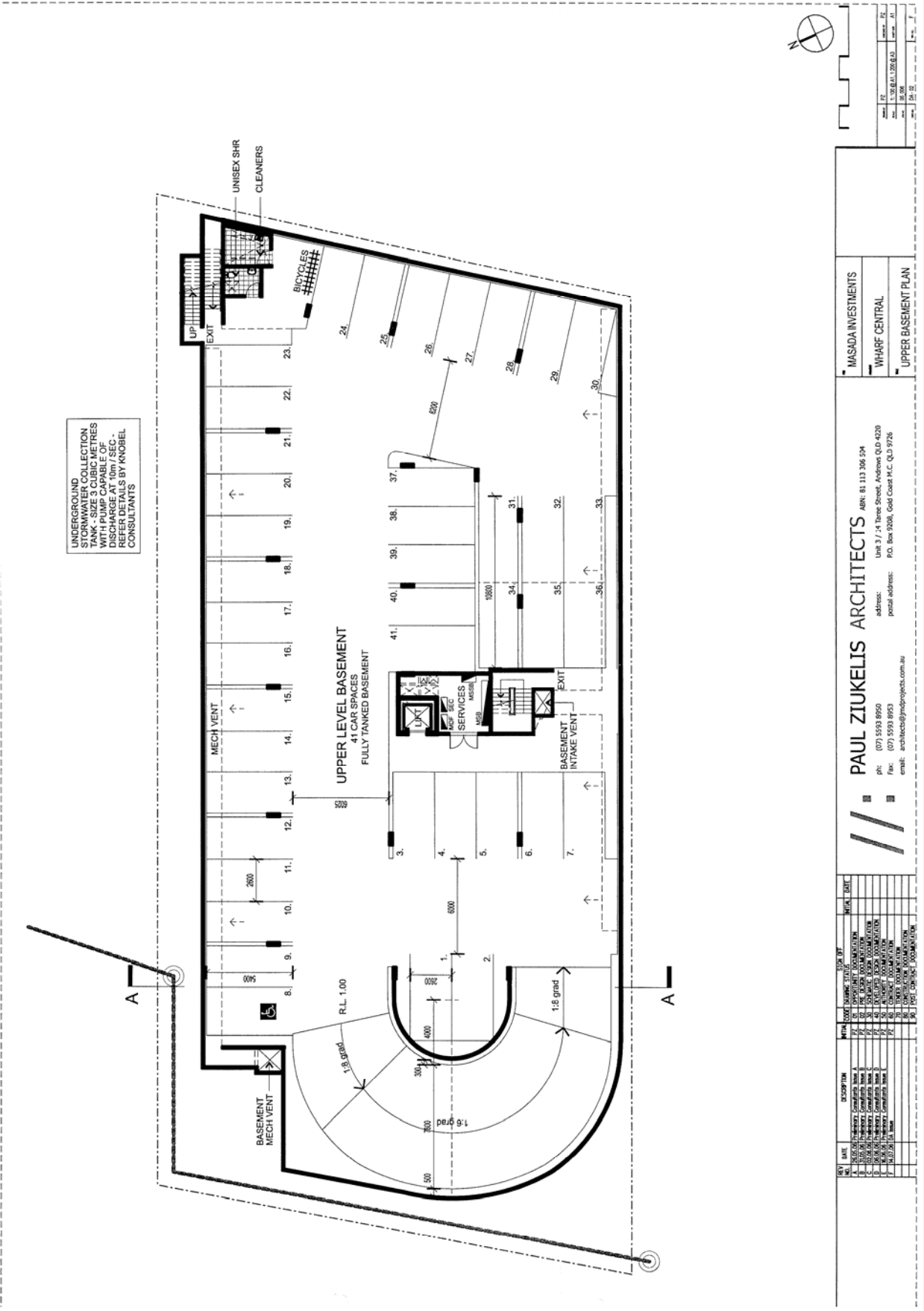
THIRD FLOOR AREAS
N.T.S.

ARCHITECTURAL DRAWING LIST

DWG NO.	DWG TITLE	SIZE	ISSUE
DA-04	DEVELOPMENT DATA	M35	F
DA-01	LOWER BASEMENT PLAN	1:200 @ A1 SIZE	F
DA-02	UPPER BASEMENT PLAN	1:200 @ A1 SIZE	F
DA-03	GROUND FLOOR PLAN	1:200 @ A1 SIZE	F
DA-04	FIRST FLOOR PLAN	1:200 @ A1 SIZE	F
DA-05	SECOND FLOOR PLAN	1:200 @ A1 SIZE	F
DA-06	THIRD FLOOR PLAN	1:200 @ A1 SIZE	F
DA-07	ROOF PLAN	1:200 @ A1 SIZE	F
DA-08	ELEVATIONS 01	1:200 @ A1 SIZE	F
DA-09	ELEVATIONS 02	1:200 @ A1 SIZE	F
DA-10	SECTION A	1:200 @ A1 SIZE	F



MASCADA INVESTMENTS		PAUL ZIUKELIS ARCHITECTS	
WHARF CENTRAL		ADE: 31.113.305.246	
DEVELOPMENT DATA & GFA CALCUS		SITE: 7/14 'New Scheme, Ashmore QLD 4220	
		postal address: 8/3, Ross Street, Gold Coast QLD 4222	
		phone: 0755 5888 8888	
		fax: 0755 5203 8823	
		email: paul@ziukelisarchitects.com.au	

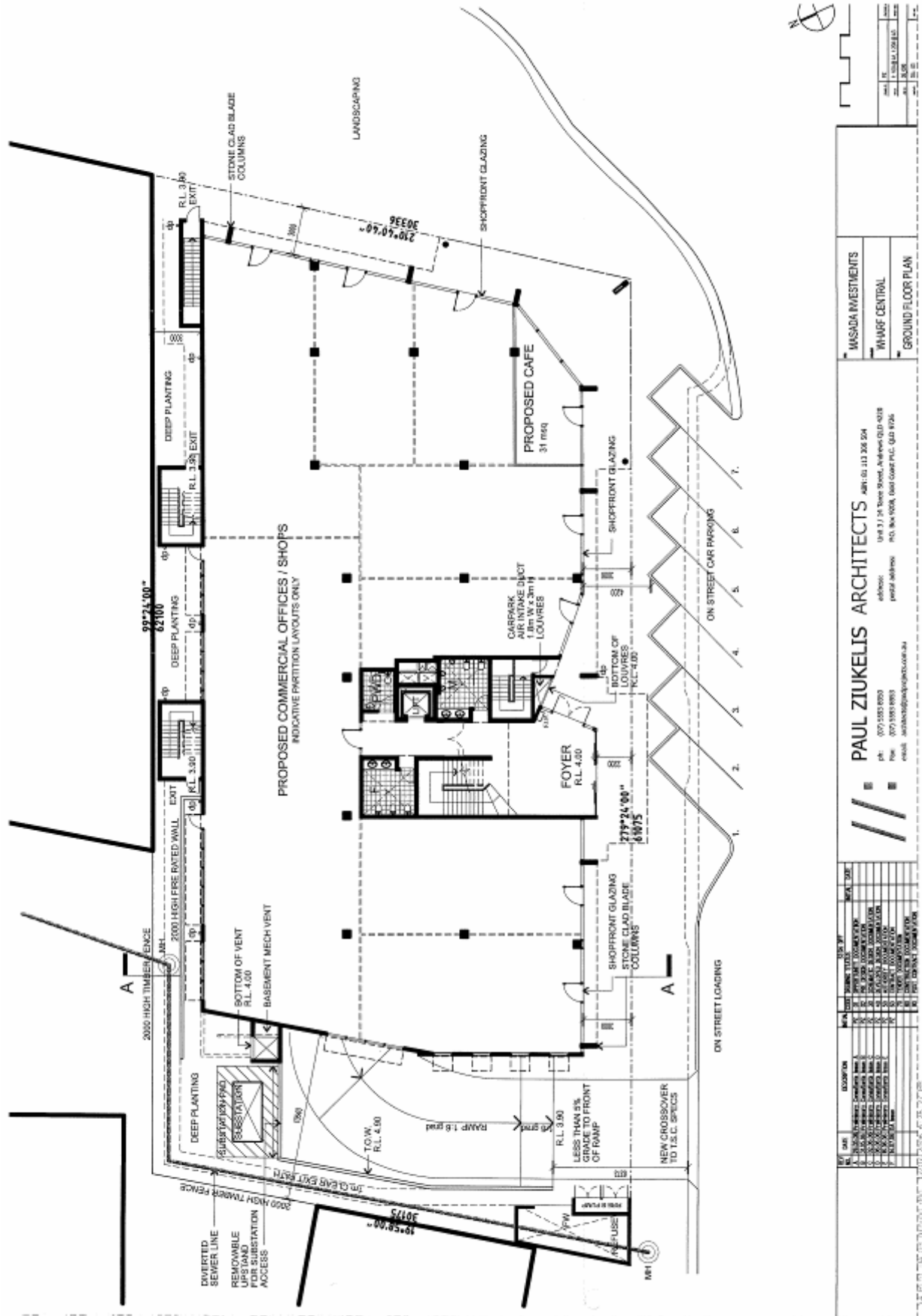


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Client	MASADA INVESTMENTS

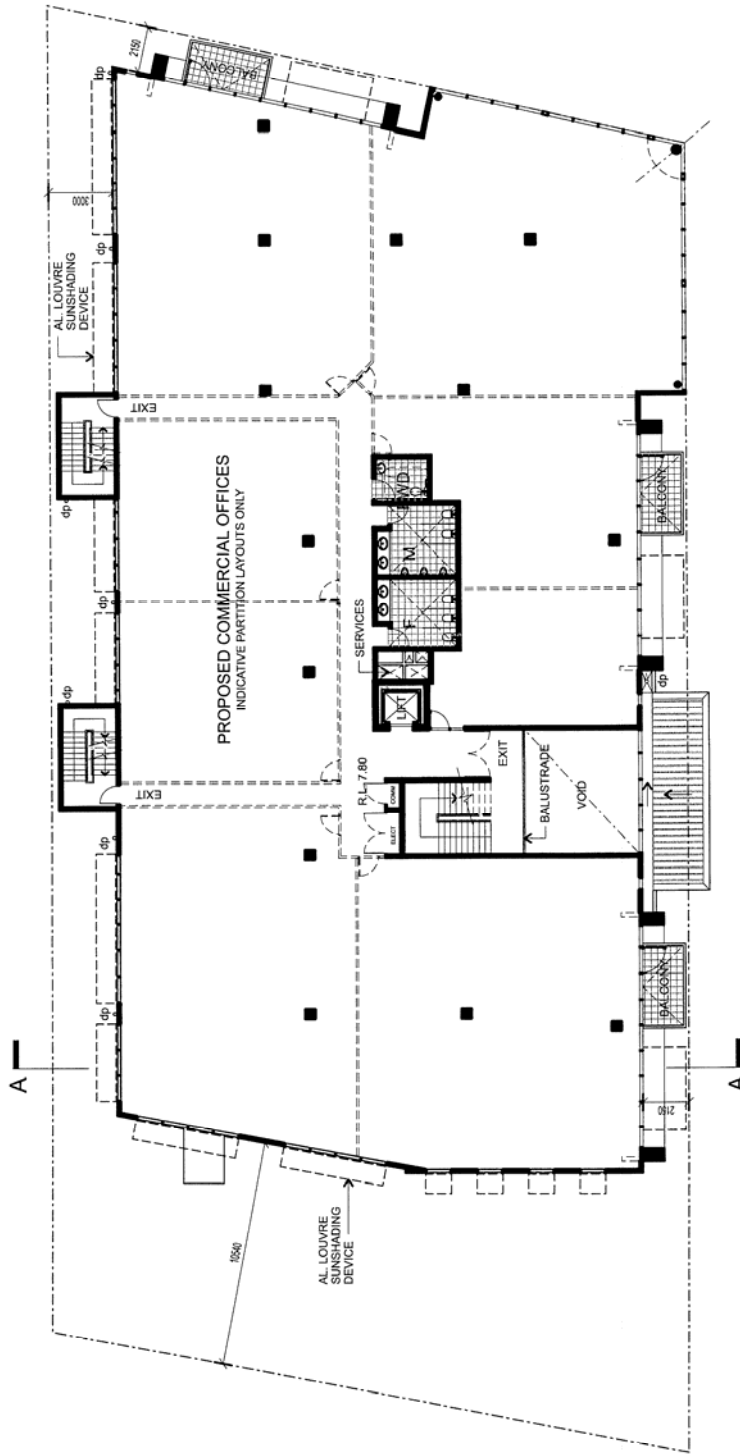
MASADA INVESTMENTS
WHARF CENTRAL
UPPER BASEMENT PLAN

PAUL ZIUKELIS ARCHITECTS ABRN: 61 113 306 304
 Unit 3 / 4 Thorne Street, Andrews QLD 4230
 address: P.O. Box 9308, Gold Coast M.C. QLD 9726
 phone: (07) 5593 8950
 fax: (07) 5593 8953
 email: archi@pziukelis.com.au

REV	DATE	DESCRIPTION	BY	CHKD
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41	28.03.07	ISSUED FOR PERMIT	SA	SA



MASADA INVESTMENTS	
WHARF CENTRAL	
GROUND FLOOR PLAN	
PAUL ZIUKELIS ARCHITECTS 48/1-51/53 South Street, Ararat VIC 3471 PH: 037 5552 8000 FAX: 037 5552 8003 EMAIL: paul@ziukelis.com.au	
MASADA INVESTMENTS 111 South Street, Ararat VIC 3471 PH: 037 5552 8000 FAX: 037 5552 8003 EMAIL: masada@masadainvestments.com.au	

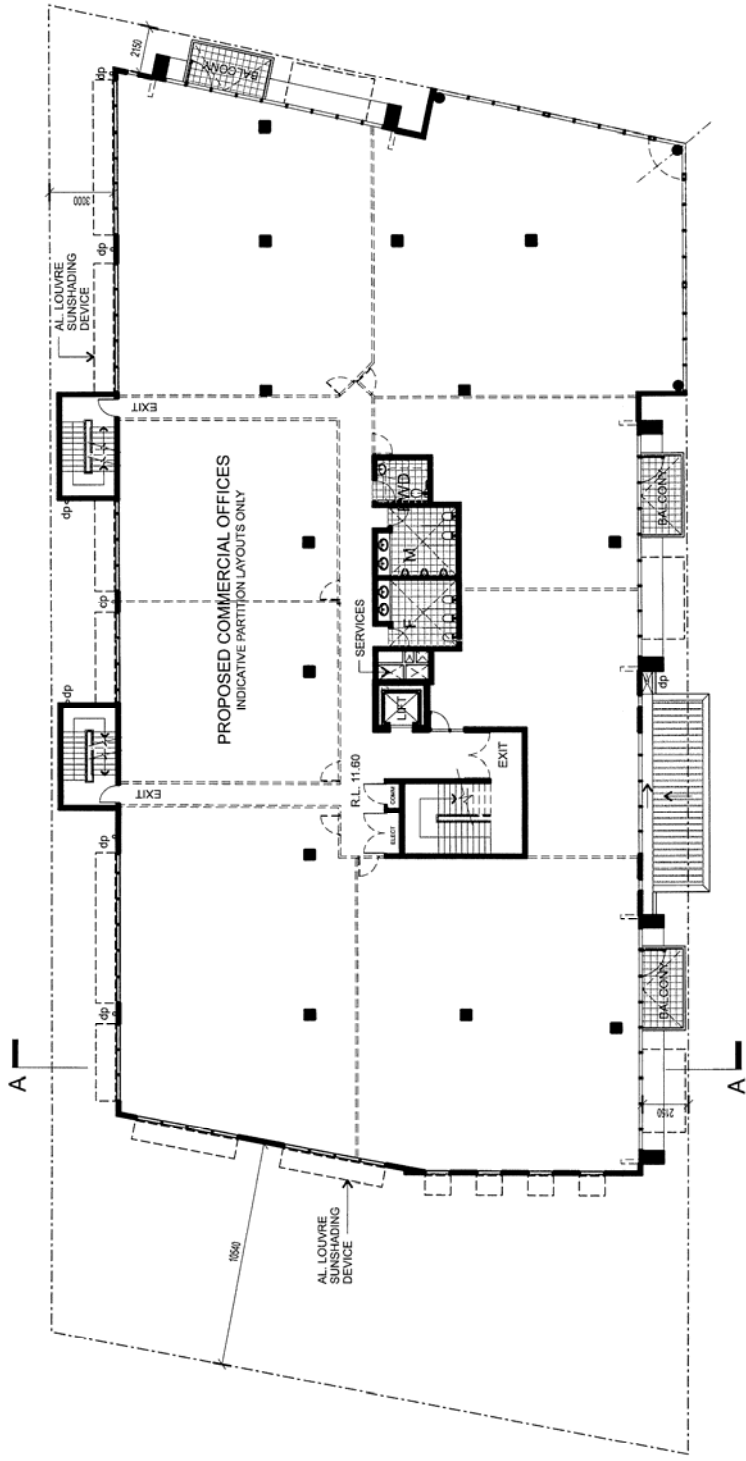


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10	12/07/2006	REVISED TO REFLECT COMMENTS	PAUL ZIUKELIS	PAUL ZIUKELIS

MASADA INVESTMENTS
WHARF CENTRAL
FIRST FLOOR PLAN

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 email: architects@pziprojects.com.au

NO.	DATE	DESCRIPTION	BY	CHKD.
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8	12/07/2006	REVISED TO REFLECT COMMENTS	PAUL ZIUKELIS	PAUL ZIUKELIS
9	12/07/2006	REVISED TO REFLECT COMMENTS	PAUL ZIUKELIS	PAUL ZIUKELIS
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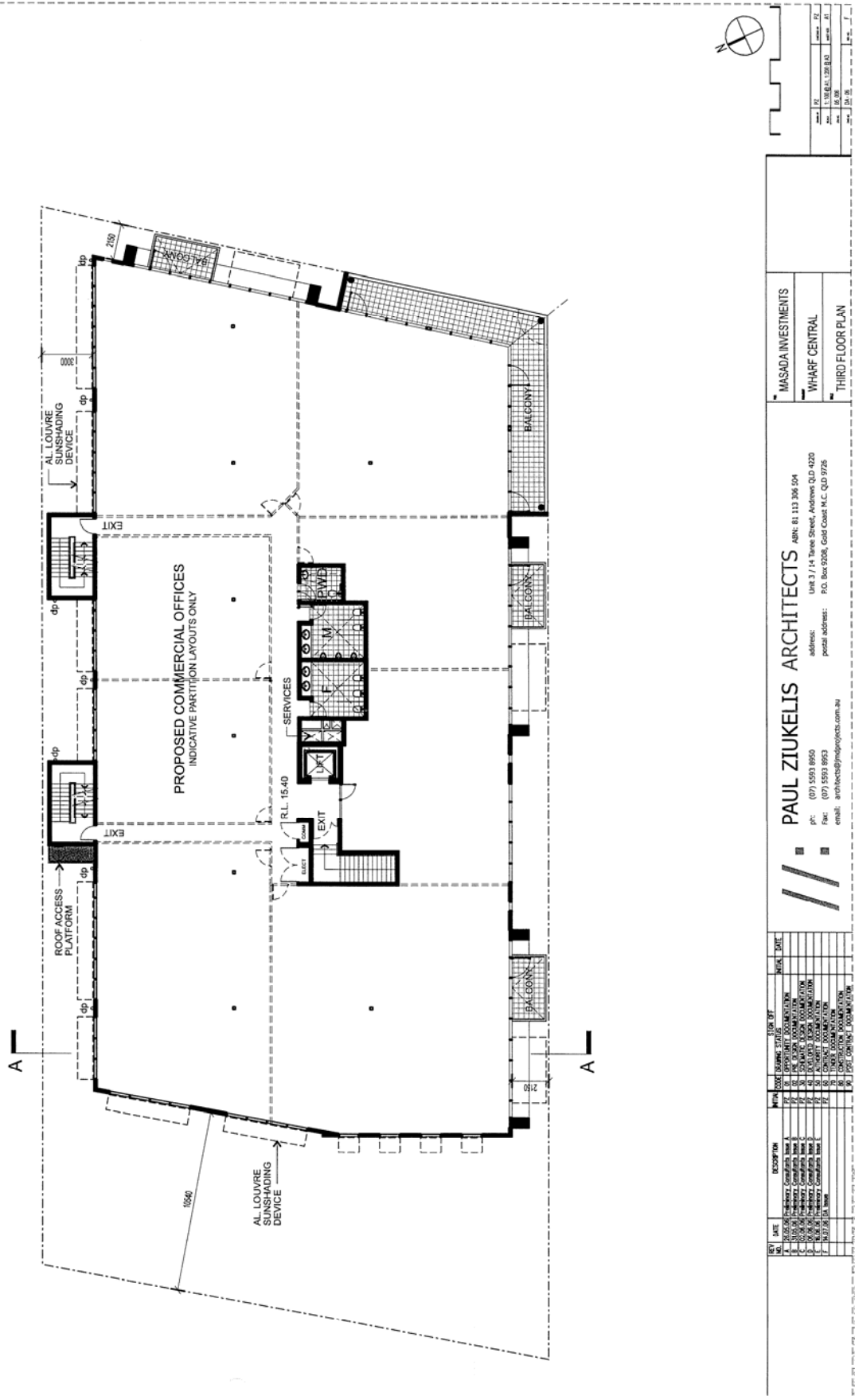


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MASADA INVESTMENTS
WHARF CENTRAL
SECOND FLOOR PLAN

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NO	DATE	DESCRIPTION	BY	CHKD	DATE	NO	DATE	DESCRIPTION	BY	CHKD
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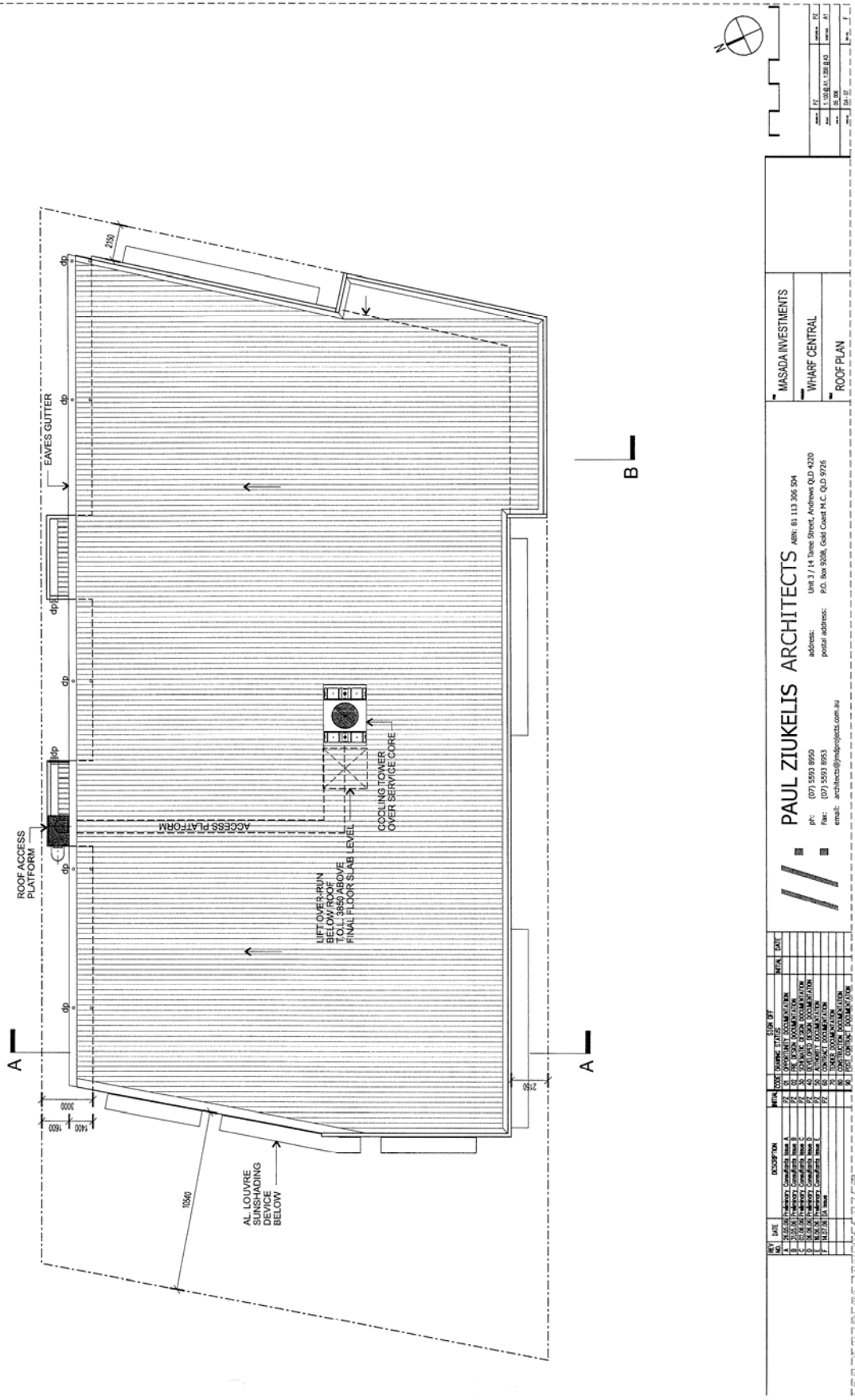
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MASADA INVESTMENTS
 WHARF CENTRAL
 THIRD FLOOR PLAN

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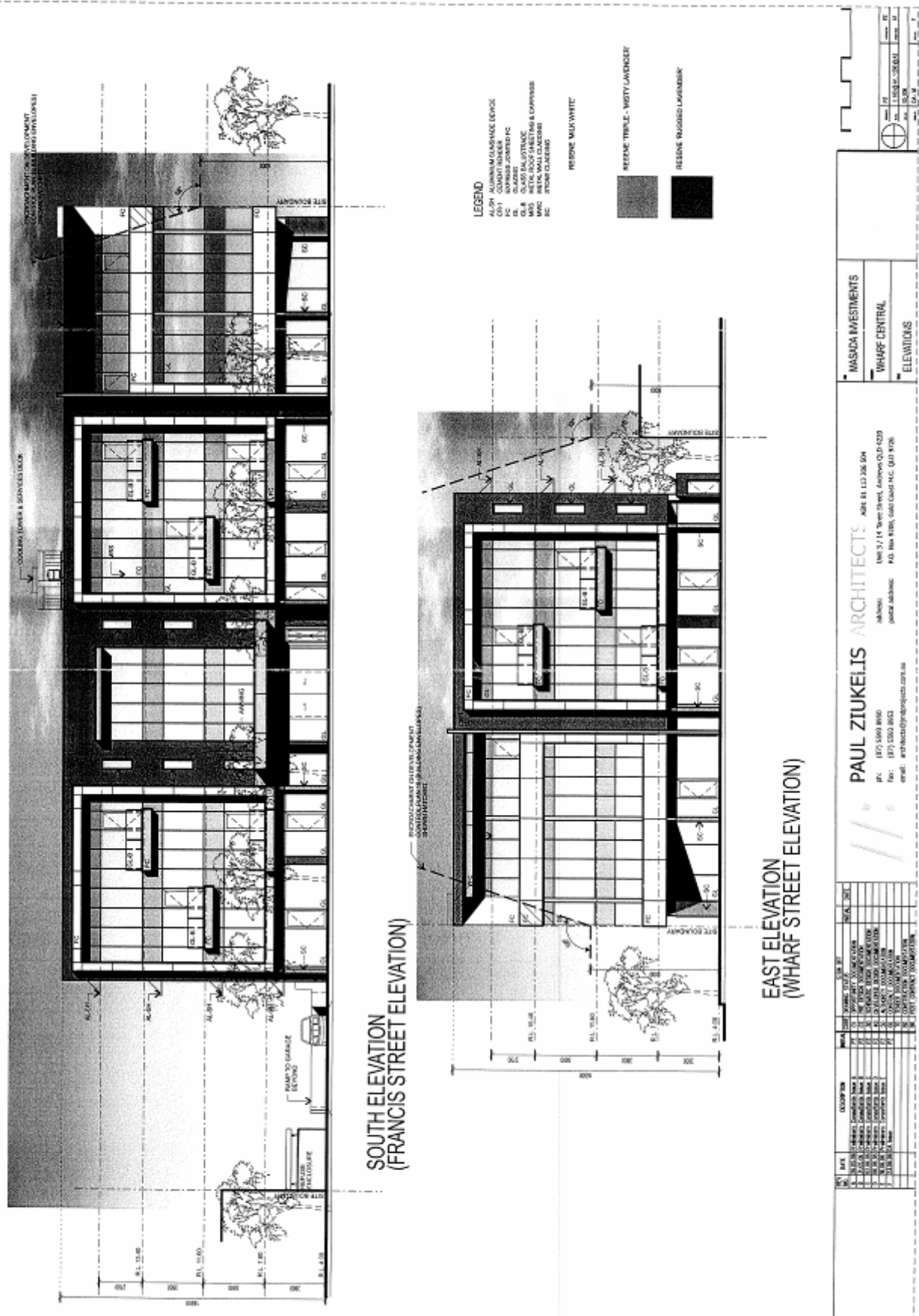
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MASADA INVESTMENTS
WHARF CENTRAL
ROOF PLAN

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3.1 PROJECT CHRONOLOGY

- 26 July 2006 – request for cl 6 opinion lodged with the Department
- 5th September 2006 – Director-General, as delegate for the Minister/the Minister formed the opinion that the proposal is a Project and that Part 3A of the Act applies
- 11th September 2006 – Preliminary Assessment lodged with Tweed Shire Council
- 22nd September 2006 – Director- General's Environmental Assessment Requirements (DGRs) signed by the Director- General's Delegate and provided to the proponent.
- 1 November 2006 - Environmental Assessment lodged with Tweed Shire Council. Assessment deemed adequate.
- 22/11/2006 – EA placed on public exhibition.
- 7th December 2006 – Summary of issues from Council provided to proponent.
- 21st December 2006 – further information provided.
- 2nd January 2007 – further information provided.
- 18th January 2007 – Amendment to project report submitted – deletion of café.
- 12th February – Amendment to on street parking layout submitted.

3.2 PROJECT AMENDMENTS

The project application has been amended on a number of occasions:

- 18th January 2007 – deletion of ground floor café and replacement with commercial floor area.
- 12th February 2007 – removal of 5 on street angle parking spaces along Francis Street frontage and replacement with 4 parallel parking spaces.
- 16th February 2007 - Amended landscape plan in accordance with requirements of Council's landscape architect and specifying intent to comply with Draft Tweed Shire Streetscape Design Guidelines.

4. STATUTORY CONTEXT

4.1 MAJOR PROJECT DECLARATION

The project is a Major Project under *State Environmental Planning Policy (Major Projects) 2005*, being development greater than 13m in height within the coastal zone that includes a SEPP 1 variation to a development standard (clause 1 Schedule 2).

On the 24th August 2006, the Director-General of the Department of Planning issued an instrument of delegation to Tweed Shire Council in regards to MP06_0207. All assessment powers in relation to the assessment of this project under Part 3A of the Environmental Planning and Assessment Act 1979 and Part 1A of the Environmental Planning and Assessment Regulations 2000 have been delegated to Council. The Minister remains the consent authority.

4.2 PERMISSIBILITY

Under the Tweed Local Environmental Plan, the site is zoned 3(a) Sub Regional Business. A range of land uses are permitted in this zone, primarily aimed at the rejuvenation of the Tweed Heads core business area as a sub regional centre primarily for tourist, cultural, retail and commercially orientated development. The Proposal is consistent with the objectives of the 3(b) zone and is listed as Item 2 (allowed only with consent) in the table to Clause 11 TLEP, is therefore permissible subject to the Minister's approval.

Commonwealth Environmental Protection and Biodiversity Conservation Act 1999

The Director-General's Requirements list consideration of any matters of national environmental significance under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The provisions of the EPBC Act relate specifically to matters of national or international significance and include national or world heritage items, RAMSAR wetlands, threatened species and communities, migratory birds, nuclear activity and the marine environment.

The subject site and immediate surrounding area does not contain any significant native vegetation or potential threatened species, nor is it associated with any of the abovementioned matters of national significance. As such, no impact on these listed matters are anticipated and no approvals under the EPBC Act are required.

Integrated Development

Section 91 of the Environmental Planning and Assessment Act 1979 (the Act) outlines certain development that, in order to be carried out, requires development consent under Part 4 and any one or more approvals from specific State Government Authorities under relevant legislation. Under Part 4 assessment, the proposed development would require a licence from the Department of Natural Resources under section 91 of the Water Act 1912 for dewatering of the site during construction of the basement component.

However, section 75U of the Act identifies legislation and approvals that do not apply in the assessment of a project under Part 3A. Sections 89, 90 and 91 of the Water Act do not apply and as such a dewatering licence is not required.

Notwithstanding, the application was referred to the Department of Natural Resources for comment, which has granted approval to issue a licence under Part 5 of the Water Act, and has also provided general terms of approval for the execution of the dewatering. These general terms of approval have been included in the attached conditions of consent.

4.3 MINISTER'S POWER TO APPROVE

Council exhibited the Environmental Assessment (EA) in accordance with section 75H (3) of the Environmental Planning and Assessment Act, 1979, as described in section 6 below. The project is permissible and meets the requirements of the Major Projects

SEPP. Therefore, Council has met its legal obligations and the Minister has the power to determine this project.

4.4 DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGRS)

The DGRs, issued on 6th October 2006, required the following issues to be addressed:

- Statutory and Other Policy Requirements
- Design & Visual Impact
- Environment and Community Health
- Natural Hazards
- Water Cycle Management
- Infrastructure Provision
- Traffic and Vehicular Access
- Pedestrian Access and Amenity

The DGRs are in **Appendix A**

The EA lodged by the proponent on 1st November 2006 was considered to be inadequate. The proponent subsequently lodged a number of amendments to the EA dated 21st December 2006, 22nd January 2007, 31st January 2007 and 12th February 2007, which satisfactorily addressed the DGRs.

4.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)

Application of EPIS to Part 3A projects

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly, the objectives of a number of EPIS and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment as follows:

State Environmental Planning Policy (Major Projects) 2005

The Major Projects SEPP applies to the project as discussed in section 4.1 above.

State Environmental Planning Policy No. 1 – Development Standards

State Environmental Planning Policy No. 1 (SEPP 1) sets out the general principle that a development standard may be varied. It allows an applicant to support their development application with a written objection arguing that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

Where the consent authority is satisfied that the objection is well founded and is also of the opinion that granting of consent to that development application is consistent with the aims set out in clause 3 of SEPP 1, it may grant consent to that development application with a variation to the development standard.

Clause 50 of the Tweed Local Environmental Plan 2000 contains a development standard relating to floor space ratio (FSR). Under Clause 50, development of land zoned 3(a) at Tweed Heads on allotments less than 2000m² must not exceed a floor space ratio of 2:1. The aim of this clause is to control the intensity of retail and commercial uses in the central business district of Tweed Heads by setting a maximum limit on floor space ratios, and to encourage consolidation of lots.

The area of the subject site is 1808m²; hence the 2:1 FSR standard applies. The total gross floor area for the proposed development is 4732m², with a floor space ratio of 2.61:1. Thus the proposed building design will result in non-compliance with the development standard relating to floor space ratio in TELP 2000. As such, a SEPP No. 1 objection to the development standard has been lodged to vary the allowable floor space ratio.

Circular No. B1, issued 17th March 1989 directs Council to assume the Director's concurrence to grant a variation to a development standard. The Circular also contains guidelines for the use of SEPP 1, which state that when deciding whether to consent to a development application, Council should examine whether the proposed development is consistent with the state, regional or local planning objectives for the locality and in particular the underlying objective of the standard. As numerical standards are often a crude reflection of intent, a development that departs from the standard may still achieve the underlying purpose of the standard as much as one which complies.

The proponent has based their justification for the variation on the judgements supported by the Land and Environment Court, particularly the judgement of Lloyd J in *Winten Property Group Limited v North Sydney Council* (2001) 130LGERA. This case established five (5) questions to be addressed in SEPP 1 objections. These 5 questions, in principle, address the same concerns as the above matters identified the Department's guidelines. The following is a summary of the proponent's responses.

“Clause 50 states the following objective for the clause: to control by floor space ratio the intensity of retail uses in Zone 3(a) Sub-regional business zone and parts of 3(b) General Business zone, and encourage the consolidation of lots. It is submitted that the proposed development is consistent with those objectives for the following reasons:

- *The site comprises the amalgamation of two existing lots within the centre of Tweed Heads CBD. It is not economically feasible or practical for the proponent to pursue further amalgamations of the development site;*
- *The proposal limits the amount of “retail” uses within the development;*
- *The height, scale and design of the building are appropriate to its prominent corner location within the CBD;*
- *The proposed four storey building design will assist in achieving the objectives of the recently adopted Tweed Heads Town Centre Master Plan which recommends a “Key Building Corner Articulation” for the subject site;*
- *The proposed four storey building will optimise the use of the centrally located site which has a maximum building height of 50m AHD and recommended height limit of six (6) storeys under the Tweed Heads Town Centre Master Plan;*
- *The proposed building incorporates the provision of publicly accessible footpath within the site area and the provision of significant streetscape improvement works, which would normally achieve bonus floor space provisions of the street were greater than 2000m²;*
- *The additional floor space that is provided as a result of the proposed variation of the development standard will not result in any adverse shadowing or privacy impacts on the adjoining properties;*
- *The height and scale of the proposed development is appropriate to the site location and the environmental characteristics of the land. In this respect the proposed building height would be compatible to the likely built form that may be achieved on adjoining amalgamated lots as part of a future development;*

Compliance with the development standard is unreasonable and unnecessary as:

- *Non-compliance with the development standard improves the development outcome and does not impact on neighbouring development’*
- *Compliance with the development standard would preclude effective utilisation of the prime Central Town Centre site which is a focus of the Master Plan which seeks to revitalise the Town Centres and attract investment to the area;*
- *The building comprises only minor departure from the specified overall FSR control, i.e. 0.65:1, which is insignificant compared to the FSR allowance of up to 4:1, which the development may have achieved had the site been greater than 2000m².*
- *The height and scale of development is appropriate to its location, the surrounding development and the environmental characteristics of the land.*
- *The proposed building is of a very high architectural standard and complements the scale, character and built form of the surrounding structures and the intent of the Tweed Heads Town Centre Master Plan to achieve a building design which activates and responds to the prominent corner location of the site.*
- *The proposed development fully complies with the statutory building height control and substantially complies with the other relevant planning controls relating to car parking and building envelope.*

The proposed minor departure from the floor space ratio development standard is considered to be well founded in the circumstances of this case, which include:

- *The amalgamation of two existing lots (consistent with Clause 50 objective);*
- *Limiting 'retail' uses within the development (consistent with Clause 50 objectives);*
- *The location of the site being a prominent CBD corner;*
- *Compliance with the overall height limit applying to the land;*
- *Provision of appropriate on site car parking;*
- *Compliance with the specific objectives of the Tweed Heads Town Centre Master Plan;*
- *The realisation of superior building design and urban design outcomes."*

Comments:

The future character of the area will largely be dictated by both continued development of medium and high density mixed land use forms, however in terms of scale, the future character will more commonly be defined by the height limits and FSR restrictions of TLEP 2000, DCP 18 and the Tweed Heads Master Plan. The underlying objective of the FSR standard is clearly stated in TLEP as a mechanism to control the density of retail uses in the 3(a) and 3(b) zones and encourage the consolidation of lots. Additionally, it reflects the intended regional and local distribution of retail space and the capacity of the transport system to service the area. In light of the above, it is considered the proposal maintains complete consistency with the objectives through consolidation of lots and restriction of retail tenancies to the ground floor of the development.

Given the site area is 1808m², compliance with the development standard would result in an allowable gross floor area of 3616m², which is 1116m² (or 30%) less than the proposed gross floor area, and would more than likely have restricted the proposal to three storeys. Given the 6 storey (or 50m AHD) height limit over the area and subsequent opportunity for tall buildings to be approved alongside this site (providing appropriate amalgamation of lots), in this instance, compliance with the development standard is considered a hindrance to the preferred development of the site, which encourages accentuating the prominence of buildings on the street corner. Notwithstanding the height limit, it is feasible that a 4 or 5 storey building would be the maximum to be proposed over adjoining lots (given the opportunity for amalgamation), and it is considered a 3 storey building would be dwarfed by an adjacent 4 or 5 storey building, however a 4 storey building on the subject site would retain the integrity and visual importance of the corner context.

In summary, the development is not only consistent with the underlying purpose of the standard but also with the broader planning objectives for the locality, therefore it is considered that strict compliance with the development standard would be unreasonable and unnecessary. Under the circumstances and given the minimal impact it will have on the immediate surroundings and greater locality, it is recommended that the SEPP No. 1 objection be supported.

State Environmental Planning Policy No. 11 – Traffic Generating Developments

The provisions of State Environmental Planning Policy No 11 - Traffic Generating Developments require certain development applications to be referred to the Regional Traffic Committee for review and comment before determination. Historically, those developments listed in Schedule 1 of the SEPP are referred to the Regional Traffic Committee, whilst those listed in Schedule 2 are referred to the Local Traffic Committee.

The proposed development is identified as a Schedule 1 development, as it involves *the erection of a building for the purposes of shops and commercial premises where the gross floor area of the building is or exceeds 4000 square metres or the enlargement or extension of a building used for the purposes of shops and commercial premises where the gross floor area of that enlargement or extension is or exceeds 4000 square metres.*

The proposal was forwarded to the Local Traffic Committee and the Northern Region Regional Development Committee of the Roads and Traffic Authority for review. The following issues were raised:

- The proposed development should be designed so that service vehicles can be accommodated off street and not on street utilizing valuable parking spaces. If this is not possible, then the loading should be regulated for use outside of business hours so that the on street parking can be fully utilized.

Comment:

Given the nature of the likely future uses being commercial office space and small retail premises, it is unlikely there will be a need for the use of forklifts or any other loading methods that unduly impinge upon the amenity. Furthermore, access for heavy rigid vehicles would not be necessary for the likely delivery requirements of future tenants e.g. receiving stationary and dispatching documents by courier. As such, it is considered appropriate for courier vans to access the site and service the tenancies from a basement car park on site space rather than reduce on street parking by dedicating a specific on street loading bay. Condition requiring so has been attached.

- The Committee was concerned as to how refuse was to be removed from the site without the collection truck having to reverse over the footpath. Garbage servicing arrangements should be designed so the trucks can enter and leave in a forward manner.

Comment:

Council's waste contractor's, Solo Waste, have reviewed the proposal and advised in writing that they are able to service the development and as such it is considered Solo is comfortable they can comply with their relevant OH&S policies and procedures. Condition to be applied restricting garbage collection to non-peak periods of the day to ensure minimal disruption to pedestrian and traffic amenity.

- The site triangle required by AS 2890 needs to be provided on site adjacent to the driveway.

Comment:

To be conditioned accordingly.

State Environmental Planning Policy No. 71 – Coastal Protection

The subject site falls within land identified as the 'coastal zone' as under SEPP 71. However, the application is not required to be referred to the Director-General of the Department of Planning given the proposal does not fall under the development types specified in Part 3, being significant coastal development.

Despite this, the items contained in Clause 8 of the policy remain a relevant matter for consideration. These items relate to the potential impacts of the development on public access to the foreshore, views, overshadowing of the foreshore, existing wildlife corridors, the suitability of the site for the development and measures to reduce other adverse environmental impacts. Given the distance of the subject site from the Tweed River foreshore areas and the existing urban development between the site and the foreshore, there are no anticipated adverse impacts regarding the abovementioned issues. As such, the proposal is considered consistent with the matters for consideration under Clause 8 and is a suitable development for the site.

North Coast Regional Environmental Plan

Clause 32B Coastal Lands

The provisions of Clause 32B specify that all development within the region to which the NSW Coastal Policy 1997 applies must consider the provisions of that policy, the Coastline Management Manual and the North Coast: Design Guidelines. The subject site is affected by the provisions of the Coastal Policy and assessment has been undertaken below.

In general, the provisions of the abovementioned 3 documents are concerned with the same issues as those listed as matters for consideration under Clause 8 of SEPP 71. As discussed above, given the distance of the site from the foreshore areas, it is considered the proposal would not cause any additional overshadowing of waterfront open space, would not impede public access to the foreshore area and would not impact upon the natural qualities of the river or coastal areas. Hence the proposal is considered consistent with the aims and objectives of the abovementioned documents and Clause 32B.

Clause 47 – Principles for Commercial and Industrial Development

Clause 47 of NCREP refers to the principles Council shall take into account when developing draft local environmental plans relating to commercial or industrial development. It also requires Council to take into account the adequacy of transport services in the locality and accessibility of the site for industrial developments.

There are no draft LEPs concerning commercial development currently being developed which affect the site. Notwithstanding, the proposed mixed use commercial and retail development is located within the existing 3(a) Sub Regional Business Zone and all relevant services are available to the site. In addition, the site is located in close proximity to existing local and regional road networks and is considered suitable for this type of development.

Clause 51 Tall Buildings

This clause provides that Council shall not, without the concurrence of the Director, grant consent to a development application for the erection of a building over 14 metres in height. The proposed building will exceed 14 metres from natural ground surface level.

On 17th March 1989, the Department of Planning issued Tweed Shire Council with Circular No. D8, which gave direction under section 81 of the EP&A Act for Council to assume the Director's concurrence for development applications seeking approval for buildings over 14 metres in height. The Minister is the consent authority in this instance therefore concurrence is not required.

Tweed Local Environmental Plan 2000

Clause 11 Zones

The subject site is zoned 3(a) Sub-Regional Business. The proposed development is defined as a *commercial premises*, which is listed in Item 2 in the zoning table to clause 11, and is permissible with development consent.

The primary objective of the 3(a) zone is to encourage the development and rejuvenation of the Tweed Heads core business area as a sub-regional centre, primarily for tourist, cultural, retail and commercially orientated development, including a choice of accommodation. A secondary objective of the zone is to encourage upper floor residential and tourist accommodation.

The proposed 'Wharf Central' is considered consistent with the zone objectives, as it would facilitate the much-needed rejuvenation of the site with an appropriate commercially orientated development.

Clause 15 – Essential Services

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

- It is proposed to connect the development to the existing 100mm diameter water main and the existing 150mm diameter sewer gravity main, which run parallel to the site along Francis Street. The existing sewer line that runs through the site is to be relocated along the northern and north-eastern property boundaries. Council's water and sewer Design Engineer has reviewed the plans and is satisfied with the proposal provided approval is

- obtained under Section 68 of the Local Government Act 1993 for relocation of the sewer and an easement is created over the new sewer location.
- Existing underground Telstra telecommunications infrastructure runs parallel along Francis Street; and Country Energy power lines run along Francis and Wharf Street frontages with overhead power lines within the site where the old car sales office was located.

Clause 16 – Height of Buildings

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The site has an allowable height limit of RL 50m AHD under TLEP and the Tweed Heads Master Plan nominates a 6-storey height limit over the site. The proposed building is four storeys and has a maximum height of RL 22.1m AHD. This clearly complies with the numerical height requirements and therefore satisfies Clause 16 of the TLEP 2000.

Clause 17 – Social Impact Assessment

Clause 17 does not specify a particular trigger threshold for the submission of a Social Impact Assessment other than if a consent authority considers a development is likely to have a significant social or economic impact on the locality or in the Tweed.

Given the scale of the proposal it is likely that it will have some impact, both socially and economically, however both are considered positive. Employment generation throughout the construction phase and also the ongoing operation of businesses within Wharf Central will directly benefit the local economy and may also have a positive social impact through potential for unemployed residents to find work.

Under the circumstances, however, the magnitude of these impacts is not considered significant enough to warrant the preparation and submission of a Socio-economic Impact Statement.

Clause 22 – Development Near Designated Roads

Clause 22 aims to ensure that development does not impact the efficiency, capacity or safety of designated roads or detract from the scenic qualities of the Tweed; and to reduce the potential impact of traffic noise on nearby development.

Wharf Street is a Council designated road and as such the provisions of Clause 22 apply. All vehicular access to the site and garbage collection is to be via Francis Street, and further upgrades are also proposed for the existing on street parking on Francis Street. No vehicular access is proposed from Wharf Street.

Consequently, provided a suitable traffic management plan is adhered to during the construction phase, the proposed development will not constitute a traffic hazard or reduce the capacity of Wharf Street; would not impede traffic; would not prejudice future improvements to the road and is not a noise sensitive development. Hence clause 22 is considered satisfied.

Clause 33 – Obstacles to Aircraft

Clause 33 requires Council have regard to whether development in the vicinity of Coolangatta and Murwillumbah Airports and en route flight paths will increase the risk of obstacles to aircraft. Any development proposals for structures 110 metres or more above ground level must be assessed against the requirements of the Civil Aviation Safety Authority under regulations 89Y and 89Z of the Commonwealth Civil Aviation Regulations 1988. Furthermore, for developments exceeding 49.5m AHD, the application must be referred to the Gold Coast Airport for approval.

The proposed building will be approximately 22.1m AHD and as such does not require further assessment or referral.

Clause 35 - Acid Sulfate Soils

Clause 35 of the TLEP requires a preliminary acid sulfate soils assessment to be prepared where the proposed development is likely to interfere with acid sulfate soils. If such soils are detected by the preliminary assessment, an acid sulfate management plan is to be prepared in order to minimise the impact on water quality, ecosystems, infrastructure and agricultural and urban activities.

Council records indicate the site is potentially affected by Class 2 Acid Sulfate Soils (ASS). An investigation by Precise Environmental confirmed the presence of actual ASS throughout the majority of the soil profile and potential ASS at depths of greater than 4 metres below ground surface level. The ASS management plan (dated 12 July 2006) submitted with the application originally intended to neutralise all excavated soil and to conduct validation testing to ensure that all ASS had been neutralised. Precise recommended off-site treatment due to the difficulties associated with in-situ treatment.

After consultation with the Department of Natural Resources, the applicant submitted a revised ASS management plan, dated 29 November 2006, which indicated that treatment will be applied only to soils extending below 4 metres from ground surface level. Precise have advised that the material originally classified as actual acid sulfate soil (AASS) was not ASS at all, as it is not of pyritic origin.

The ASSMAC Guidelines states that not all acidic soils in coastal areas are actual ASS. Although they are acidic, they do not have the ability to generate additional acid when exposed to air, and do not exhibit the same kinds of environmental risks that are associated with acid sulfate sediments.

Glen Atkinson, Senior Natural Resource Analyst from the NSW Department of Natural Resources advised that the soil is acidic but not acid sulfate soil. Hence the proposed treatment of this material as outlined in the first ASSMP was an error on the part of Precise Environmental due to them using the Queensland ASS manual, which requires all acidic soil, whether acid sulfate or not, to be treated. Consequently, no neutralisation of the soil in the upper 4 metres of the soil profile is required. Precise advised that this material will be validated for waste classification and spoil will be removed to a nominated landfill site. Options for disposal are to be discussed with Council's Waste Officer prior to removal from the site.

Material found below 4 metres below ground level is considered potential ASS and will be treated as per the recommendations in the revised Acid Sulfate Management Plan.

Clause 39 - Remediation of Contaminated Land

The objective of Clause 39 is to ensure that contaminated land is adequately remediated prior to development commencing, and requires all development to comply with the provisions of State Environmental Planning Policy No. 55 Remediation of Land. This issue was assessed separately under DA06/1108, and the site is to be suitably remediated in accordance with the remedial action plan approved under that consent.

Clause 50 – Floor Space Ratio in Zones 3(a) and 3(b) in Tweed Heads

The aim of Clause 50 is to control the intensity of retail and commercial uses in the central business district of Tweed Heads by setting a maximum limit on floor space ratios, and to encourage consolidation of lots. For land zoned 3(b) at Tweed Heads, development on allotments of land less than 2000m² in area must not exceed a floor space ratio of 2:1.

Total gross floor area for the proposal is 4732m², and the area of the site is 1808m², resulting in a proposed floor space ratio of 2.61:1, which does not comply with the development standard contained within TELP 2000.

A SEPP 1 objection has been lodged as part of the application with the argument that, given the circumstances of the case, the applicant considers strict adherence to the development standard would restrict the orderly and efficient development of the site. The merits of this objection have been discussed in the previous section addressing State Environmental Planning Policies and are considered acceptable in this circumstance.

4.6 Other plans and policies

The Proposal has been considered against the following non-statutory documents:

NSW Coastal Policy 1997

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

The potential implications of the proposed development are considered negligible given its minor nature with regards to impact on the natural environment, and the provision suitable management plans to control sediment and erosion, acid sulfate soils and the dewatering process during construction, and the ongoing management of stormwater disposal from the site. Furthermore, the height of the building is consistent with the building height controls applying to the site, the proposal will not overshadow any beach or foreshore open space and will not place any further demands on Surf Life Saving facilities.

In light of the above, it is considered that the proposed mixed-use development is consistent with the objectives of the Government Coastal Policy.

NSW Coastal Design Guidelines

The NSW Coastal Design Guidelines identifies the main challenge for coastal cities such as Tweed Heads as the need to balance the requirement to achieve growth with the need to retain the existing character. This includes consideration for scale of development relative to existing environmental context, views, access, transport and amenity.

In addition, consideration should also be given to economic growth without compromising the city's amenity, revitalising the city centre, optimising the efficient use of land, energy efficient buildings and encouraging development in the main centre which provides for economic stimulus and allows for the efficient use of public transport services.

The proposed mixed-use development is of a scale that is compatible with the existing and future desired character of the area, given the impending growth anticipated for the Tweed Heads city centre. The design is considered to be efficient use of the land, especially given the increase in floor space ratio granted under SEPP 1 and the incorporation of energy efficiency design principles. No significant view paths from surrounding properties will be compromised and there will be minimal impact on the surrounding local transport network. The site is located in proximity to major bus routes, is easily accessible by bicycle and motor vehicle and includes suitable facilities to encourage the use of bikes, such as showers and bicycle lock up racks in the basement car park. In light of the above, the proposal is considered in accordance with the principles of the NSW Coastal Design Guidelines.

Far North Coast Regional Strategy

The Far North Coast Regional Strategy is an initiative of the NSW State Government to guide sustainable growth across the Far North Coast Region. The main aims of the strategy are to identify and protect important environmental and cultural assets; limit development in places constrained by natural processes; protect the coast from overdevelopment; encourage residential growth and a diversity of housing forms; and ensure the provision of adequate land for new business and industry that is well linked to transport and services. In general, the strategy is aimed at guiding and controlling the expected growth in the region over the next 50 years.

Although the principles contained in the strategy are not succinctly geared towards control of stand-alone developments such as the current proposal, a general evaluation against the underlying principles of the document can be undertaken to determine its suitability in a regional context. As the availability of affordable land is becoming increasingly limited, there is a need for major commercial development to be located within the existing major centre, that being Tweed Heads. The proposal is for redevelopment of a prominent site located in the sub-regional business centre zone in the Tweed Heads city centre with a mixed-use commercial and retail building. Thus the proposal is entirely consistent with the vision to strengthen economic activity and

associated employment in existing industry sectors and as well as diversifying into new and emerging opportunities.

Tweed Heads Town Centre Master Plan

The overall objectives of the Tweed Heads Town Centre Master Plan are to consolidate and enhance existing land use patterns; concentrate commercial and employment sites; reinforce high density residential development and integrate open space systems throughout the town centre.

The plan divides Tweed Heads into precincts, of which the subject site falls within the Central Precinct, or Town Centre Core. The masterplan objectives for this precinct include the following:

- Providing a range of retail, office, tourism, cultural and commercial uses suitable for a Town Centre core;
- Improve the public domain of the area to provide an attractive landscaped pedestrian environment complemented by new development and built form;
- Activate the street frontages along Wharf and Bay Streets;
- Rationalise car parking throughout the precinct as retail demand and traffic volume increase; and
- Create a visually distinctive skyline that defines the Town Centre Core.

The plan includes urban design principles to be applied to development within the Central Precinct, which provide guidance on various development elements such as floor space ratio, building form and design, car parking and streetscape improvements. All these elements, as proposed, are discussed under separate headings in this report, are considered to be of a high quality, and are consistent with the objectives and requirements of the Tweed Heads Masterplan.

Additional relevant sections of the Master plan are as follows:

- Section 3.7 contains building height provisions, which limit height on the subject site to 6 storeys. The proposal fully complies with this height limit.
- Section 3.9 addresses the importance of retaining significant view corridors within the area. At four storeys, the proposed building will not obscure any important views of the Tweed River mouth, Mt Warning, Jack Evans Boat Harbour or the Norfolk Island Pines along Boundary Street.

Development Control Plans

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

DCP 2 contains Council's provisions for access and parking, with the objective of ensuring the provision of safe, convenient and equitable access to developed land for pedestrians and persons using vehicles, bicycles and public transport.

The application proposes retail and commercial office floor space on the ground floor and commercial office space only on the upper 3 floors. Under the provisions of DCP 2, these uses generate car parking spaces at the following rates:

	Retail	Office
Customer	3.5 spaces per 100m ² GFA	1 space per 40m ² GFA
Staff	0.5 spaces per 100m ² GFA	nil

The parking analysis prepared by Carter Rytenskild Group Pty Ltd and provided as Annexure F to the Statement of Environmental Effects calculates gross floor area by excluding amenities, stairwells and common hallway areas. Gross Floor Area, as defined in DCP 2, is measured from the outer face of external enclosing walls and excludes external features, lift towers, cooling towers, machinery and plant rooms, vertical air-conditioning ducts, car parking area and loading spaces. It does not exclude amenities, common areas or stairwells, as the proponent's calculations do. Hence, the actual gross floor area components of the proposal are broken down as follows:

	Gross floor area	Office	Retail
Ground	1107	828	279
First	1209	1209	-
Second	1244	1244	-
Third	1172	1172	-
Total	4732	4453	279

Based on the abovementioned car parking rates for the nominated uses, the proposed development generates a total of 122 spaces. 86 spaces have been provided on site.

DCP 2 contains further provisions for concessions in the required car parking for certain areas within the Shire. The subject site falls within Area 1, being all 3(a) and 3(b) zones north of Brett Street in the Tweed Heads CBD, and as such the minimum number of car parking spaces may be reduced to 30% of that required under standard DCP 2 provisions, meaning 37 spaces are required.

The concessions may only be applied if there is adequate parking on the site and in public car parks to prevent a nuisance to adjacent properties; and there is adequate parking on the site and in public car parks or arrangements have been made with neighbours, to ensure customers do not use off street parking provided by neighbouring properties.

Given the site is directly across the road from the Centro Tweed shopping centre car park, the likelihood of cross utilisation between uses exists. Furthermore, there are 5 on street parallel parks directly adjoining the site and further on-street parallel parking available for the length of Francis Street, plus the 86 on site spaces. All in all, this amount of parking is considered adequate to prevent a nuisance to adjoining properties. Additionally, the adjoining sites to the north and west do not have any on site parking that customers of this development could use. Council's Traffic Engineer has reviewed the proposal and agrees with this assessment.

In light of the above, the proposed design fully complies with the relevant requirements of DCP 2 with respect to the provision of on site car parking spaces, and is considered acceptable with respect to layout, site access, internal circulation and driveway design.

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

The subject site is identified as flood liable land and as such the provisions of DCP 5 apply to the proposal. Section 3.0 applies to the Lower Tweed and contains a clause requiring that:

“Commercial and Industrial development will be required to make adequate provision of flood free storage areas for stock and equipment susceptible to water damage.”

The subject site has an adopted design flood level of 2.6m AHD and a minimum floor level of 3.1m AHD. Pursuant to the provisions of the plan, the basement car parking is to be protected from the entry of floodwater to a level of 3.1m AHD and the commercial premises are to have flood free storage areas above 2.6m AHD.

The proposed design incorporates basement car parking protected to a minimum level of 3.9m AHD and a finished ground floor level of RL 4.0m AHD. In that regard, the requirements of DCP 5 are considered satisfied and the proposed floor levels are considered acceptable.

Development Control Plan No. 18 – Tweed Heads

The objectives of Development Control Plan No. 18 Tweed Heads (DCP18) are to provide design guidelines for, and encourage high quality urban design of commercial and residential development in Tweed Heads. The plan divides the locality into precincts and provides details on how the precincts are to be developed. It also provides controls on building envelopes and design guidelines for commercial facades.

The subject site falls within the Central Precinct, the objectives of which are geared towards developing the core business area's role as a sub-regional business centre.

The preferred development type for the Central Precinct is mixed residential/commercial developments, including consolidation of lots, basement car parking, ground floor retail/coffee shops, first floor offices and restaurants and high density residential or tourist accommodation in towers above the first two levels.

Although the proposal does not incorporate residential development, given the constraints on floor area due to the floor space ratio controls in Tweed Heads and the fact that it is supporting the plan's preferred development type with respect to mixed use, it is considered a four-storey development of this nature incorporating only commercial and retail space is acceptable.

DCP 18 sets out a height restriction of 3 storeys on all development sites less than 2000m² in area. The intent of this height restriction is to encourage the consolidation of lots to provide for the preferred developments detailed above. Notwithstanding this

height limit, the subject site is restricted to a 50m AHD height limit under TLEP 2000 and a 6-storey limit under the Tweed Heads Town Centre Master Plan, and the 4-storey proposal clearly complies with the limits set out the planning instrument. Furthermore, the proposal is in accordance with the intent behind the height limit as it is actively consolidating lots. In that regard, and in order to promote orderly and economic development of the land, a variation to the limit in DCP 18 limit is considered acceptable in this case.

Being less than 2000m² in area, the site is subject to the 2:1 floor space ratio restriction included in clause 3.3.5 of DCP 18 and also set out in Clause 50 of TLEP 2000. The proposal has an FSR of 2.61:1 and as such a SEPP 1 objection has been lodged to vary this development standard. The merits of this objection are discussed in detail in the above section addressing SEPP 1.

Section 9 of DCP 18 outlines building envelope guidelines which control the maximum height to which a building podium can be built up to the street, and ensures that the building is setback 1m for every 3m in height. The upper levels of the proposed building encroach on the acceptable building envelope on four elevations, however this is predominately a result of fire escape stairs and balconies. As the objective of the building envelope control is to minimise the visual and physical impact and apparent bulk of tall buildings on adjoining developments and public streets and spaces, it is considered that the proposed encroachments are acceptable given they are not caused by the general outer line of the building. Furthermore, the intent for development of this site is to establish a prominent building that emphasises the importance of such a distinct corner site. As stated in section 10 of DCP 18 "Corner buildings can have increased height relative to surrounding buildings to accentuate the importance of the street corner in the overall streetscape", and it is considered acceptable for this corner building to also have a slightly increased building envelope for the same reasons.

Section 10 of DCP contains guidelines for commercial facades and encourages all buildings in business zones to be built up to the street edge to reinforce the streetscape image and provide a sense of continuity in the streetscape. Buildings on street corners are encouraged to address the corner and both frontages should incorporate active pedestrian frontages. The proposed building form and articulation respond to the site characteristics through setbacks at ground/pedestrian level and ground floor tenancies opening out onto the public space. Further interaction is created with balconies and treated building facades continuing around the corner along each street elevation.

5. ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in Council's assessment of the Environmental Assessment and consideration of the proponent's draft Statement of Commitments include the following:

5.1 DESIGN AND VISUAL AMENITY ISSUES

The project has been designed with a contemporary clean line character, which is a building aesthetic that has been developed in recent years, especially throughout southeast Queensland. Car parking is hidden from view by way of basement car parking, with the egress from a secondary road rather than the main road. However, the entry to

the car park is clearly identifiable from the main entrance to the building. Building materials and colours are acceptable.

The building form and articulation respond to the location and orientation upon the site. The ground level tenancies are setback, creating articulation between levels of the building. The ground floor tenancies also open out onto the footpath, encouraging interaction between the building and the surrounding landscaped pedestrian areas. Further interaction is created through extruding balconies and treated building facades along the street elevations, providing interest and character to the development.

The building will be a maximum of four storeys, which is consistent with Council's development standards. As there are no buildings greater than 2 storeys within 100m of the site, upon completion the building may appear to somewhat dominate the streetscape. Notwithstanding, the desired future development in the locality and on surrounding allotments is for similar higher density mixed use developments, hence the proposed building provides a suitable 'scale' to which future higher density developments are expected to adapt.

Tweed Heads Streetscape Guidelines

A concept landscape plan for the subject development, prepared by Image Design Group, has been reviewed by Council's Landscape Architect with the aim of creating consistency between the proposed streetscape and landscape treatments and Council's pending Tweed Heads Streetscape concept. It has been acknowledged that the plan addresses the majority of the issues identified in the Director General's Requirements, however it does not clearly denote a pedestrian refuge at Francis Street. Notwithstanding the issues not addressed, the concept plan is considered acceptable for development approval pending submission of an amended plan prior to the issue of a Construction Certificate. The amended plan shall reference Council's pending Tweed Heads Streetscape concept and technical notes. Appropriate condition has been applied.

Construction Management Plan

A Construction Management Plan, prepared by T&T Building Group, has been provided as Annexure N to the Environmental Assessment. The plan addresses public safety, amenity, site security, operating hours, noise and dust management, environmental controls and traffic management requirements with the principal goal of ensuring public safety is maintained at all times during construction. The plan as submitted is considered acceptable, however standard conditions of consent relating to the abovementioned issues have been applied accordingly.

5.2 ENVIRONMENT AND COMMUNITY HEALTH ISSUES

BCA Compliance and Disabled Access

Coastline Building Certification Group Pty Ltd has reviewed the plans and provided a Building Compliance Report, submitted as Annexure O to the Environmental Assessment. The report concludes that the proposed design generally complies with the Building Code of Australia (BCA) with the exception of some minor matters, which the

architect can address during design documentation. Condition to apply noting development consent does not ensure compliance with the BCA.

Disabled access is facilitated through provision of disabled car parking spaces in the basement car park; lift access to each level; disabled toilet facilities on each level and wheelchair friendly access to ground floor tenancies.

Waste

A waste and recycling refuse storage and collection area to be located near the Francis Street basement entry at street level. A letter submitted from Solo Resource Recovery dated 26/10/06 advises that this area is suitable for Solo to collect waste from the site.

Mechanical Ventilation

A letter from George Floth & Associates, dated 25/10/2007, confirms that a mechanical ventilation system will be provided to the basement car park in compliance with AS 1668; the Building Code of Australia and Council's Planning and Environment conditions. The measures that will be provided consist of a mechanical air supply system located on the southern basement wall and mechanical exhaust system on the northern wall.

Sediment and Erosion Control

Sediment and erosion control measures have been suitably addressed in the Construction Management Plan prepared by T&T Building Group. Standard conditions to apply requiring sediment and erosion control measures in place prior to construction.

Noise

The main sources of noise during construction are likely to result from site work and dewatering operations. Ongoing use of the site as a retail and commercial premises will create some noise, mainly from the use of plant and associated equipment, however this is considered minor given the site is located on the corner of a busy road and popular vehicle thoroughfare.

5.3 NATURAL HAZARDS

Acid Sulfate Soils

As discussed under separate heading addressing SEPP 54. Considered acceptable.

Contamination

As discussed under separate heading addressing clause 35 Tweed Local Environmental Plan. Considered acceptable.

Dewatering

A dewatering management plan for the subject site, prepared by Precise Environmental Pty Ltd dated 21st September 2006 has been submitted.

Excavation to approximately 6.5m below the existing ground level is proposed. Groundwater levels have been recorded at 2.7m AHD (approximately 1.25m below ground level), and therefore dewatering of the site is required to approximately 7.5m below surface level.

A summary of the existing groundwater quality advises that pH and DO will need to be increased whereas turbidity, suspended solids, iron and aluminium are well above release criteria and will need to be reduced. Dewatering will cease once there is sufficient loading to neutralize the uplift pressure of groundwater on the basement structure.

The consultant has advised that, where possible, any activities that cause an offensive odour will cease until odour emission levels reduce (p10 of 16). The project coordinator will be responsible for implementing the appropriate management measures during construction phase dewatering. David Bayle of Precise Environmental advised Council's Environmental Health Officer on 17/1/07 that no dewatering is proposed after completion of the construction works.

To reduce odours, the consultant recommends that the dewatering discharge point be placed directly into the stormwater gully pit. If odours cannot be reduced by this method, a surge tank containing an activated carbon filter will be installed to arrest odours.

The consultant also proposes that high efficiency mufflers will be installed and maintained for all noise generating plant, and the installation of acoustically attenuated enclosures around pumps and generators to reduce noise emissions resulting from dewatering operations. Conditions requiring as such have been included.

5.4 WATER CYCLE MANAGEMENT

The applicant engaged Knobel Consulting Pty Ltd to prepare a Stormwater Management Plan, which describes the proposed stormwater quantity and quality management controls to be implemented during the construction and operational phases of the development. Proposed controls include a 0.75m³ oil and grit separator within the basement car park and a High Early Discharge detention basin within the landscaped buffer of the development to reduce flows from the developed site to 200 l/s/ha in accordance with Council's requirements.

Further controls are included in the Construction Management Plan, prepared by T&T Building Group, which outlines the environmental controls to be put in place to prevent contamination of, or damage to, stormwater drains and waterways. This includes prevention of stormwater entering adjoining properties using excavation and podium slabs during construction, and all stormwater is to be filtered before entering Council's stormwater system.

5.5 INFRASTRUCTURE PROVISION

Address existing capacity requirements of essential services

Council's Water and Sewer Infrastructure Engineer has reviewed the proposal in conjunction with the Engineering Services Report prepared by Knobel Consulting Pty Ltd, which addresses the adequacy, provision and availability of public utilities. The existing reticulated sewer and stormwater infrastructure is considered adequate to service the proposed development.

Provision of public services and infrastructure

Standard Section 94 and Section 64 contributions will apply, less existing credits for the motor showroom, offices and workshops. The employment generating discount of 40% as described within the Tweed Roads Contribution Plan (TRCP) shall apply.

5.6 TRAFFIC AND VEHICULAR ACCESS

The proposal has been reviewed by Council's Traffic Engineer, the Local Traffic Committee and the Regional Traffic Committee. All three raised similar concerns regarding on street parking, waste collection and sight lines. These issues have been addressed and appropriate conditions of consent are to be applied where the current plans do not suitably reflect Council's requirements.

The proposed design fully complies with Council's Driveway Access to Property Design Specifications and Australian Standard AS 2980.1.

5.7 PEDESTRIAN ACCESS AND AMENITY

The proposed parking areas have been designed to minimise conflict between pedestrians and vehicles in accordance with AS 2890.1. Pedestrian entrances and exists are separate from vehicular ingress and egress to maintain pedestrian safety and stairways and a lift have been provided between car park levels so pedestrians do not have to walk on the vehicle ramps.

Pedestrian connectivity through the site and required crossovers to Wharf and Francis Streets are to be confirmed through submission of a revised landscape plan addressing the Tweed Heads Streetscape Concept and technical notes. Condition to apply.

5.8 FLORA AND FAUNA

The site does not contain any native vegetation and is highly unlikely to support habitat for any threatened or endangered species. It is located well away from any areas likely to contain flora or fauna of significance and is considered highly unlikely to have any impact on such organisms.

5.9 PUBLIC INTEREST

The proposed development demonstrates general consistency with the relevant planning instruments and Council requirements. The applicant has addressed all relevant issues and sufficient information has been supplied to make a proper assessment of this application. Given that the proposed mixed-use development will facilitate the rejuvenation of the Tweed Heads City Centre and provide ongoing employment and economic opportunities, it is considered appropriate for the site, would not set an undesirable precedent for future development in the Shire and is considered beneficial to the wider public interest.

6. CONSULTATION AND ISSUES RAISED

6.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited from Wednesday 22nd November to Friday 22nd December 2006 for 30 days, and from Wednesday 24th February to Friday 30th March 2007. The EA was made available to the public at Tweed Council's Murwillumbah Civic Centre, Tweed Heads Office and Kingscliff library.

6.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT AND PREFERRED PROJECT REPORT

Council received a total of 1 submission, being from The Department of Natural Resources, which did not raise any objection.

6.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities:

6.4.1 NSW Department of Natural Resources

The NSW Department of Natural Resources provided comments on the treatment of Acid Sulfate Soils, the dewatering process and groundwater impact assessment.

Although a licence under Part 5 of the Water Act is not required for projects being assessed under Part 3A of the EP&A Act, DNR submitted general terms of approval for the dewatering process for this proposal.

The proposed treatment of Acid Sulfate Soils was considered acceptable.

7. CONCLUSION

Council has assessed the EA and considered the submissions in response to the proposal. The key issues raised in submissions related to dewatering of the site and management and mitigation of dewatering impacts. The Department has considered these issues and a number of conditions are recommended to ensure the satisfactory addressing of these issues and minimal impacts as a result of the proposal.

The proposed development will allow for efficient use of the land, which is consistent with its physical characteristics and capabilities and the intent of Tweed Heads Master Plan, whilst also providing quality streetscape improvements. Furthermore, the project application has largely demonstrated compliance with the existing environmental planning instruments.

On these grounds, Council considers the site to be suitable for the proposed development and that the project is in the public interest. Consequently, Council recommends that the project be approved, subject to the conditions of approval.

8. RECOMMENDATION

It is recommended that the Minister:

- (A) consider the findings and recommendations of this Report; and
- (B) approve the carrying out of the project, under Section 75J *Environmental Planning and Assessment Act, 1979*; subject to modifications of the project and conditions and sign the Determination of the Major Project (**tag A**).

Prepared by:
Louise Bennett
Town Planner
Major Development Assessment
Tweed Shire Council

Endorsed by:
Name
Team Leader

Urban and Coastal Assessments

Heather Warton
Director

Urban and Coastal Assessments

CONDITIONS OF APPROVAL:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No's 05_006 DA-00A, DA-01, DA-02, DA-03, DA-04, DA-05, DA-06 and DA-07, prepared by Paul Ziukelis Architects and dated 14/7/2006, and the plan titled "Proposed on street parking and pedestrian facilities" prepared by CRG Traffic and Acoustic Consultants dated 23/1/2007 except where varied by the conditions of this consent. Please note - The landscape plan titled Sheet No. LSK-01, prepared by Imagine Design Group dated 14/6/2006, is for conceptual purposes only. This is not an approved plan.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
4. 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 reserve including (but not limited to) the construction or removal of driveway access or footpaths, the installation of site hoarding fences or sheet pile ground anchors. Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
[GEN0045]
5. This consent does not approve any advertising material. All advertising structures/signs are to be the subject of a separate development application, where statutorily required.
[GEN0065]
6. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.
[GEN0075]
7. The sites shall be remediated in accordance with the Remediation Action Plan for Lots A & B DP 373378 prepared by Precise Environmental Pty Ltd dated September 2006 (File: RAP Final Report), except where varied by the Site Audit Report (0103-0605) for 75-77 Wharf Street Tweed Heads prepared by Marc Salmon of WSP Environmental Pty Ltd dated September 2006, and a Validation Report prepared by a qualified consultant has been submitted to and approved by Council's Director Environment and Community Services, prior to any other works commencing.

8. All works shall be undertaken in accordance with the *Acid Sulfate Soil Management Plan for Lots A & B DP 373378 cnr Wharf St and Francis St, Tweed Heads* prepared by Precise Environmental Pty Ltd dated 29 November 2006 (Job No: PE72.06 File Ref: Version 2).
9. Prior to the removal of excess spoil from the site that does not contain acid sulfate soil, contact must be made with Council's Waste Coordinator to discuss appropriate disposal options.
10. Prior to the removal of acid sulfate soil from the site for neutralisation, the nominated treatment site(s) shall be provided to Council.
[GENNS01]
11. A standard sight triangle measuring a minimum 2 metres by 2 metres shall be maintained from the property boundary at the Francis Street vehicular ingress/egress.
[GENNS02]
12. Council will not permit ground anchors (to retain sacrificial sheet piling for basement excavations) within Council or private property, without prior consent from the property owners being obtained. If the landowner is Council, approval is required from the Director of Engineering and Operations. The anchors are required to be removed upon completion of the works, unless a substantial compensation amount is negotiated with Council.
[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

[PCC1145]

14. Erosion and Sediment Control shall be provided in accordance with the following:
 - (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
[PCC1155]
15. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan* and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- (d) Basement driveway and car parking catchments require stormwater quality treatment in accordance with *Development Design Specification D7 - Stormwater Quality*. Permanent stormwater treatment devices shall be sized in accordance with Section D7.12, with full engineering details and maintenance schedules to be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.
- (e) Shake down area at the entrance to the site.
[PCC1105]
16. The basement driveway shall be graded to prevent the inflow of stormwater from Francis Street in storm events up to the ARI 100 year storm. Basement pump out systems shall be designed in accordance with Section 9 of As/NZS 3500.3.2003.
[PCCNS01]
17. The landscape plan titled Sheet No. LSK-01, prepared by Imagine Design Group dated 14/6/2006, is for conceptual purposes only. This is not an approved plan. Landscape construction drawings are to be submitted and approved by Tweed Shire Council's Project Officer and Landscape Architect prior to the issue of a construction certificate. This plan shall also address pedestrian access, particularly a pedestrian refuge at Francis Street.
18. A revised photomontage demonstrating proposed external colours and finishes shall be submitted to Council's General Manager (or the Town Planner as his delegate) for approval prior to the issue of the Construction Certificate. The dominant colours should be white, cream or light sandstone, with pastel shades of

blue, brown, purple/magenta also acceptable. Dark colours such as black and charcoal and all shades of grey should be avoided.

[PCCNS02]

19. The developer shall provide a minimum 86 basement and 4 parallel on street car parking spaces including parking for the disabled, as well as in accordance with Development Control Plan No.2 Site Access and Parking Code.

The basement car park shall also provide for a minimum of 42 bicycle parks.

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

[PCC0065]

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

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

[PCC0075]

21. 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: | \$82,827.00 |
| S94 Plan No. 4 (Version 4.0) | |
| Sector 1 - Tweed Heads | |

- (b) Extensions to Council Administration Offices
& Technical Support Facilities \$2765.00
S94 Plan No. 18

[PCC0215]

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

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

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

Water: 16.53 ETs @ \$4598.00 per ET = \$76,005.00

Sewer: 25.99 ETs @ \$2863.00 per ET = \$74,409.00

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

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

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

[PCC0265]

23. 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]

24. All earthwork 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 to ensure minimal impact on adjoining properties.

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

[PCC0485]

25. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.6m AHD in accordance with DCP5 - Development of Flood Liable Land. This immunity shall be provided at all accesses including external stairs to the basement car park.

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

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

[PCC0685]

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

[PCC0865]

PRIOR TO COMMENCEMENT OF WORK

27. 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]

28. 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]

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

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

[PCW0245]

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

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

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

[PCW0255]

31. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is

therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

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

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]

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

[PCW1005]

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

[PCW1065]

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

[PCW1165]

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

[PCW0965]

37. Prior to relocation of the Council sewer an application under Section 68 of the Local Government Act 1993 is to be submitted to and approved by Council.

The sewer relocation should comply with Council's Building in Proximity to Sewer Policy and connections to the existing sewer main shall be constructed under Council supervision.

[PCWNS01]

38. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any

discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

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

i. The person must, at the person's own expense:

- a. preserve and protect the building from damage; and
- b. if necessary, underpin and support the building in an approved manner.

ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

40. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enters into a contract regarding liability for the ground anchors and lodges a Section 138 Application with an application fee of \$10,000 and a bond of \$25,000, which will be refunded when the ground anchors are removed. If the ground anchors are not removed the bond shall be forfeited to Council

[PCWNS02]

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

[PCW0125]

42. It is the responsibility of the contractor to locate and identify all existing services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

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

[PCW0705]

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

[PCW0745]

DURING CONSTRUCTION

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

[DUR0005]

46. 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]

47. 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]

48. 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]

49. 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]

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

[DUR0415]

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

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

[DUR1005]

52. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to any use or occupation of the buildings.
[DUR1875]
53. 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]
54. 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]
55. 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]
56. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
[DUR2505]
57. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
[DUR2515]
58. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
[DUR2525]
59. 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]
60. 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]

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

[DUR2645]

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

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

[DUR2655]

63. 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]

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

[DUR0225]

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

[DUR0235]

66. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.

[DUR0985]

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

[DUR2195]

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

[DUR2205]

69. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.
[DUR2405]
70. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
71. All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.
[DUR2435]
72. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation.
[DUR2475]
73. All waters pumped from the site in the de-watering process are to be treated with an effective deodoriser to the satisfaction of Council's Director of Environment and Community Services to neutralise any offensive odours. The point of discharge shall also be approved by Council's Director of Environment and Community Services prior to installation and shall include a water-sampling outlet.
[DURNS01]
74. 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]
75. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter to the satisfaction of the General Manager or his delegate.

Such to specifically include the following:

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

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

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

[DUR0065]

76. The provision of 86 basement and 4 parallel on street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Site Access and Parking Code.

The basement car park shall also provide for a minimum of 43 bicycle parks.

[DUR0085]

77. The concrete driveway across the footpath is to be constructed in accordance with the approved plan and be a minimum of 150 millimetres thick reinforced with SL72 mesh.

[DUR0105]

78. 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]

79. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

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

[DUR0435]

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

[DUR0785]

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

[DUR0815]

82. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Occupation Certificate.

[DUR0995]

83. A full width reinforced concrete footpath is to be constructed along the entire road frontage of the development from the property line to the back of the existing kerb in accordance with Councils adopted Development Design and Construction Specification.

[DUR1755]

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

[DUR1795]

85. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

86. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.

[DUR1815]

87. During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.

- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

88. 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]

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

[DUR1885]

90. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

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

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

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

[DUR1895]

91. 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]

92. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

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

[DUR1965]

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

[DUR2375]

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

[DUR2625]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

96. 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]

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

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

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

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

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

[POC0265]

98. 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]

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

[POC0225]

100. 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]

101. 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]

102. 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 any civil works proposed to be dedicated to Council (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]

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

[POC0755]

104. 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]

105. Prior to issue of occupation certificate, documentary evidence shall be provided to Council to confirm the registration of a 3 metre wide easement for drainage of

sewer, over all reticulated sewer within the subject property. The easement is to be created in favour of Council.

No structure is to be placed within the easement.

[POCNS01]

USE

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

[USE0125]

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

[USE0225]

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

[USE0235]

109. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

[USE0535]

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

[USE0875]

111. Waste collection service vehicles are prohibited from servicing the site during normal business hours. Waste collection shall be restricted to non-peak periods of the day to ensure minimal disruption to pedestrian and traffic amenity.

112. None of the on-street parallel car parking spaces on Francis Street shall be dedicated as a loading bay. All loading and unloading shall take place within the boundaries of the site.

[USENS01]

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

- Before commencing any works or using any existing works for the purposes of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.

- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
- If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
- All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
- Works for construction of bores must be completed within such a period as specified by the Department.
- Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- Officers for the Department or other authorised persons must be allowed full and free access to the works for the purposes of inspection and testing.
- Water shall not be pumped from the works for any purpose other than for dewatering for construction purposes.
- The use of the water shall be conditional on no tailwater drainage being discharged into or onto:
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
- The works shall be managed in accordance with the constraints set out in the "Dewatering Management Plan" produced by Precise Environmental Pty Ltd dated September 2006 presented as Annexure L of the Statement of Environmental Effects for the proposed development.
- The works shall be managed in accordance with the constraints set out in the "Acid Sulfate Management Plan" produced by Precise Environmental Pty Ltd dated November 2006 presented as an amended version of Annexure I of the Statement of Environmental Effects for the proposed development.
- The volume of groundwater extracted as authorised must not exceed 5 mega litres.

- The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The licence shall lapse within six (6) months of the date of issue of the licence.

APPENDIX A: DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Director-General's Environmental Assessment Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number	MP06-0207
Project	Project Application for the Construction of a 4 Storey Mixed Commercial, Retail and Restaurant Development.
Location	75-77 Wharf Street Tweed Heads Lots A & B DP 373378
Proponent	Darryl Anderson Consulting Pty Ltd
-Date issued	6 October 2006
Expiry date	Two (2) Years form the date of issue
General requirements	<p>The Environmental Assessment (EA) must include:</p> <ul style="list-style-type: none"> • An executive summary; • A thorough site analysis and description of existing site and surrounds; • A detailed description of the project including justification for undertaking the project taking into consideration any environmental impacts of the project; the suitability of the site for the proposed development; likely environmental, social and economic impacts; and whether the project is in the public interest. • Consideration of any relevant statutory and non-statutory requirements, in particular relevant provisions of Environmental Planning Instruments, Development Control Plans, Draft Regional Strategies, Draft Development Control Plans, Tweed Heads Town Centre Master Plan and NSW Coastal Design Guidelines (including justifications for any non-compliances) as well as impacts, if any, on matters of national environmental significance under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; • An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project; • A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading; and <p>An assessment of the key issues specified below and a table outlining how these key issues have been addressed.</p>
Key Issues	<p>The Environmental Assessment must address the following key issues:</p> <ol style="list-style-type: none"> 1. Design & Visual Amenity <ol style="list-style-type: none"> 1.1 The design quality with specific consideration of the façade, floor space ratio, setbacks, proportions to openings, building articulation, and amenity (including amenity impacts for adjoining and surrounding development). Include an architectural statement addressing the development context and outlining how the proposed building design would establish a high quality streetscape and architectural standard so desired for such a prominent street corner. 1.2 Visual impact in the context of adjoining and surrounding development in relation to its setting, density, built form, aesthetics and building mass as viewed from the public domain and any relevant mitigation measures.

	<p>1.3 Address Council's Tweed Heads Streetscape Guidelines, Tweed Heads Streetscape Final Masterplan, and the forthcoming design strategy for Wharf Street and in particular streetscape design guidelines for the roundabout at the intersection of Wharf and Francis Streets.</p> <p>Note: The consultant is encouraged to contact Tweed Shire Council's Landscape Architect, Georgina Wright, to discuss the proposal in detail prior to lodgement and ensure mutual benefit in the resolution of a streetscape concept plan.</p> <p>1.4 Outdoor Dining Area space requirements and specifications in accordance with Council's Outdoor Dining Policy.</p> <p>1.5 Any awning over public road would need to comply with the Local Government Act Regulations.</p> <p>1.6 Provide a Construction Management Plan</p> <p>Note: The General Manager has indicated that ground anchors to retain sacrificial sheet piling will not be allowed in Council property without removal or substantial financial compensation. Similar problems arise when continuous building facades on the road boundary which cannot be constructed without hoardings on public road and occupying the street with construction plant.</p> <p>2. Environment and Community Health</p> <p>2.1 Demonstrate compliance with the Building Code of Australia and the Disability Discrimination Act, and Australian Standard 1428 with regards to access for the disabled.</p> <p>2.2 Identify measures on site for storage and collection of waste. Arrangements for collection shall be made in conjunction with Solo Waste Contractors and Council's traffic Engineer Paul Morgan.</p> <p>2.3 Identify measures for mechanical ventilation to the basement area. The proponent is advised to consult with a qualified mechanical engineer on this matter.</p> <p>Note: If any food premises are to be incorporated into the proposed development, plans will need to show proposed construction details of the food premises e.g. solid walls etc. If the food premises are to be fitted out in conjunction with this development and not the subject of a separate Development Application, full fitout details are required to be submitted with this application.</p> <p>Note: the demolition of any structures on-site will need development consent. This can be part of the application for this proposal, or a separate development application.</p> <p>3. Natural Hazards</p> <p>3.1 Identify the presence and extent of acid sulfate soils on the site and include appropriate mitigation measures in an Acid Sulfate Management Plan where required.</p> <p>3.2 Identify any areas of any contamination on site and prepare a preliminary, and if necessary a detailed Contamination Investigation Report regarding possible contamination from previous uses of the site. Pre-demolition testing beneath concrete slabs and sub-floor testing for the presence of pesticides etc will also be required</p>
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3.3 Provide a Dewatering Management Plan.

Note: The plan shall outline water quality parameters to be measured and achieved, threshold values, frequency of sampling, proposed treatment of water outside the threshold values, and protocols for reporting to Council as well as who will be responsible for monitoring and what the monitoring regime will be. This typically requires testing of pH, turbidity and DO as a minimum with higher ASS areas requiring additional regular testing of iron and aluminium.

3.4 An assessment of the proposal's impacts on groundwater is required in order that DNR may issue a licence under Part 5 of the Water Act 1912, for the purpose of temporary dewatering for construction purposes.

Note: Comment on the potential for impacts on other groundwater users once the cone of depression is determined (including groundwater dependent ecosystems if present).

3.5 Identify and mitigate any other site-specific natural hazards where relevant e.g. basement flood proofing.

4. Water Cycle Management

4.1 Address potential impacts on water quality of surface and groundwater.

4.2 Provide an Integrated Water Cycle Management (IWCM) Plan (including stormwater concept) based upon Water Sensitive Urban Design principles.

4.3 Identify measures to achieve on site treatment of stormwater runoff prior to discharge into the public system in accordance with Council's "Tweed Urban Stormwater Quality Management Plan" (www.tweed.nsw.gov.au/resourcecentre/Stormwater.pdf) and Development Design Specification D7 – Stormwater Quality (www.tweed.nsw.gov.au/resourcecentre/StormwaterQualityD7.pdf).

Note: The consultant is encouraged to contact Council's Landscape Architect, Georgina Wright, to organise a meeting to discuss the concept plan in detail. At this time Council's pending proposal for the Wharf and Francis Street Roundabout and streetscape works can be tabled with the Consultant.

Note: An application under Section 68 of the Local Government Act should accompany the development application to identify all site drainage, stormwater quality devices and proposed stormwater outlets and also any required erosion and sedimentation control measures.

5. Infrastructure Provision

5.1 Address existing capacity and requirements of the development for sewerage, water and electricity in consultation with relevant agencies.

5.2 Address provision of public services and infrastructure having regard to the Council's Section 94 Contribution Plans and Section 64 charges.

Note: Any public infrastructure works to the site would require submission of plans and approval by Council under Part V of the Environmental Planning and Assessment Act 1979 prior to the issue of a Construction Certificate for the Building.

6. Traffic and Vehicular Access

6.1 Provide a traffic impact study and report which assesses potential construction and operational impacts on existing intersections and the capacity of road network to safely and efficiently cater for the additional

	<p>vehicular traffic generated. The assessment must demonstrate compliance with relevant Council and RTA traffic and car parking codes. In particular, the following issues need to be addressed:</p> <ul style="list-style-type: none"> - consideration of Council's preference for an alternative to the angle parking layout along Francis Street. <p>6.2 Demonstrate compliance with Council's "Driveway Access to Property Specifications"</p> <p>Note: Council is currently reviewing many issues with traffic management in the area including the requirement for new safety fencing for which a standard product specification will be provided to the consultant.</p> <p>6.3 Demonstrate compliance with the provisions of AS 2980.1 Off Street Parking</p> <p>7. Pedestrian Access and Amenity</p> <p>7.1 Demonstrate continuity and integration of pedestrian movement routes through and within the site.</p> <p>7.2 Address pedestrian connectivity and required crossover points. The existing crossover to Francis Street shall be retained.</p>
Consultation	<p>You should undertake an appropriate and justified level of consultation with relevant following parties during preparation of the environmental assessment:</p> <p>Agencies and other authorities</p> <ul style="list-style-type: none"> • Tweed Shire Council; • Department of Natural Resources; • Country Energy <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment</p>
Deemed refusal period	60 days

Plans and Documents to accompany the Application

Plans and Documents of the development	<p>The following plans, architectural drawings and diagrams of your proposal as well as the relevant documents will be required to be submitted for your application:</p> <ol style="list-style-type: none"> 1. The existing site survey plan is to be drawn to 1:200 scale (or other appropriate scale) and show: <ul style="list-style-type: none"> • the location of the land, the measurements of the boundaries of the land, the size of the land and north point; • the existing levels of the land in relation to buildings and roads; • location and height of existing structures on the site; and • location and height of adjacent buildings and private open space. 2. A Site Analysis Plan must be provided which identifies existing natural elements of the site (including all hazards and constraints), existing vegetation, property dimensions, footpath crossing levels and alignments, existing pedestrian and vehicular access points and other facilities, slope and topography, natural features such as watercourses, rock outcrops, utility services, boundaries, orientation, view corridors and all structures on neighbouring properties where relevant to the application (including windows, driveways etc). 3. A locality/context plan drawn to 1:500 scale (or other appropriate scale) should be submitted indicating: <ul style="list-style-type: none"> • significant local features such as parks, community facilities and open space, water courses and heritage items; • the location and uses of existing buildings, shopping and employment areas; • traffic and road patterns, pedestrian routes and public transport nodes • The existing site plan and locality plan should be supported by a written explanation of the local and site constraints and opportunities revealed through the above documentation. 4. The Environmental Assessment in accordance with the Director-General's Environmental Assessment Requirements as outlined in Attachment 1. 5. The Architectural drawings (where relevant) are to be drawn to scale and illustrate the following: <ul style="list-style-type: none"> • the location of any existing building envelopes or structures on the land in relation to the boundaries of the land and any development on adjoining land; • the floor plans of the proposed buildings indicating apartment location, layout, size and orientation;
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	<ul style="list-style-type: none"> • the location and size of vertical and horizontal circulation of lifts, stairs and corridors; • adaptable housing requirements of any LEP or Development Control Plan; • section plans illustrating detailed sections of the proposed facades; • fenestrations, balconies and other features; • communal facilities and servicing points; • the height of the proposed development in relation to the land; • any changes that will be made to the level of the land by excavation, filling or otherwise; • the level of the lowest floor, the level of any yard or unbuilt area and the level of the ground; • parking arrangements, where vehicles will enter and leave the site, and how vehicles will move about the site; • pedestrian access to, through and within the site. <p>6. The shadow diagrams for developments comprising two or more storeys are to show solar access to the site and adjacent properties at summer solstice (Dec 21), winter solstice (June 21) and the equinox (March 21 and September 21) at 9.00 am, 12.00 midday and 3.00 pm.</p> <p>7. The Other plans including (where relevant):</p> <ul style="list-style-type: none"> • Stormwater Concept Plan - illustrating the concept for stormwater management from the site to the Council drainage system and include a detailed site survey. Where an on-site detention system is required, the type and location must be shown and must be integrated with the proposed landscape design. Site discharge calculations should be provided and the must include details of all major overland flow paths; • Erosion and Sediment Control Plan – plan or drawing that shows the nature and location of all erosion and sedimentation control measures to be utilised on the site; • View analysis - artists impression, photomontages, etc of the proposed development in the context of the surrounding development; • Coloured elevations - of the proposed buildings drawn to the same scale as the architectural drawings. The elevations are to indicate height and key datum lines, building length and articulation, the composition of the façade and roof design, existing buildings on the site, building entries (pedestrian, vehicular and service), and profile of buildings on adjacent properties; • Landscape Concept Plan – plan or drawing that shows the basic detail of planting design and plant species to be used, listing botanical and common names, mature height and spread, number of plants to be utilised and surface treatments (i.e. pavers, lawn etc); • Demolition & Waste Management Plan – where
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	<p>demolition is proposed, a plan which addresses demolition and construction wastes that may be generated including likely quantities, proposed disposal destinations and best practices for safe handling and disposal in accordance with WorkCover's Occupational Health and Safety requirements must be provided;</p> <ul style="list-style-type: none"> • Construction Management Plan – a plan which outlines traffic and pedestrian management during construction
<p>Specialist advice</p>	<p>Specialist advice, where required to support your Environmental Assessment, must be prepared by suitably qualified and practicing consultants in relation to issues including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Traffic; • Landscaping; • Geotechnical and/or hydrogeological (groundwater); • Stormwater/drainage; • Urban Design/Architectural; • Contamination in accordance with the requirements of SEPP 55; • Acid Sulphate Soil Management Plan; • BCA compliance.
<p>Documents to be submitted</p>	<ul style="list-style-type: none"> • 8 hard copies of the Environmental Assessment; • 8 sets of architectural and landscape plans to scale, including one (1) set at A3 size (to scale); and • 1 copy of the Environmental Assessment and plans on CD-ROM (PDF format), not exceeding 5Mb in size (see below).
<p>Electronic Documents</p>	<p>Electronic documents presented to the NSW Department of Planning for publication via the Internet must satisfy the following criteria:-</p> <ul style="list-style-type: none"> • Adobe Acrobat PDF files and Microsoft Word documents must be no bigger than 1.5 Mb. Large files of more than 1.5 Mb will need to be broken down and supplied as different files. • File names will need to be logical so that the Department can publish them in the correct order. Avoid sending documents that are broken down in more than 10 files. • Image files should not be bigger than 2Mb. The file names will need to be clear and logical so the Department can publish them in the correct order. • Graphic images will need to be provided as [.gif] files. • Photographic images should be provided as [.jpg] files. • Large maps will need to be presented as individual files and will need to be calibrated to be no more than 2Mb each. • Images inserted into the document will need to be calibrated to produce files smaller than 1.5Mb. Large images will need to be presented as individual files and will need to be calibrated to be no more than 2Mb each. The file names will need to be clear and logical so the Department can publish them in the correct order. <p>Alternatively, these electronic documents may be placed on your own web site with a link to the Department of Planning's website.</p>

APPENDIX B: ENVIRONMENTAL ASSESSMENT

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P2 [PD-PC] Vegetation Rehabilitation – Lot 5 DP 1055843 Tanglewood Drive, Tanglewood

ORIGIN:

Development Assessment

FILE NO: DA04/0311 Pt1

SUMMARY OF REPORT:

On 30 November 2005 Council resolved to accept the owners offer to remediate a cleared area of Lot 5 DP 1058843 Tanglewood Drive, Tanglewood. The Rehabilitation Plan was lodged on time in accordance with the Council's resolution. That Plan was accepted by Council with periodic progress inspections being carried out. Site works have varied in success with certain areas being quite deficient due to the drought, foraging wallabies and invasion of weeds. Recommendations for a watering system, replacement plantings, different species, and mulching have been accepted by the landowner and implemented. Progress will continue to be monitored. The second 6 monthly inspection will be carried out in April with further surveillance over the next 2 years in accordance with the plan.

RECOMMENDATION:

That Council officers continue to monitor progress of the works in accordance with the approved rehabilitation plan.

REPORT:

Background

In response to concerns raised by two neighbours who addressed the Community Access meeting on 13 February 2007, the following report outlines the progress of the vegetation rehabilitation works.

The complaint concerning the removal of vegetation was first registered in April 2005. An inspection was carried out **18 April 2005** where it was determined that no green trees had been felled – only tidying up of regrowth and bush cleared 12 months earlier by the previous owner. The clearing was for the purposes of survey work and fencing. A roadway was needed to allow access to build the fence because of the steep terrain, and was intended to be used as a fire break/trail in the future. Two site inspections were carried out – including one with an officer from the former DIPNR (Dept. of Planning, Infrastructure and Natural Resources).

The matter was reported to Council on **30 November 2005**. It was concluded that although the purposes for clearing may have been valid – and no TPO (Tree Preservation Order) exists over the area – it was still considered to be excessive (approximately 45m x 300m).

Accordingly, Council resolved to accept the owner's offer of remediation of the disturbed area (rather than prosecution), as it was the preferred outcome to have the native bushland reinstated. The new owner of the land agreed to Council's decision and engaged consultants to prepare and implement a Rehabilitation Plan.

A Rehabilitation Plan was required to be lodged with Council within the nominated time frame. The Rehabilitation Plan was accepted at the time as being satisfactory by Council's Environmental Scientist. The only remaining issue is whether or not it has been implemented to an acceptable standard.

Rehabilitation Plan

An early informal inspection [prior to the first 6 monthly inspection required by the plan] was undertaken on **19 May 2006**. Hundreds of plant specimens were evident and growing well. A water truck had been used. Six module plots [10m x 10m quadrants separated by low fencing] were established in accordance with the plan with the aim of allowing easy assessment of plant growth progress.

The first six monthly Progress Report was due in **September 2006**. It was lodged on time for Council appraisal. Conditions were dry and certain focus plots were more successful (or unsuccessful) than others, with variation occurring from different levels of mulching. Recommendations were made concerning supplementary plantings (including fast growing Wattles and Eucalyptus trees) and removal of invasive weeds leaving non-invasive grasses to assist in stabilising the steep bank.

A further inspection was carried out a month later and it became apparent the plantings within the focus plots had failed. It seems that browsing wallabies were attracted to these "fenced" sample plots and razed the new succulent plantings to the ground. Letters were sent to the consultant and the owner on **27 October 2006** requiring replanting and to ensure the restocked area was mulched and watered. It was recommended that more Koala food trees be introduced and that more substantial fencing be considered as a physical barrier to wallabies.

The owner attended to the matters raised by Council immediately and has been co-operative at all times in the process of rehabilitating the disturbed area.

To assess these works, Council officers including our Environmental Scientist, inspected the rehabilitation works together with the owner's consultant Environmental Scientist on **21 November 2006**. Constructive advice and recommendations on how to improve the performance of the rehabilitation were offered on site.

Those works are still in progress – in fact it is recommended that rehabilitation not be hurried by introducing mature plantings – but more slowly with smaller stock which has a higher survival rate. **The second 6 monthly report will be due in early April 2007.** There is nothing to suggest the owner will not continue to respond to Council's recommendations and continue to progressively upgrade the area.

OPTIONS:

1. Initiate legal action in the Land and Environment Court to compel a higher standard of rehabilitation, or
2. Continue to work with the landowner to ensure suitable and adequate rehabilitation of the disturbed area occurs.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Legal action in the Land and Environment Court would involve costs to Council.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Given the responses and co-operation to date by the landowner option 2 is recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil

P3 [PD-PC] DA06/0706 for the Demolition of Existing Structures & the Erection of a Shop Building Comprising a Mini Supermarket (Likely Operator IGA) & Three (3) Other Tenancies (Real Estate, Solicitor and Butcher) at Lot 365 & 366 DP 755701, No. 11 & 13 Coro

ORIGIN:

Development Assessment Unit

FILE NO: DA06/0706 Pt1

SUMMARY OF REPORT:

Tweed Shire Council is in receipt of a Development Application for the re-development of 11-13 Coronation Avenue, Pottsville. The proposal seeks consent to undertake a mixed retail and commercial development on the subject property comprising of one mini supermarket (likely operator IGA) and three smaller tenancies with the likely operators a real estate agent, solicitors, and butcher.

The issues of most significance to the application relate to the following matters:

- Access to the site is proposed only from Coronation Avenue via a central driveway leading to car parking at the rear. Tweed LEP 2000 nominates land to the rear of the subject site as a future road corridor and therefore this application has necessitated a Deed of Agreement between Council and the current land owners which specifies that should rear access become available then the development will need to be re-designed to take advantage of rear access in accordance with the applicants submitted plans. The applicants submitted plans shows access to the rear of the site with the front access being converted to a pedestrian mall only. This is considered to result in a better urban design outcome.
- The impact to the streetscape is important within Pottsville Village. The Pottsville Village Strategy recognises that the area has a mixed architectural style and comments that the continuation of such variety is encouraged. Therefore based on the amended plans (which have amended pedestrian access, incorporated truncations to the corners of the building, and improved articulation to the front façade) the proposed development is considered capable of conditional consent;
- Five submissions were received during the notification period. The issues raised have been detailed within the following report.

The proposed development is considered to demonstrate substantial compliance with the relevant policy and statutory requirements outlined within Council's controls for

commercial development within Pottsville. Therefore the application is recommended for conditional approval.

RECOMMENDATION:

That Development Application DA06/0706 for the demolition of existing structures and the erection of a shop building comprising a mini supermarket (likely operator IGA) and three (3) other tenancies (Real Estate, Solicitor and Butcher) at Lot 365 & 366 DP 755701, No. 11 & 13 Coronation Avenue, Pottsville be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos: -

- 7405/DA/01/REV03 prepared by Pat Twohill Designs and dated 3/11/2006
- 7405/DA/02/REV02 prepared by Pat Twohill Designs and dated 11/10/2006
- 7405/DA/03/REV03 prepared by Pat Twohill Designs and dated 1/2/2007
- 7405/DA/04/REV02 prepared by Pat Twohill Designs and dated 11/10/2006

except where varied by the conditions of this consent.

2. In accordance with the signed voluntary Deed of Agreement between the current landowners and Tweed Shire Council the applicant is to amend their access to the site if Council provides rear lane access in accordance with the following plan: -

- 7405/SK/01 prepared by Pat Twohill Designs and dated 2/2/2007 [GEN0005]

3. This application has approved the first use of Tenancies 1-4 as follows: -

	<u>TENANCY</u> <u>1</u>	<u>TENANCY</u> <u>2</u>	<u>TENANCY</u> <u>3</u>	<u>TENANCY</u> <u>4</u>
<u>PROPOSED</u> <u>USE</u>	IGA Mini Supermarket	Real Estate	Solicitors	Butcher
<u>TWEED LEP</u> <u>2000</u> <u>DEFINITION</u>	Shop	Commercial Premises	Commercial Premises	Shop
<u>GROSS</u> <u>FLOOR AREA</u> <u>(GFA)</u>	498.4m ²	58.5m ²	61.7m ²	121.8m ²

Any variation to these uses will be subject to a separate development application.

[GEN0055]

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 shall be constructed and operated in accordance with the requirements of the Noise Level Impact Assessment report by Craig Hill, October 2006. [GENNS01]
6. All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts. All external lighting shall comply with AS4282-1997, Control of the Obtrusive Effects of Outdoor Lighting. Where deemed necessary by Council's General Manager certification shall be provided from a suitably qualified person which confirms compliance with that Standard. [GEN0075]
7. Advertising structures/signs shall not exceed 5 signs per business which will necessitate the removal of 2 signs to tenancy 1. [GEN0065]
8. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided. [PCC0285]
10. Any carparking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate. [PCC0055]
11. Where a private certifier is appointed, prior to release of the construction certificate, documentation shall be provided to the satisfaction of Council's General Manager or his delegate detailing the construction of the food premises. [PCC0745]

12. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Council's sewerage system wastewater other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Tweed Shire Council PRIOR to the issuing of a Construction Certificate to discharge to Council's sewerage system.

[PCC1255]

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

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

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

Sewer Hastings Point: 0.6154 ET @ \$2863\$1,762

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

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

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

[PCC0265]

14. Section 94 Contributions

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

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

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

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

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

- (a) Tweed Road Contribution Plan: \$41,111
S94 Plan No. 4 (Version 4.0)
Sector 8a_4

[PCC0215]

15. The developer shall provide 24 car parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11.

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

[PCC0065]

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

Please note timber retaining walls are not permitted.

[PCC0475]

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

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

[PCC0485]

18. 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]

19. The site is to be filled to a minimum level of RL 3.5m AHD. The fill is to be retained by perimeter structural walls with concrete lined perimeter drainage or other approved treatment. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimizing the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

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

[PCC0865]

21. 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.

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]

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

(a) copies of compliance certificates relied upon

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

- earthworks

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

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

[PCC0985]

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

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

[PCC1105]

24. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

- (b) All roof water shall be discharged to the Coronation Avenue kerb and gutter.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
- * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
 - * Preliminary calculations indicate that a minimum base area of 28.5m² and a minimum storage volume of 18.2m³ is required to provide a compliant Atlantis Cell infiltration system.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be located clear of stormwater or sewer easements.
- [PCC1135]*
25. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

[PCC1145]

26. 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]

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

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

[PCC1185]

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]

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

[PCC1235]

30. All structures, including boundary retaining walls, must comply with Councils Works in Proximity to Sewers policy, to protect the structural integrity of the public sewer through the site and preserve unrestricted access for Council maintenance or replacement works.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

31. 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]

32. 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]

33. 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]

34. 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]

35. 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]

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.
[PCW0985]
37. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.
[PCW1065]
38. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.
[PCW0005]
39. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
[PCW0965]
40. All imported fill material shall be from an approved source. Prior to commencement of work details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.
[PCWNS01]

DURING CONSTRUCTION

41. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
- Monday to Saturday from 7.00am to 7.00pm**
- No work to be carried out on Sundays or Public Holidays**
- The proponent is responsible to instruct and control subcontractors regarding hours of work.
[DUR0205]
42. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
[DUR0375]

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

[DUR0395]

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

[DUR0405]

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

[DUR0415]

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

[DUR0645]

47. 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]

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

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

[DUR1005]

49. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

50. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the

deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

51. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

52. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

53. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

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

[DUR2185]

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

[DUR2195]

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

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

[DUR2485]

57. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
58. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
59. 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]
60. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
61. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]
62. 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]
63. 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]
- 64. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.**
[DUR0805]
- 65. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.**
[DUR0815]
- 66. All fill and cut batters shall be retained wholly within the subject land.**
[DUR0825]
- 67. 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]
- 68. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 2003 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.**
[DUR1485]
- 69. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be coved to a radius of not less than 25 millimetres.**
[DUR1495]
- 70. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.**
[DUR1505]
- 71. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.**
[DUR1515]

72. All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises. [DUR1535]
73. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate. [DUR1545]
74. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room. [DUR1565]
75. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned. [DUR1605]
76. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin. [DUR1625]
77. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary. [DUR2205]
78. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction. [DUR2375]
79. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event. [DUR2405]
80. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate. [DUR2425]

81. 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]

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

[DUR2675]

83. All works shall comply with the Erosion and Sediment Control Plan (Cozens Regan Williams and Prove, June 2006).

84. Materials 1m or greater depth below natural surface level shall not be exposed or disturbed unless an ASSMP has been approved by Council in writing.

85. The butchers shop shall be constructed and operated in accordance with the NSW Standard for Construction and Hygienic Operation of Retail Meat Premises (SafeFood NSW, October 2001).

86. Sedimentation control measures shall be placed around the perimeter of the proposed development site, and maintained for the duration of the proposed works, to the satisfaction of the Director of Environment and Community Services.

[DURNS01]

87. If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

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

[DUR0435]

88. 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]

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

[DUR1045]

90. The concrete footpath is to be saw cut and removed to facilitate the construction of the concrete driveway access.

[DUR1745]

91. A full width reinforced concrete footpath is to be constructed along the entire road frontage of the development from the property line to the back of the existing kerb in accordance with Councils adopted Development Design and Construction Specification.

[DUR1755]

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

[DUR1795]

93. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

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

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

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

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

[DUR1895]

94. 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]

95. 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]

96. 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]

97. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building

loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

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

[DUR2715]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

99. 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]

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

[POC0225]

101. 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]

102. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and notification requirements of the Food Standards Code as called into force by the Food Regulation 2004.

[POC0605]

103. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

104. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

105. Prior to issue of an occupation certificate or use of the premise Council shall be provided with a statement form a suitably qualified person which confirms that the development complies with that Assessment, particularly air conditioning and refrigeration units.

[POCNS01]

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

[POC0755]

107. 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]

108. 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

109. All cooking gases shall be discharged above the roof line in accordance with AS1668.

[USENS01]

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

[USE0125]

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

[USE0135]

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

[USE0175]

113. Hours of operation of the supermarket are restricted to 7am - 7pm seven days a week.

Hours of operation of tenancies 2, 3 & 4 are restricted to the following hours: -

- * 8am to 5pm - Mondays to Fridays
- * 8am to noon - Saturdays
- * No operations are to be carried out on Sundays or Public Holidays

[USE0185]

114. Any vehicles that remain on site for periods in excess of two (2) minutes are required to switch off their engines. [USE0255]
115. All loading/unloading to take place within the boundary of the subject property. [USE0525]
116. Food handling and preparation is to comply with all requirements of NSW Health. [USE0895]
117. Footpath dining activities shall not be carried out unless a Footpath Dining License Agreement has been approved by Council. Footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Councils adopted Footpath Dining Policy. [USE1105]
118. Noise levels from the development shall not exceed background LA90 levels at any receiving premise by more than 5dBA. Notwithstanding the above noise from the development shall not be audible within any residential premise between the hours 10pm to 7am.
119. Noise from plant, waste collection, vehicle movements and air conditioning units or any other source shall not be permitted to impact the amenity of any other premises.
120. Trucks and service vehicles shall access the site off Coronation Avenue only.
121. Compactors shall not be operated on the site
122. A 1.8m overlapping timber fence will be erected on the western boundary to the satisfaction of the Director of Environment and Community Services. [USENS02]
123. Delivery of goods to the premises shall be outside normal trading hours to enable the efficient manoeuvrability of large vehicles. [USE0275]
124. No items or goods are to be stored or displayed outside the confines of the premises. [USE0445]

REPORT:

Applicant: Mr J Wightman
Owner: Mrs DF Hardy, Mrs G Wightman, Mr IW Wightman and Mr J Wightman
Location: Lot 365 & 366 DP 755701, No. 11 – 13 Coronation Avenue, Pottsville
Zoning: 3(b) General Business
Cost: \$1,250,000

BACKGROUND:

The site is located within the coastal village of Pottsville. Surrounding development in the immediate area is characterised by a mixture of shops and residential development.

The subject development site comprises two allotments that have direct frontage to Coronation Avenue and a total area of 1960m². The land slopes gently to the rear of the site with levels varying from 3.62m AHD to Coronation Avenue and 1.85m AHD to the rear of the site. A sewer main traverses the property along a southeast to northwest axis and sits parallel with the centre boundary.

Built improvements on the land include two dwelling houses and various outbuildings including two sheds and two garages. The dwelling houses are constructed from various materials and are approximately sixty (60) years of age. The house on Lot 366 currently accommodates a solicitor's office.

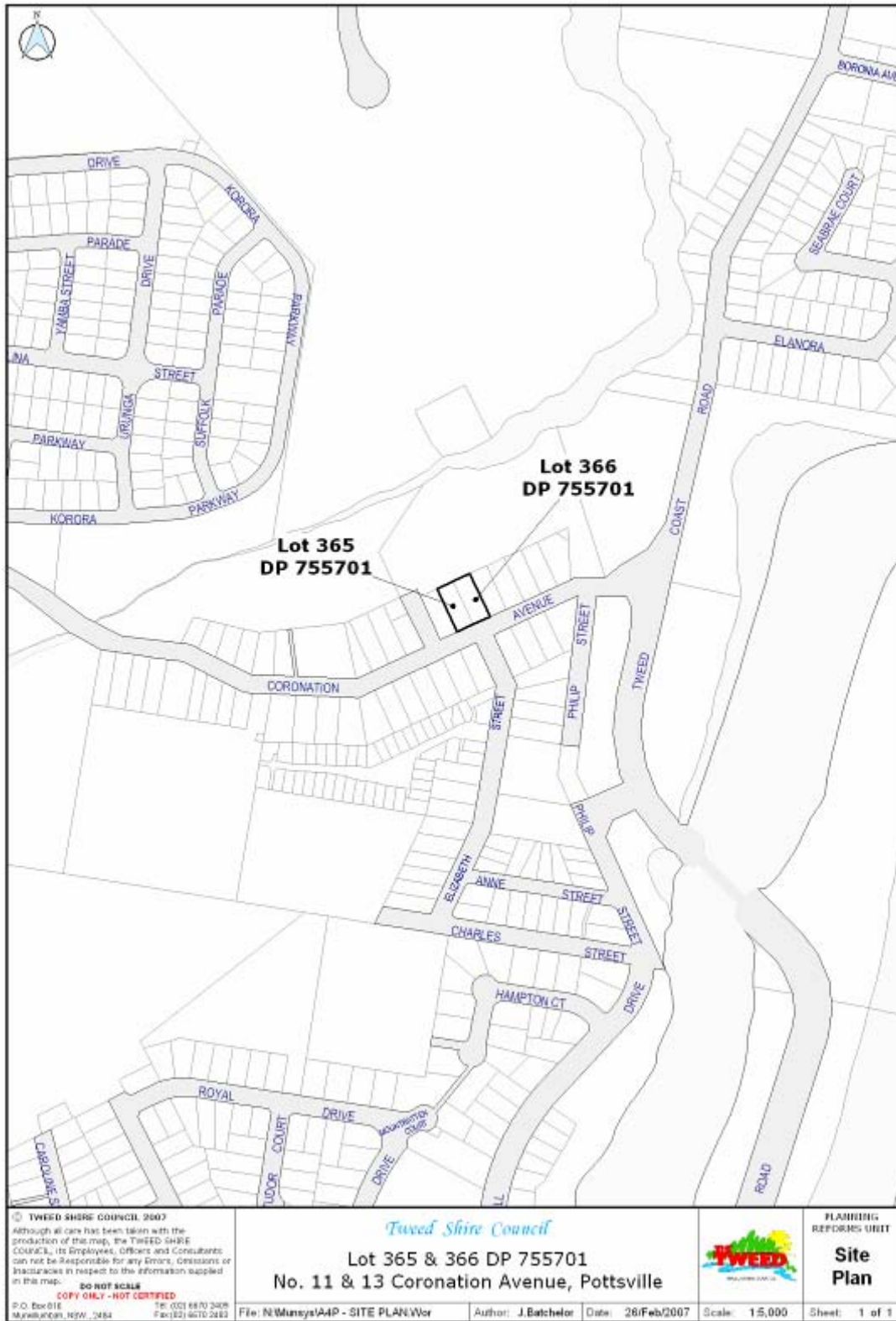
The proposal seeks consent to undertake a mixed retail and commercial development on the subject property comprising of one mini supermarket (likely operator IGA) and three smaller tenancies with the likely operators a real estate agent, solicitors, and butcher.

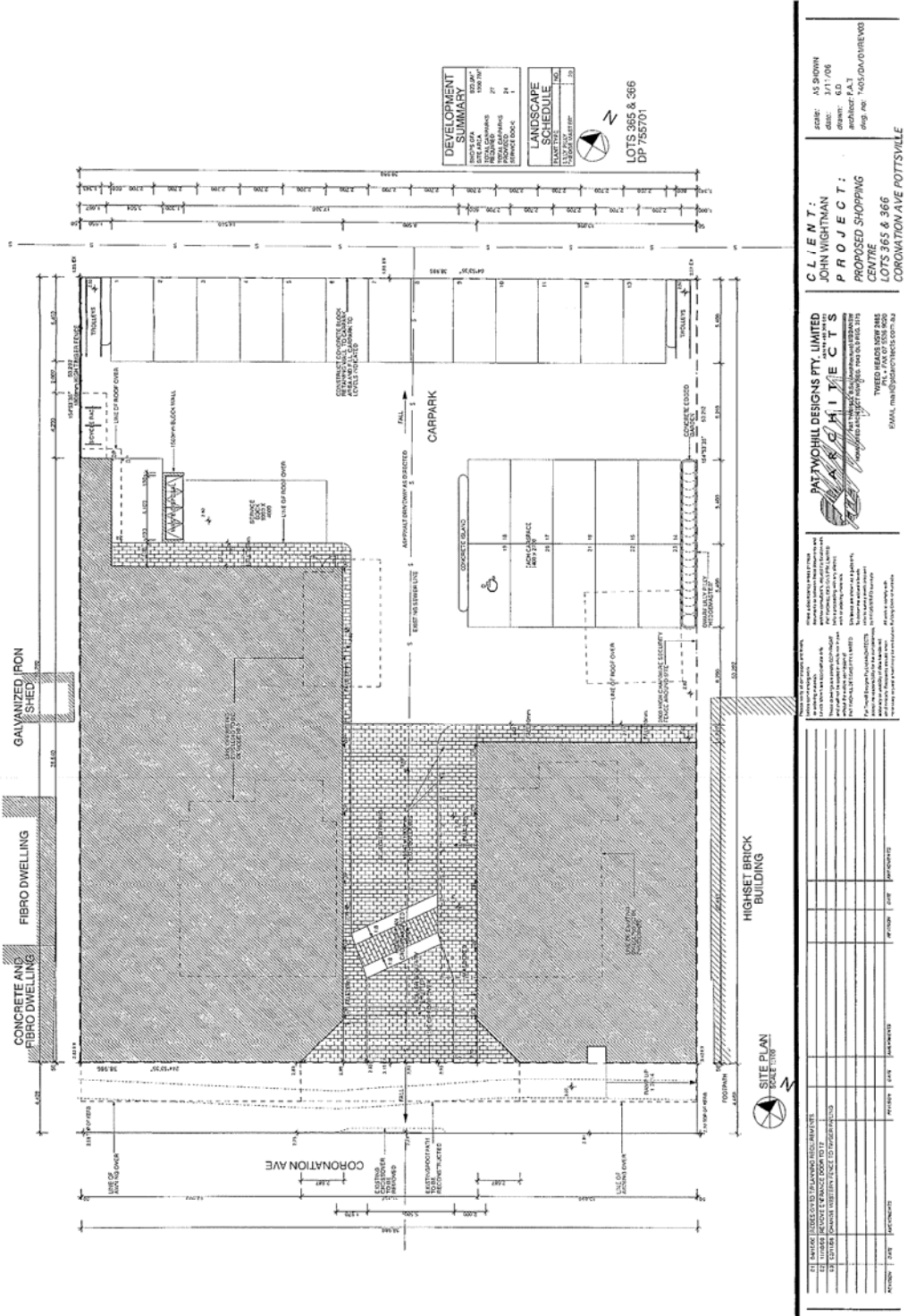
In summary, the proposed development incorporates the following components:

- Demolition of the existing buildings;
- Construction of two new buildings with awnings over the footpath and a skillion butterfly roof over the central driveway;
- Construction of a car parking area to the rear comprising 24 on site parking spaces, one loading bay, a waste disposal area, and a trolley collection area; and
- Construction of four premises with a total gross floor area of 740.4m² with the following proposed uses;

	<u>TENANCY 1</u>	<u>TENANCY 2</u>	<u>TENANCY 3</u>	<u>TENANCY 4</u>
<u>PROPOSED USE</u>	IGA Mini Supermarket	Real Estate	Solicitors	Butcher
<u>TWEED LEP 2000 DEFINITION</u>	Shop	Commercial Premises	Commercial Premises	Shop
<u>GROSS FLOOR AREA (GFA)</u>	498.4m ²	58.5m ²	61.7m ²	121.8m ²

SITE DIAGRAM:





CLIENT:
JOHN WIGHTMAN

PROJECT:
PROPOSED SHOPPING CENTRE
LOTS 365 & 366
CORONATION AVE POTTSVILLE

PATWOHL DESIGNS PTY LIMITED
LANDSCAPE ARCHITECTS

10/110 CORONATION AVE POTTSVILLE NSW 2486
TEL: 07 5531 1111 FAX: 07 5531 1112
WWW.PATWOHLDESIGNS.COM.AU

ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE SPECIFIED.
DIMENSIONS TO FACE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO CENTRE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO EDGE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO CORNER UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO SURFACE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO FINISH UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO TOP UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO BOTTOM UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO MIDDLE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO CENTERLINE UNLESS SPECIFIED OTHERWISE.
DIMENSIONS TO CENTERLINE UNLESS SPECIFIED OTHERWISE.

NO.	DATE	DESCRIPTION	BY	CHECKED
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02		ISSUED FOR PERMIT		
03		ISSUED FOR PERMIT		
04		ISSUED FOR PERMIT		
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000

The subject land is zoned 3(b) General Business. The proposed development will provide additional retail opportunities for businesses to establish in Pottsville and to cater for the communities day to day shopping and business needs. It is considered that the proposed development is consistent with the objectives of the zone and the objectives within Clause 8 of the Tweed LEP 2000.

Clause 15 – Availability of Essential Services

Existing infrastructure including water, sewer and stormwater services are available to the subject site with adequate capacity to accommodate the proposed development.

Clause 16 – Height of Buildings

The proposed development is single storey and complies with the height limits adopted for Pottsville.

Clause 17 – Social Impact Assessment

The proposed development will provide additional retail opportunities for businesses to establish in Pottsville and to cater for the communities day to day shopping and business needs. It is considered that the proposed development does not require a formal Social Impact Assessment due to the scale of the proposed development.

Clause 22, 23 & 24 – Designated Road Access & Setbacks

Coronation Avenue is a Council designated road and is therefore subject to the assessment criteria contained within these clauses. Council's Development Engineer has reviewed the proposed development and has raised no objection to the development obtaining access from Coronation Avenue. In addition due to the commercial zoning of the land no setback is required from the designated road.

Clause 34 – Flooding

Council's Planning and Infrastructure Engineer has provided the following comments:

"The design flood level (Q100 flood) for the site is 2.4m AHD. Commercial development does not have a minimum freeboard requirement, but the proposed finished floor level for the development of 2.95m AHD puts it well above minimum habitable floor level. As such, there is no requirement to provide additional flood free storage in the development, or specify flood free materials.

The site is permitted to be filled and retained with perimeter walls on the boundary. There is no requirement to set back these walls from the boundary, unless perimeter drainage is required to prevent ponding of runoff on adjoining land. Given the prevailing grade of the land away from Coronation Avenue, this should not be necessary.

Finished surface levels are generally consistent with the current proposal to provide road access of Coronation Avenue, while allowing for a future rear access, should such a road be constructed."

Clause 35 – Acid Sulphate Soils

The subject site is identified as containing Class 3 Acid Sulphate Soils on Council's Planning Maps.

Acid Sulphate Soils are likely to occur 1m or greater in depth below natural surface level, which, is 1.7m below the current surface level. All proposed excavations are minor with the applicants report stating that it is unlikely that material of concern will be disturbed.

Accordingly an ASS management plan is not required for the site. Council's Environment and Health Officer has raised no objection to this aspect of the proposal subject to the recommended conditions of consent.

Clause 38 – Future Road Corridors

Tweed LEP 2000 shows that land to the north of the site is nominated as a potential future road corridor. Such a road could service new developments along Coronation Avenue. However, as this road corridor is not currently on Council's works program it is not feasible to refuse this application due to its proposed access off Coronation Avenue.

Alternatively the applicant has voluntarily entered into a Deed of Agreement which specifies that should rear access become available then the development will need to be re-designed to take advantage of rear access in accordance with the applicants submitted alternative access plan. The applicants submitted plans shows access to the rear of the site with the front access being converted to a pedestrian mall only.

Council's Development Engineer and Planning & Infrastructure Engineer have reviewed this alternative plan and raised no objections to its implementation

should Council ever provide access to the rear of this site. Appropriate conditions of consent have been recommended.

The Deed of Agreement will ensure the current and any future owner is obliged to re-design the access (as per the submitted plan) for this development should rear lane access become available.

Clause 39 – Remediation of Contaminated Land

The applicant has undertaken a preliminary Site History Investigation (JGA, June 2006), which examines site history and aerial photographs and concludes that the site is unlikely to be contaminated.

The two existing dwellings are timber frame bearer and joist construction. Whilst the two garage buildings are slab on ground Council does not require sub slab testing for detached garage buildings. Standard conditions of consent have been recommended regarding demolition and disposal of asbestos materials in existing structures.

Clause 39A – Bushfire Protection

The subject site is mapped as bushfire prone land and subsequently the application was forwarded to the local Rural Fire Service (RFS) for comments and conditions where considered necessary. The RFS have recommended two conditions of consent to ensure the site is managed effectively.

Clause 47 – Advertising Signs

The application proposes 13 business identification signs. The proposed signs are primarily Top Hamper Signs however two (2) wall signs are proposed for Tenancy 1 (IGA).

Subject to compliance with the recommended conditions of consent to reduce the signage the approved signage is not considered to create visual clutter or a proliferation of signs nor detract from the scenic amenity of the Pottsville Village. It is therefore considered that the proposed signage is consistent with the provisions of Clause 47.

North Coast Regional Environmental Plan 1988

The proposed development is consistent with the objectives of the NCREP in particular, Clause 15 pertaining to impact on waterways and Clause 47 pertaining to commercial development.

Having regard to Clause 15 Council's Planning & Infrastructure Engineer has provided the following comments regarding stormwater discharge;

"The applicant has submitted an amended stormwater management plan to reconfigure stormwater drainage of the site in accordance with

meetings held with Council staff to try and resolve the issue of lawful discharge to crown land at the rear of the site.

As per this agreed solution, all roof water shall be piped to the Coronation Avenue kerb and gutter, and carparking runoff at the rear will be permitted to discharge in a dispersed manner to the crown land, in accordance with the existing drainage regime for the site. The carpark system includes retention and infiltration of the ARI 3 month storm, surcharging as visible sheet flow over a kerb at the rear. In this regard, the amended stormwater management plan is generally acceptable.

However on review, the proposed 22.32m² base area infiltration trench with 15.05m³ volume was found to be insufficient. Based on an assumed Atlantis Cell configuration, it was determined that the minimum trench size should be 28.5m² base area, with 18.2m³ volume. As this device is to be installed in the carpark area of the development, and is not constrained by other structural elements, it should be satisfactory to apply a condition of consent to upsize the infiltration device.

The proposed "filtration units" must be capable of filtering oil and sediment pollutants from the carpark runoff prior to discharge to the infiltration device, to ensure its long term operation."

In this regard, it is considered that the impact on the waterway is satisfactory.

In regards to Clause 47 the commercial development is consistent with the provision of the clause, as it will provide the town with a greater level of commercial services.

State Environmental Planning Policies

State Environmental Planning Policy No. 55 – Remediation of Land

The applicant has undertaken a preliminary Site History Investigation (JGA, June 2006), which examines site history and aerial photographs and concludes that the site is unlikely to be contaminated.

State Environmental Planning Policy No. 64 - Signage

The application proposes 13 business identification signs. The proposed signs are primarily Top Hamper Signs however two (2) wall signs are proposed for Tenancy 1 (IGA). The applicant has provided the following comments to demonstrate compliance with SEPP 64:

- The development is located in the existing commercial are of Pottsville being a local convenience shopping node containing a conglomerate of small convenience shops and commercial services all of which in turn have numerous identification signs. Hence the proposal will be

compatible with the existing character of the area and not detract from the visual amenity nor impede any significant vistas;

- The extent of signage both in terms of number and area/scale is in proportion to the development and as such does not dominate the visual presentation of the development particularly as viewed from Coronation Avenue;
- Any sign illumination will involve only low wattage and therefore no undue glare or light spill issues will arise;
- The signage will not pose any traffic hazard or safety concern to motorist's cyclists or pedestrians.

These comments are concurred with and justify compliance with SEPP 64. However, it is considered necessary to reduce the approved signage by two signs to reduce visual clutter and comply with DCP 15 – Advertising Signs Code.

State Environmental Planning Policy No.71 – Coastal Protection

The subject site is located within the Coastal Zone and as such the provision of the SEPP apply to this development. In this regard, the proposed does not overshadow the foreshore open space or restrict public access to the beach or creek. The site is also well landward of any defined Coastal Erosion Zones and is highly unlikely to be affected by Coastal Processes. The proposal does not affect marine habitats, wildlife corridors or the scenic qualities of the coast. Effluent and waste water will be discharged to Council's sewer, while stormwater will be appropriately treated and detained prior to discharge to the stormwater system.

It is considered that the proposal is consistent with the objectives of the policy and is satisfactory with regard to the matters listed.

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

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

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

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

According to the provisions of the DCP the following parking rates apply;

Table 1 – Car Parking Rates in accordance with DCP 2

<u>Use</u>	<u>GFA</u>	<u>DCP 2 Classification</u>	<u>Staff Requirement</u>	<u>Customer Requirement</u>
T1 IGA	498.4m ²	Item C19 Shop Retail	0.5 spaces per 100m ² = 2.492	3.5 spaces per 100m ² = 17.444
T2 Real Estate	58.5m ²	Item G2 Commercial Premises	1 space per 40m ² = 1.4625	Included in staff

T3 Solicitors	61.7m ²	Item G2 Commercial premises	1 space per 40m ² = 1.5425	Included in staff
T4 Butcher	121.8m ²	Item C19 Shop Retail	0.5 spaces per 100m ² = 0.609	3.5 spaces per 100m ² = 4.263

Total Staff Spaces Required = 6.106

Total Customer Spaces Required = 21.707

Grand Total of On-Site Car Spaces Required = 27.813

Clause 4.11 of DCP No. 2 supports reduced car dependent principles by encouraging bicycle parking areas and access to public transport facilities, and therefore allows an 80% reduction to the generation rate. An 80% reduction of 27.813 spaces is a reduction of 5.5626 spaces, taking the onsite parking requirement to 22.2504 spaces.

80% Grand Total of On-Site Car Spaces Required = 22.25

The applicant has provided 24 on site parking spaces and a loading zone. The application as submitted complies with the onsite parking spaces as reduced in accordance with Clause 4.11 of DCP No. 2.

The amount of car parking proposed is considered sufficient to serve the development and attain compliance with the provisions of the DCP.

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

The design flood level (Q100 flood) for the site is 2.4m AHD. Commercial development does not have a minimum freeboard requirement, but the proposed finished floor level for the development of 2.95m. As such, there is no requirement to provide additional flood free storage in the development, or specify flood free materials. The proposal is considered to comply with the requirements of the DCP.

Development Control Plan No.15 – Advertising Signs

The submitted elevation drawings provide sufficient detail in regards to signage. Actual colours and wording will be finalised at a later date but the location and size can be determined within the scope of this application.

DCP 15 specifies that the maximum number of signs that Council will permit per business is five (5).

In addition the DCP specifies that the maximum area per business for all signs shall not exceed the area as expressed in square metres and calculated by multiplying the first 10 metres of the frontage of the premises by one (1) and each metre thereafter by 0.5.

The applicant has proposed to have the following signs:

TENANCY	TOP HAMPER SIGN	WALL SIGN	TOTAL
1	5	2	7
2	3	0	3
3	1	0	1
4	2	0	2
Total	11	2	13

The applicant has proposed the following area for signage:

- Tenancy 1 – proposed signage 39m², permissible 13m²;
- Tenancy 2 – proposed signage 14.28m², permissible 6.6m²;
- Tenancy 3 – proposed signage 3.9m², permissible 6.6m²;
- Tenancy 4 – proposed signage 10.3m², permissible 10m²;

The applicant has argued that the extent of signage in terms of number and area/scale is in proportion to the development and has been positioned to minimise visual impact from Coronation Avenue.

This can be seen on the elevation drawings, however, notwithstanding it is considered that Tenancy 1 should reduce its total number of signs from 7 down to 5 to comply with DCP 15. This will reduce the extent of non-compliance with the area of signage and reduce signage clutter. In regards to the other areas of non-compliance it is considered that due to the design of the building and the visual separation between the driveway access and Coronation Avenue façade that no further amendments are required.

Appropriate conditions of consent have been recommended.

Pottsville Strategy

In October 1998 Council adopted the Pottsville Village Strategy, which provides general guidelines for future development in Pottsville. The strategy has identified three (3) options for commercial development within Pottsville including:-

Option 1 – Dispersal of New Activities and Facilities. This would see the residential estates of Black Rocks, Koala Beach and Sea Breeze develop their own commercial business centre.

Option 2 – Containment of New Activities and Facilities. This would encourage the growth of the traditional heart of the Pottsville Village, with existing commercially zoned sites redeveloped for retail and commercial development.

Option 3 – Provide a New Focus for Facilities and Activities. This option would see a site master planned for a new village centre.

Of the three (3) options, Option 2 was considered to be the more favoured and it is considered that the proposed redevelopment of the subject site is consistent with the strategy.

Under Section 4.4 a number of development guidelines have been drafted and although not formally included in a development control plan, have been referenced by submissions as compliance criteria.

In this regard, the building is restricted to a single storey, contains a mix of commercial and retail development, and incorporates awnings over the footpath to encourage active street frontages.

The location of the parking to the rear has enabled an active street frontage, and effective pedestrian options throughout the site. The applicant has also amended the plans to truncate the corners of the building to improve the access way especially on the pedestrian access side and placing the shop entry on that location has allowed for addressing of the corner. In addition the facades have been improved by increasing articulation.

It is considered that the proposed development is not out of character with the changing village atmosphere of Pottsville and is consistent with the guidelines and objectives contained within the strategy.

In general, it is considered that the proposed development will not prejudice or compromise the public interest.

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

Coastal Policy

The subject site is located within the Coastal Zone and as such the provisions of the Coastal Policy apply to the site. The proposed development is consistent with the objectives of the Coastal Policy.

Demolition Works

A Demolition Plan has been lodged with the application and reviewed by Council's Building Surveyor. Relevant conditions to apply.

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

The proposed development is not considered likely to have an adverse impact upon the built or natural environment or the amenity of the neighbourhood and is consistent with the commercial activities currently underway within the Pottsville village.

Economically, the proposal will create further opportunities for retailers to cater for the growing population of Pottsville.

Minor impacts associated with the construction of the development are anticipated, however will be of a short duration. Suitable conditions of consent are proposed to address issues relating to hours of work, construction noise, builders waste and erosion and sediment controls.

An acoustic report concludes that no unreasonable noise is expected to occur at nearby sensitive residents. Conditions will be applied regarding defined issues such as no use of compactors on site and restrictions on operating hours. Another condition will be applied requiring compliance with the Noise Assessment and provision of a compliance statement from an acoustic consultant prior to issue of an occupation certificate.

(c) Suitability of the site for the development

The subject site is within the centre of the Pottsville Village and has been identified for commercial uses for a number of years. The site is adjoined by commercial development to the east (general store) and west for a fruit and vegetable retailer. The redevelopment of the site to incorporate shops and commercial tenancies accords with the zoning of this land.

The site is capable of receiving deliveries and waste removal. Commercial waste collection is offered by several private sector businesses. The applicant has provided confirmation that waste collection is possible with the plans depicting a suitable waste storage and collection area on the site. The skillion butterfly roof over the central driveway has specifically been positioned 4.5metres from the ground to ensure service vehicles can adequately access the site.

In summary, the site is considered suitable in accommodating the proposed development.

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

The application was an exhibition for two (2) weeks commencing Wednesday 19th July 2006. During this period five (5) submissions were received.

Issue	Comment	Assessment
Pottsville Village Strategy	The proposal is modern and does not incorporate traditional design elements, as required in the Village Strategy. Suggestion that a bull nose awning, with a rounded colour bond roof over the driveway in lieu of the skillion type would be more appropriate.	Council Officers have assessed the original proposal in terms of urban design and made several recommendations in this regard. As such, several aspects of the building design have been amended by the applicant and incorporated into the development. The modified proposal is considered to be consistent with the Village Strategy and in keeping with the desired vision for the Business Centre.
Visual Impact	Visual impact of proposal will adversely affect the existing streetscape.	As noted above, the original design has been amended and is considered to be satisfactory in terms of streetscape.
Access and Parking	Transport drivers for elderly/disabled experience difficulty in parking on northern side of Coronation Ave. Loss of 1 space for proposed site access would further increase problem. Rear access should be proposed.	The applicant has signed a voluntary deed of agreement whereby if Council constructs a bypass road on the adjoining land to the north within 10 years, allowing rear access to the subject site, they will relocate the site entrance to the rear and convert the front entrance to a pedestrian mall. An alternate site plan has been designed for this scenario.
Signage	Excessive signage with little creativity or character to suit a Neighbourhood Centre. Signage should be kept to a minimum so as to not destroy the ambience of the streetscape.	The proposed development has been assessed against the provisions of DCP 15, whereby a maximum of 5 signs per business are permitted. This could potentially result in a total of 20 signs allowable for the development. The proposed development has nominated a total of 13 signs, and a condition of consent has been incorporated to reduce this to 11 signs. This is considered to be acceptable given that not all signage will be presenting directly onto Coronation Ave.

Issue	Comment	Assessment
Rear Site Entry	Given the existing traffic problems at the intersection of Coronation Ave & Elizabeth St, problems with delivery vehicles in Coronation Ave and potential conflict with pedestrians on Coronation Ave, the development should have site access from the rear lane.	Although a rear access would be preferable in this instance, it is unreasonable to require the applicant to construct a new road for such purposes. As noted above, a voluntary deed of agreement has been signed by the applicant to provide rear access if Council constructs a roadway within 10 years. This would result in the proposed vehicle access way being converted into a pedestrian mall.
Pottsville DCP	Concern that such a development is being assessed prior to the formulation of the DCP, & having to rely on the Pottsville Strategy of 1998.	As noted above, the proposed development has been assessed against the provisions of the Pottsville Village Strategy. Subsequent design amendments have resulted in the proposal being consistent with the changing character of the area.
Loss of parking spaces	Request for only 24 car spaces rather than 27 is of concern. There will not be 5 casual spaces on Coronation Ave, once the pedestrian refuge and traffic control is installed.	The amended proposal has been assessed against the provisions of DCP 2 for car parking requirements. As noted in the report above, the proposed development is considered to meet all on-site car-parking requirements.

(e) Public interest

Pottsville Strategy

In October 1998 Council adopted the Pottsville Village Strategy, which provides general guidelines for future development in Pottsville. The strategy has identified three (3) options for commercial development within Pottsville including:-

Option 1 – Dispersal of New Activities and Facilities. This would see the residential estates of Black Rocks, Koala Beach and Sea Breeze develop their own commercial business centre.

Option 2 – Containment of New Activities and Facilities. This would encourage the growth of the traditional heart of the Pottsville Village, with existing commercially zoned sites redeveloped for retail and commercial development.

Option 3 – Provide a New Focus for Facilities and Activities. This option would see a site master planned for a new village centre.

Of the three (3) options, Option 2 was considered to be the more favoured and it is considered that the proposed redevelopment of the subject site is consistent with the strategy.

Under Section 4.4 a number of development guidelines have been drafted and although not formally included in a development control plan, have been considered in the design of the proposed development. In this regard, the building is restricted to a single storey, contains a mix of commercial and retail development, and incorporates awnings over the footpath to encourage active street frontages. It is considered that the proposed development is not out of character with the village atmosphere of Pottsville and is consistent with the guidelines contained within the strategy.

In general, it is considered that the proposed development will not prejudice or compromise the public interest.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with Council's determination an appeal may be lodged with the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is considered to demonstrate substantial compliance with the relevant policy and statutory requirements outlined within Council's controls for commercial development within Pottsville.

No impacts are anticipated on either the built or natural environment or the amenity of the locality. Services to the subject site are available and the land is free of any constraints relating to natural hazards.

The application is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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P4 [PD-PC] Development Application DA05/0881 for Additions & Alterations to Church at Lots 35-39 DP 249808 Nos. 22-30 Sand Street, Kingscliff - S94 and S64 Contributions

ORIGIN:

Development Assessment Unit

FILE NO: DA05/0881 Pt4

SUMMARY OF REPORT:

On 4 July 2006 Council resolved to approve a development application for additions and alterations to an existing place of public worship, commonly known as 'Kingscliff Christian City Church'.

In accordance with Section 64 and Section 94 of the Environmental Planning and Assessment Act 1979, contributions of \$59,399.00 were calculated based on the proposed development.

The applicant has requested the applicable contributions to be waived.

RECOMMENDATION:

That the applicable Section 64 and Section 94 contributions for Development Application DA05/0881 for additions & alterations to church at Lot 35, 36, 37, 38, 39 DP 249808, No. 24, 26, 28 and 30 Sand Street Kingscliff; remain, however the applicant be advised that Council would be prepared to allow the contributions to be paid in instalments over a period of two years.

REPORT:

Applicant: Christian City Church Kingscliff Property Ltd
Owner: Christian City Church Kingscliff Property Ltd
Location: Lot 35, 36, 37, 38 & 39 DP 249808 Nos. 24, 26, 28 & 30 Sand Street, Kingscliff
Zoning: 2(a) Low Density Residential & 2(b) Medium Density Residential
Cost: \$800,000

On 4 July 2006 Council resolved to approve a development application for additions and alterations to an existing place of public worship, commonly known as 'Kingscliff Christian City Church'. The proposal included the construction of an auditorium and car park, alterations and additions to the existing building including a café, crèche, meeting rooms, an office area, children's church room and the conversion of a dwelling house into an office and consulting rooms.

In accordance with Section 64 and Section 94 of the Environmental Planning and Assessment Act 1979, contributions of \$59,399.00 were calculated based on the proposed development.

The applicant has requested the applicable contributions to be waived as the development is consistent with the plans of Tweed Shire Council and will benefit the community in terms of additional services and infrastructure. A copy of the applicant's submission is attached to this report.

On 5 May 1999 Council adopted the following policy in relation to the payment of contributions:-

"That unless exempted by legislation, development applications for works of public benefit submitted by or for charities, community groups, public bodies or religious organisations, which generate a demand for provision of increase in public amenities and services as identified in an adopted Section 94 contribution plan will be liable for payment of contribution as set out in such a plan".

Since the adoption of this resolution, several requests have been made by community groups and a religious group to waive or amend contributions. Council did not support these requests. In some instances it was agreed the contributions could be paid in instalments over a period of two years, interest free.

OPTIONS:

1. Refuse the request to waive the applicable contributions.
2. Refuse the request to waive the applicable contributions, and enable the applicant to pay the contributions in instalments over a period of two years, interest free.
3. Approve the request to waive the applicable contributions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council resolve to support the applicant's request, monies will not be collected for the upgrade and maintenance of existing water, sewer and road infrastructure.

POLICY IMPLICATIONS:

A resolution to waive the contributions is inconsistent with the adopted policy.

CONCLUSION:

It is recommended that the applicable contributions associated with the additions and alterations to the place of public worship as detailed in the development consent remain in accordance with the current policy. The option for the applicant to pay the contributions in instalments over a period of two years, interest free is also recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. The applicants submission (DW 1529332)
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P5 [PD-PC] Development Application DA06/0984 for the Demolition of Existing Structures and the Erection of an Attached Duplex at Lot 28 Section 2 DP 3123, No. 68 Charles Street, Tweed Heads

ORIGIN:

Development Assessment Unit

FILE NO: DA06/0984 Pt1

SUMMARY OF REPORT:

An application has been received requesting approval for the demolition of an existing dwelling, and the construction of a two (2) storey attached dual occupancy. The proposal generally complies with all relevant development standards, apart from requiring a building line variation to the 6 metre front setback and SEPP No. 1 application to the building heights standard.

The applicant provided justification to vary the development standard relating to the building line setbacks and a SEPP No. 1 objection to Clause 16 of the Tweed LEP 2000.

The proposal is considered to comply with the objectives of clause 3.2.1 and the "Performance Criteria" P2 contained within DCP No. 6 that states:

P2. Front setbacks are generally consistent with those of adjoining development, though not necessarily identical. Some variations to minimum setbacks can be considered particularly where such variations are used to create streetscape variety and interest.

The front setback is generally consistent with surrounding development whilst providing variety within the streetscape. The northern unit is set back 5 metres from the front boundary with the southern unit set back 6.5metres. The building line variation is considered acceptable given the site topography and minimal impact on the streetscape and appearance. It is considered that the proposed variation in the front setback of each double garage improves the streetscape quality by reducing the visual impact and dominance of the 2 double garages.

The SEPP No.1 objection is supported due to the following:

The void (foundation) area at the rear of the development is due to the site's constraints being a steep sloping block. The site slopes down to the south with the high side of the site being at the north fronting Charles Street. The area of non-compliance varies in length from 6.5 metres as viewed from the south-western elevation and 4 metres as viewed from the northeast elevation. This variation is due to the proposal having a staggered setback. This section of the proposal is technically defined as a storey as the area is greater than 1.5metres in height from ground to the 1st level floor above it. The 'foundation area' identified will not be used

for any residential purposes and is not enclosed. The proposed development's height, scale is considered appropriate to the location and surrounding development.

The 3-storey component is considered not to add to the bulk of the building or reduce the visual amenity of the locality or create an adverse impact. The increase in the number of storeys of the proposal is not visible from the street, and when viewed from the street appears as a single storey development. The building design is characterised as being contemporary, comprises lightweight materials and use of modern technologies, colours and is well articulated. The proposal achieves good urban design and best practice principles and the desired future character of the locality. It is consistent with the land-use zoning, all other relevant controls and development standards.

RECOMMENDATION:

That Development Application DA06/0984 for the demolition of existing structures and the erection of a attached duplex at Lot 28 Section 2 DP 3123, No. 68 Charles Street Tweed Heads 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. **The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1-9 prepared by PCK Building Design and dated August 2006 and Plan Nos H01 prepared by Colin Wheat & Associates Pty Ltd and dated October 2006 (as amended in Red) except where varied by the conditions of this consent.**
[GEN0005]
3. **Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.**
[GEN0045]
4. **The development is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.**
[GEN0125]
5. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0465]

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

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

[PCC1065]

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

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

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

[PCC1145]

9. 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]

10. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering

beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

[PCC1185]

11. Where water is to be drawn from Councils reticulated system, the proponent shall: -

- Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
- Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
- Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1205]

12. In accordance with Section 68 of the Local Government Act, application shall be made to Council for any proposed sewerage drainage system. Detail shall include as a minimum hydraulic drawings, pipe sizes, details of materials.

[PCC1225]

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

[PCC1235]

14. **Section 94 Contributions**

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

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

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

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

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

(a) Tweed Road Contribution Plan: (6.5 trip)	\$1,288
S94 Plan No. 4 (Version 4.0)	
Sector1_4	
(b) Open Space (Structured): (0.3076 ET)	\$240
S94 Plan No. 5	
(c) Open Space (Casual): (0.3054 ET)	\$51
S94 Plan No. 5	
(d) Shirewide Library Facilities: (0.3082 ET)	\$212
S94 Plan No. 11	
(e) Eviron Cemetery/Crematorium Facilities: (0.3740 ET)	\$49
S94 Plan No. 13	
(f) Emergency Facilities (Surf Lifesaving) (0.3100 ET)	\$62
S94 Plan No. 16	
(g) Extensions to Council Administration Offices & Technical Support Facilities (0.307600 ET)	\$390.28
S94 Plan No. 18	
(h) Cycleways (0.307)	\$108
S94 Plan No. 22	
(i) Regional Open Space (Structured) (0.307 ET)	\$715
S94 Plan No. 26	
(j) Regional Open Space (Casual) (0.308 ET)	\$263
S94 Plan No. 26	

[PCC0215/PSC0175]

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

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

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

Water DSP4: 1 ET @ \$4598 \$4,598

Sewer Tweed Heads: 1 ET @ \$6688 \$6,688

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

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

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

[PCC0265/PSC0165]

16. The Construction Certificate application for the building works shall include detailed engineering drawings of the proposed stormwater management system. These drawings shall be generally consistent with the Stormwater and Sediment Control Plan, Drawing No. H01/A prepared by Colin Wheat & Associates and dated October 2006.

[PCCNS01]

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

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

[PCC0065]

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

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

[PCC0075]

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

[PCC0285]

PRIOR TO COMMENCEMENT OF WORK

20. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

21. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0225]
22. 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]
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 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]

25. 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]

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

[PCW0965]

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

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

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

[PCW0985]

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

[PCW1005]

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

[PCW1165]

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

[PCW0005]

31. 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]

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

[PCW0705]

33. 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

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

[DUR0005]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0245]

37. 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]

38. 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]

39. 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]

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

[DUR0415]

41. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
- (b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

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

[DUR0435]

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

[DUR0445]

43. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

44. 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]

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

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

[DUR1005]

46. 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]

47. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New

Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).

- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties. [DUR2075]
48. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9. [DUR2085]
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. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]
51. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building. [DUR2485]
52. Plumbing
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
53. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
54. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
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. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.
- [DUR2645]
57. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- [DUR0425]
58. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.
- [DUR0645]
59. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.
- [DUR0655]
60. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.
- [DUR0675]
61. The 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]
62. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
- [DUR2195]
63. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be

cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

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

[DUR2415]

65. 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]

66. 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]

67. The driveway is to be constructed 3.0 minimum metres wide at the property boundary and 6.0 maximum metres wide at the kerb line with a uniform taper.

[DUR0075]

68. 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]
69. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
[DUR0815]
70. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.
[DUR0985]
71. 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]
72. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Little Charles Street in accordance with Councils adopted Development Design and Construction Specification.
- Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.
[DUR1735]
73. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
[DUR1795]
74. 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]
75. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
[DUR1885]

76. The written consent of the registered proprietors of adjoining land, where the said works encroach thereon is to be submitted to Council prior to works commencing.

[DUR2005]

77. 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]

78. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

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

[DUR2355]

80. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0205]

82. 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]

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

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

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

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

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

[POC0265]

84. 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]

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

[POC1045]

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

[POC1055]

USE

87. Swimming Pools (Building)

- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that

landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

- (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

[USE1295]

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

[USE1305]

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

[USE0225]

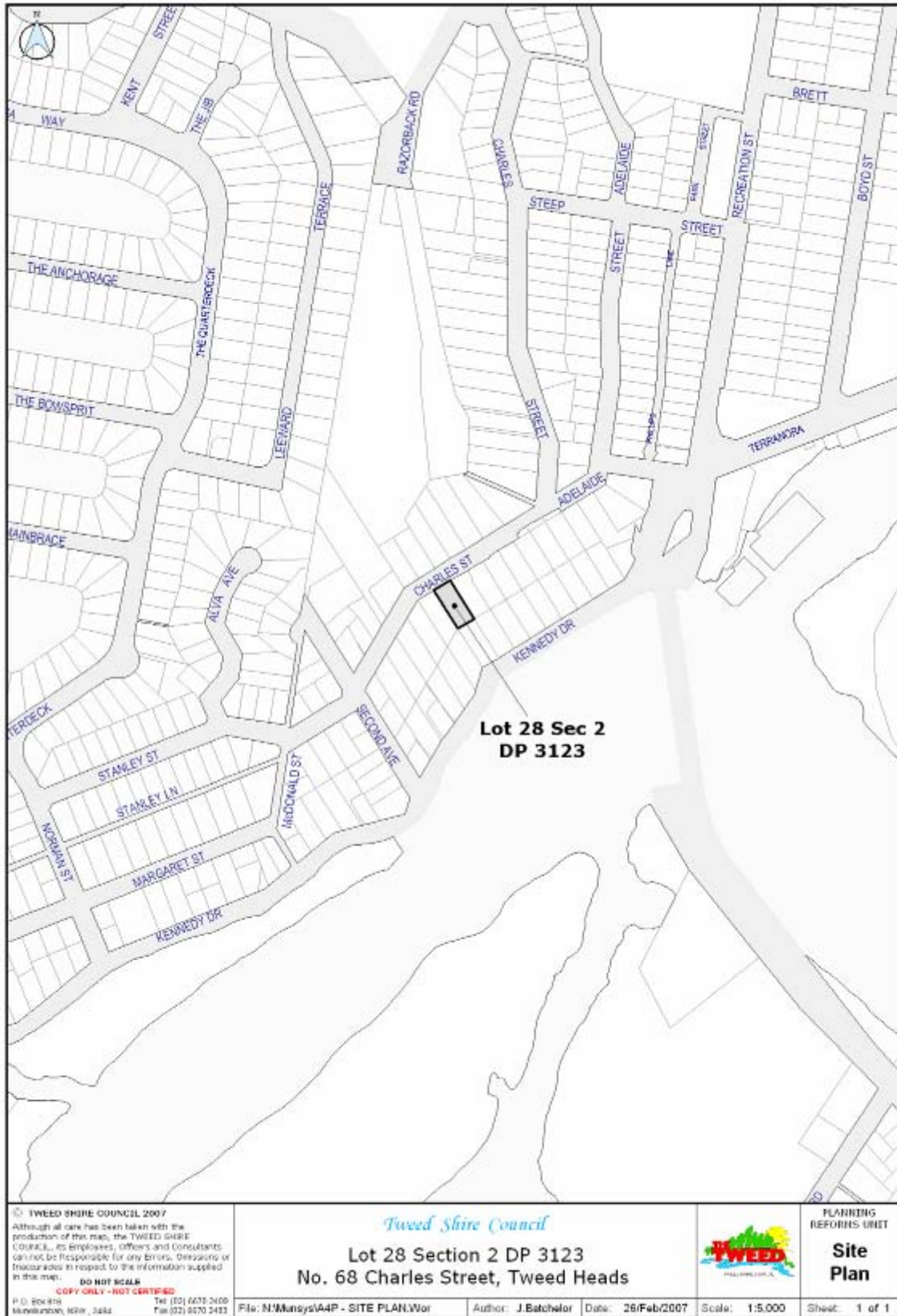
REPORT:

Applicant: D Binskin, B Binskin, M Damro and E Stanford
Owner: Mr MJ Damro, Ms EA Stanford, Mr DD Binskin and Ms BJ King
Location: Lot 28 Section 2 DP 3123, No. 68 Charles Street Tweed Heads
Zoning: 2(a) Low Density Residential
Cost: \$560,000

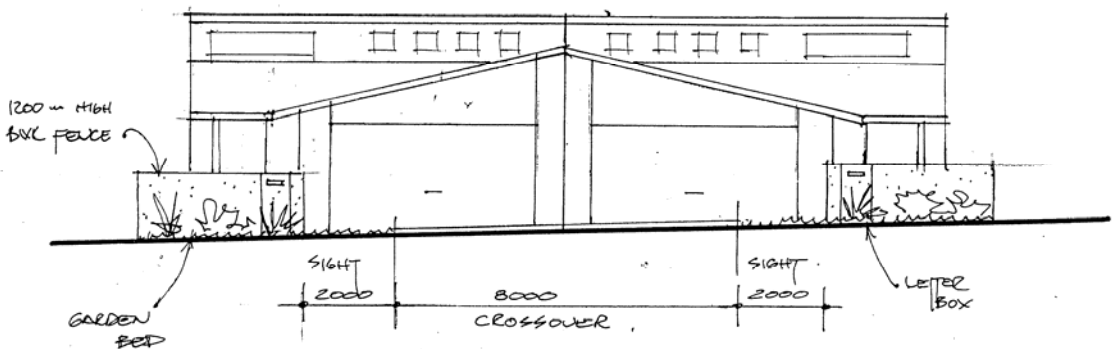
BACKGROUND:

The subject site is located within an existing established residential subdivision on the southern side of Charles Lane. The site is considered steep with the fall of the land being from the road frontage (high side) to the rear (low side) of the site. Council approved an application for a dwelling on the 20th June 1989, with no other application has since been received.

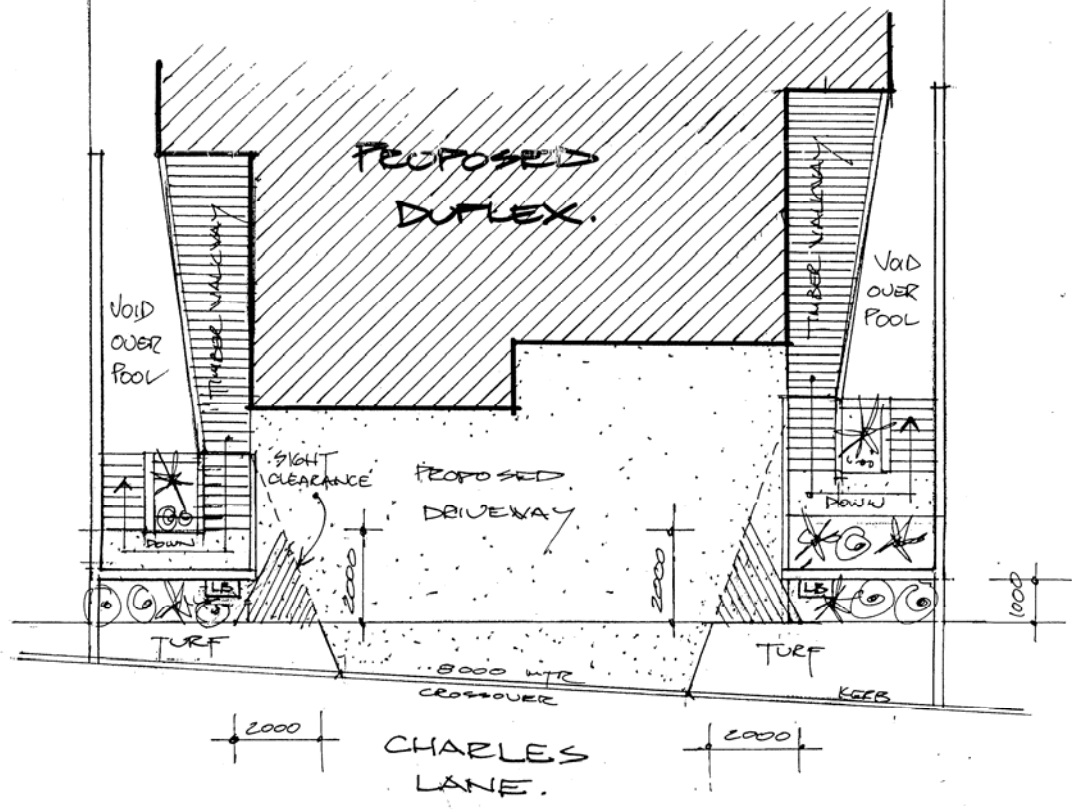
SITE DIAGRAM:



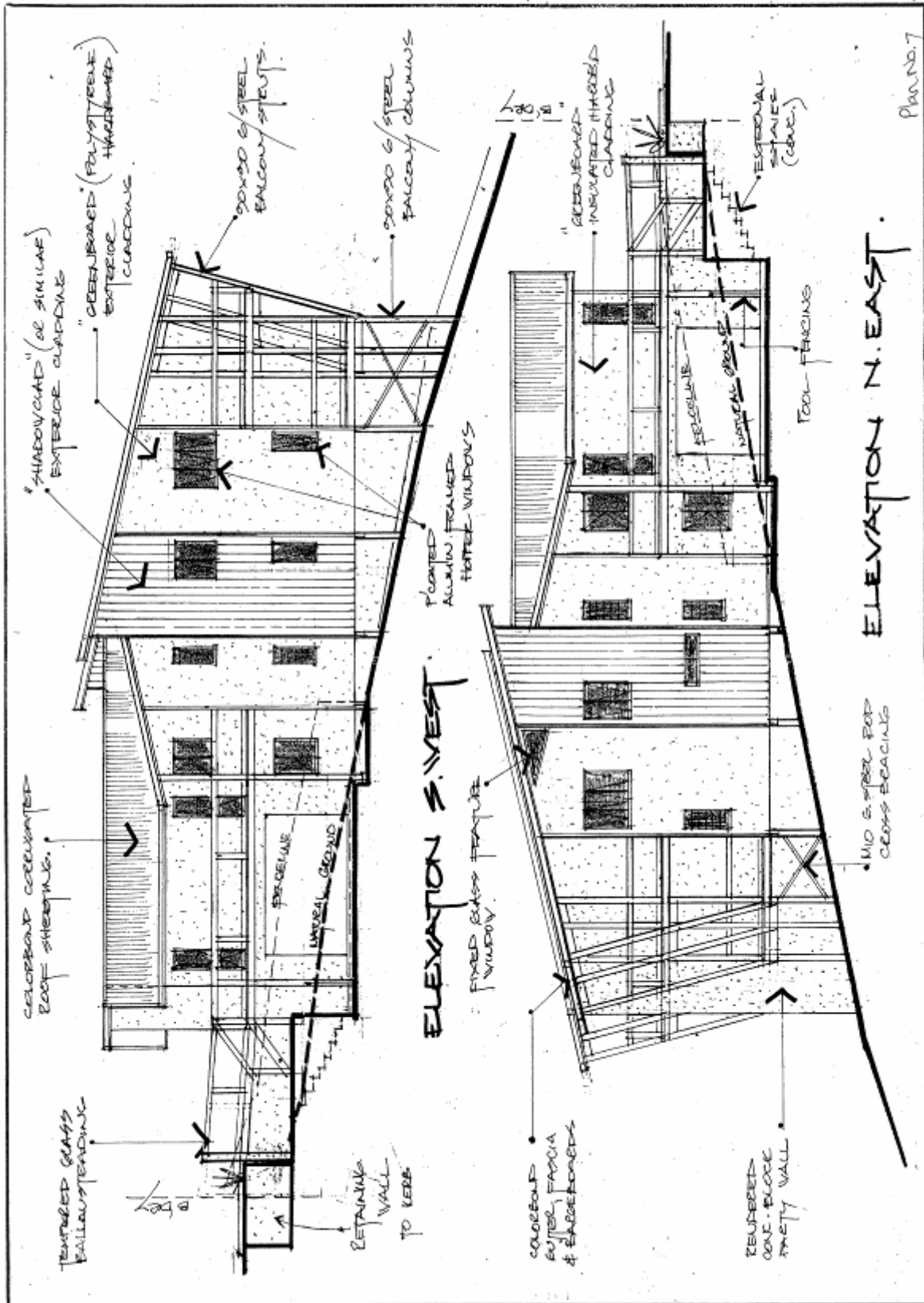
Plan No. 2



STREET ELEVATION.



DRIVEWAY PLAN 1:100



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

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

Tweed Local Environmental Plan 2000

Clause 11 - Zone objectives

The subject site is zoned 2(a) – Low density residential in accordance with the Tweed Local Environmental Plan 2000. The proposed dual occupancy is defined as multi-dwelling housing, which is permissible with consent.

The proposal is consistent with the zone objectives and other aims and objectives of this plan relevant to the development and considered not to have an unacceptable cumulative impact on the community. The proposed dual occupancy is in keeping with the surrounding low-density character in the area.

Clause 15 - Essential Services

The subject property is located within an established area and is serviced by water supply and facilities for the removal or disposal of sewage and drainage. Power and telecommunications are also available. Satisfactory arrangements have been made for the disposal of stormwater/roofwater in the form of storage tanks and a pumping system to the Charles Street stormwater drainage system. The proposal is consistent with the provisions of this clause.

Clause 16 - Height of Building

The subject site is affected by a two (2)-storey height restriction. The application proposes a two (2) storey residential development with a small 3-storey component for a length of 5.5 metres (approx.) That is, the proposal comprises 2 floors of residential use and 1 storey of void area located at the rear portion of the building. A State Environmental Planning Policy No. 1 objection to the development standard has been lodged. This is discussed later in this report under *State Environmental Planning Policy No. 1 – Development Standards*.

Clause 17 - Social Impact Assessment

The proposal is considered not to generate any significant social or economical impact on the locality or in the local government area of Tweed. An assessment against DCP No. 45 Socio-economic impacts of development is not required.

Clause 35 - Acid Sulphate Soils

The site is affected by class 5 Acid Sulphate Soils, the application was referred to Council's Environment and Health Services Unit who considered that no further investigation was necessary.

Other Specific Clauses

Clause 51A Multi-dwelling housing densities in Zone 2(a)

Multi-dwelling housing density is to be no greater than one dwelling per 450m² of site area. The application proposes two dwellings on a site with an area of 1011.83m², equating to one dwelling per 505m²(approx.). Therefore the proposal is considered to comply with clause 51A.

This clause is considered to be satisfied.

North Coast Regional Environmental Plan 1988

Clause 32B - Development control—coastal lands

The proposal is considered not to negate the objectives of the following policies;

- (a) the NSW Coastal Policy 1997,
- (b) the Coastline Management Manual, and
- (c) the North Coast: Design Guidelines.

The proposed development is considered not to contravene the objectives of Clause 32B by creating any significant adverse impacts on the public access to the foreshore and overshadowing to beaches and waterfront open space before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

Clause 81 Development adjacent to ocean or to the waterway

The proposal is located within 100 metres of the ocean or waterway as such clause 81 applies to the development. The development is considered not to detract from the amenity of the waterway or negate the objectives of the foreshore management plan applying to the area. There is sufficient foreshore open space accessible to the public via existing 6 (a) open space located adjacent to Kennedy Drive.

State Environmental Planning Policies

State Environmental Planning Policy No. 1 – Development Standards

“The aim and objective of this policy is to provide flexibility in the application of planning controls where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary.

Written objection is required from the applicant stating that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection”.

The development standard to which the SEPP No. 1 objection relates to is, *Clause 16 - Height of Building of the Tweed LEP 2000.*

The Objective of Clause 16 is listed below:

(1) Objective

- *to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.*

A SEPP No. 1 objection to Clause 16 building heights of the Tweed LEP 2000 was submitted by the applicant to support the variation.

The applicant provided the following:

"It is submitted that the development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- *The small component that comprises the third storey is at sub floor level at the rear of the proposed dual occupancy and does not affect the visual amenity of the surrounding properties.*
- *The construction of the development is considered characteristic for the area and uses lightweight materials, modern technologies and colours.*
- *Good Urban Design and Best Practice Principles have been achieved with the design of the development.*
- *It is consistent with the considerably changing character in the area and also with land-use zoning.*
- *The proposal is in keeping with the existing and surrounding development of the area. The changes will not be significant to the adjoining properties. The height and scale of the proposed development is sympathetic to existing uses and development within the locality.*
- *There are numerous other dwellings and units located within the nominated two storey height limitation area that have exceeded the maximum height limitation.*
- *The sub floor area at the rear of the development exceeds the 1.5 metre definition of storey for only 5.5 metres of the overall 23-metre length of the development. This is dictated by the slope of the land.*
- *The proposal is considered to comply with the objectives outlined within Clause 16 Building Heights of the Tweed LEP 2000*

Conclusion

The proposed attached partial three storey dual occupancy will be in keeping with existing and surrounding development and it is envisaged that the proposal will have no detrimental affect on the amenity of the

neighbourhood. It is therefore submitted that strict compliance with this development standard is not appropriate in the circumstances of this case. Council is therefore requested to uphold the objection and consider consent to the application."

The SEPP No.1 objection is supported due to the following:

The void (foundation) area at the rear of the development is due to the sites constraints being a steep sloping block. The site slopes down to the south with the high side of the site being at the north fronting Charles Street. The area of non-compliance varies in length from 6.5 metres as viewed from the south-western elevation and 4 metres as viewed from the northeast elevation. This variation is due to the proposal having a staggered setback. This section of the proposal is technically defined as a storey as the area is greater then 1.5metres in height from ground to the 1st level floor above it. The 'foundation area' identified will not be used for any residential purposes. The proposed development's height, scale is considered appropriate to the location and surrounding development.

The 3-storey component is considered not to add to the bulk of the building or reduce the visual amenity of the locality or create an adverse impact. The increased height of the proposal is not visible from the street, and when viewed from the street appears as a single storey development. The building design is characterised as contemporary and comprises lightweight materials and use of modern technologies, colours and is well articulated. The proposal achieves good urban design and best practice principles and the desired future character of the locality. It is consistent with the land-use zoning, all other relevant controls and development standards.

The proposal is considered to comply with the objectives outlined within Clause 16 Building Heights of the Tweed LEP 2000.

State Environmental Planning Policy No. 71 – Coastal Protection this policy

The site is located within the area to which the policy applies. The proposed development is not within 100m below the mean high water mark of the sea, a bay or an estuary being significant coastal development. The development is however within 100 metres above the mean high water mark of the sea, a bay or an estuary being sensitive coastal location. The proposal is not considered to adversely affect the access to and along the coastal foreshore, limit overshadowing of foreshore areas and that the type, bulk, scale and size of the development is appropriate within the SEPP 71 zone. The proposal is consistent with *Clause 8 Matters for Consideration*.

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

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

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

Development Control Plan 2 – Site Access and Parking Code

The development control plan requires two car spaces per dwelling as both dwellings are greater than 125m². The proposal is considered to comply with the policy by providing two car spaces per dwelling in the form of a double garage per dwelling. In addition to the four car spaces provided in total, the site can accommodate for an additional car space in front of each garage.

The proposal is considered to comply with the plan.

Development Control Plan No.6 – Multi Dwelling Housing

Section 3.1.3 Site Density

A1. Maximum Floor Space Ratio of 0.5:1.

The Gross Floor Area is approximately 465.98m² on a site of 1011m² this equates to a floor space ratio of 0.46:1.

The proposal complies.

A2. 2(a) one dwelling per 450m².

The application proposed two dwellings on a site with an area of 1011m² being approximately one dwelling per 505.5m².

The proposal complies.

A3. Not applicable.

A4. Minimum landscape area to be 30%.

The site has approximately 522.65m² of landscaped area this equates to 51.7% of the site.

The proposal complies.

Section 3.2.1 Streetscape, Building, Appearance and Front Setbacks

A2. Setback – the western unit is proposed to be setback 6.5metres whilst the eastern unit is setback 5metres. The applicant has provided a variation to the Building Line Policy stating that the variation is required due to;

- “1. *The block being 1011.83m², however a substantial part of the block is sloping and the residents want to use as much of the flat part of the block as possible to alleviate the need for large amounts of cut, fill and retaining.*

2. *The residents have proposed a substantial part of the construction on bearers and joists to ensure that construction follows the natural contours of the land as much as possible.*
3. *The proposal is only encroaching in the building line by 1m. The proposal to set one garage one metre in front of the other is to create a more aesthetically pleasing view from the street.*
4. *The encroachment does not have a negative impact on any of the adjoining properties or create any privacy issues for the surrounding developments”.*

The levels and depth of the site provide exceptional conditions on site in accordance with subclause d (i) of the Building Line Policy.

The building line variation is considered acceptable given the site topography and minimal impact on the streetscape and appearance given the following points;

1. The area of the garage that is located within the building setback is substantially less than 50%, as stated within subclause d (ii) 2 of the Building Line Policy.
2. The structure is no higher than 4.5 metres to the ridge of the roof as stated within subclause d (ii) 3 of the Building Line Policy and is perceived to be less as viewed from the street due to the slope of the site.

The proposal is considered to comply with the objectives of clause 3.2.1 and the “Performance Criteria” P2 contained within DCP No. 6 that states;

P2. Front setbacks are generally consistent with those of adjoining development, though not necessarily identical. Some variations to minimum setbacks can be considered particularly where such variations are used to create streetscape variety and interest.

The front setback is generally consistent with surrounding development whilst providing variety within the streetscape.

It is considered that the proposed variation in the front setback of each double garage improves the streetscape quality by reducing the visual impact and dominance of the 2 double garages.

A3. The proposed development is 2 stories in height with neighbouring development ranging from 1 to 2 stories, as such the change in roof heights within the street is no more than 1 storey. The impact of the topography particularly of the subject site provides the development with the appearance of a single storey development when viewed from Charles Street.

3.2.2 – Fencing and Walls

The application proposes two small sections of solid brick walls on the north eastern and north-western corners of the site to provide privacy and security whilst not creating a detrimental impact on the streetscape, landscaping is proposed to soften the appearance of the 1200mm brick fence. The fencing takes into consideration the minimum sightlines for pedestrian safety.

3.3.1 – Building envelope and siting

A1 The proposed dual occupancy is within the building envelope as viewed from the side and rear boundaries.

3.3.3 – Useable Open Space

The application provides more than the required useable open space with more than 20% of the site area with a minimum dimension of 3m. The proposal also provides an area of 25m² directly accessible from the living areas characterised by a minimum dimension of 4m. The proposal displays a variety of useable private open space areas.

3.3.4 – Car parking provision and dimension

The proposal complies with DCP No. 2 Parking Code, and also meets objectives by providing convenient, accessible and safe parking for residence and visitors. However, due to the site's topographical constraints, vehicles are unable to enter and exit the site in a forward direction. This is considered not to be a significant issue due to Charles Lane being a one-way road with only local traffic using the lane. This lane would experience minimal traffic flow and the proposal is not considered to be a significant hazard.

The visual dominance of the driveway and garages is reduced by the use of irregular alignment with the north-western unit setback 6.5 metres and the north-eastern unit setback 5 metres from the front boundary. The proposal also utilises landscaping and small sections of brick fencing being 1.2 metres in height to reduce the visual impact of the garages.

The proposal is considered to comply with the relevant sections within DCP 6, with the proposal being of high quality design taking into consideration the natural topography of the site and surrounding development within the immediate locality.

Development Control Plan 18 – Tweed Heads

As the proposal is less than three storeys and is assessed against DCP 6, the majority of this policy has been previously covered by DCP 6, however the proposal is considered to comply with the objective set out in section 7.0 being the Razorback precinct by; *'continuing the low density character of the area,*

with a design that is compatible to the slope of the land whilst taking advantage of the available views’.

Development Control Plan No.39 – Energy Efficient Housing

A Basix Certificate was submitted with the development application, both units achieved the minimum requirements for energy and water.

Development Control Plan 42 – Public Notification Policy

The application was required to be notified in accordance with DCP No. 42. As such the application was notified for a period of 14 days from Friday the 8th December to Saturday 30th December 2006. During the notification period three (3) submissions were received, the issues raised in these submissions are addressed later in this report under section (d) *Any submissions made in accordance with the Act or Regulations.*

Development Control Plan 44 – Dual Occupancy Controls

The subject site pre-dates DCP No. 44, as such the application is assessed against section 2.2, which provides specified requirements as follows;

Council shall not consent to an application for dual occupancy on land to which this plan applies unless:

- (a) it has been identified for that purpose in a plan of subdivision approved by Council; or*
- (b) if it is not within a subdivision approved by Council that has identified land for that purpose, the development is proposed in a form where -*
 - Within 2(a), 2(c), 2(d) and 2(e) the land has an area of not less than 900m² or an area of not less than 500m² if the land is within 300 metres distance of a business centre listed under Schedule 8 of Tweed Local Environmental Plan 2000;*
 - Is not a battleaxe allotment;*
 - Is not irregular in shape or have large circular arc frontages to public roads;*
- (c) the development generally complies with the detailed design criteria in Development Control Plan No 6 - Multi-Dwelling Housing.*

The subject site is not within a subdivision approved by Council that identified land for the purpose of a dual occupancy. The site is zoned 2(a) and greater than 900m², the site is not a battle axed allotment or irregular in shape or have large circular arc frontages to public roads and the development generally complies with DCP 6 as address above under DCP 6.

The application is considered to comply with the DCP.

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

Clause 92(a) Government Coastal Policy

The NSW Coastal Policy 1997 affects the subject land. The Policy is essentially a strategic management document, which sets out directions to be taken by Local and State Government in the planning and management of the coast and estuaries. The proposal is consistent with the intent of the Policy.

Clause 92(b) Applications for demolition

Council's Building Unit has provided appropriate conditions of consent regarding the demolition of the existing dwelling.

(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

Stormwater/roofwater

Council's Major Subdivisions Engineer provided the following comments;

"No inter allotment drainage is currently available for the subject property. Furthermore, the applicants have not satisfactorily addressed how roof water and discharge from hardstand areas will be managed.

The site plan shows stormwater absorption trenches at the rear of the property but does not provide any technical assessment to show how the trenches will perform when subjected to high intensity storm events.

The applicant will be required to prove that the roof water infiltration trenches can adequately cater for the discharge from the property and also that the downstream properties do not experience unacceptable discharge from the development.

The applicant's consultant Colin Wheat and Associates has submitted a revised design on the 14th February 2007 showing how roof water will be managed on site. The system includes twin 5675 L storage tanks for the capture of roof water. The tanks are plumbed to WC's, washing machines and external hose taps.

When the tanks are full during periods of prolonged or heavy rain the system becomes positively charged and there is a 100mm overflow relief pipe, which discharges directly to the grated inlet pit located on Charles Street.

A system such as this is not commonly used however it appears to be technically sound and will overcome the problems associated with

discharging roof water onto the downstream properties. In this regard it is supported."

The proposed attached dual occupancy is considered not to create any significant adverse environmental impacts to the natural and built environments or social and economic impacts in the locality.

(c) Suitability of the site for the development

The subject site even though poses some topographical constraints in having a steep slope, is considered suitable for the proposed development. The development has been designed to encompass the site constraints whilst utilising the views and vistas provided by the site. The proposal provides for up to eight (8) onsite car spaces for residents and visitors, where currently no onsite parking is available.

The subject site is zoned 2(a) Low density residential with a land area of approximately 1011m². The development is consistent with the objectives of the zone, and also the desired future character of the area.

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

During the submission period a total of three (3) submissions were received.

Issue	Assessment
<p>Objection No. 1. Car parking arrangements of the trades' people during construction. It is to be noted that the objection stated support of the development.</p>	<p>This has been addressed by way of condition no. DUR0435, which relates to work that may cause pedestrian or vehicular traffic to be obstructed or inconvenienced.</p>
<p>Objection No. 2. Removal of asbestos and vehicle access during construction. It is to be noted that the objection stated support of the development.</p>	<p>The demolition of the dwelling is to be undertaken by Bastemeyes a demolition company fully licensed to remove of and dispose of asbestos. All asbestos will be removed of in safe efficient manner. This has been addressed by way of condition No. DUR0645, relating to demolition in accordance with Australian Standard AS2601. Vehicle access during construction see assessment against objection No. 1.</p>

Issue	Assessment
Objection No. 3. Removal of asbestos and vehicle access during construction. It is to be noted that the objection stated support of the development.	See assessment above.

(e) Public interest

The proposed attached dual occupancy generally complies with all relevant policies, is considered not to generate any significant impacts on the natural or built environments. The proposal is considered not to negate the general public's interest.

OPTIONS:

1. Approve the development subject to conditions.
2. Refuse the development.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed demolition of the existing dwelling and construction of a 2 storey attached dual occupancy is generally consistent with all relevant policies and considered not to create any significant environmental impacts on the natural or built environments or negate the public's interest. The application is recommended for approval subject to the conditions contained in the recommendation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P6 [PD-PC] Review of Determination of Development Application 0622/2001DA for the Erection of a Dwelling at Lot 377 DP 250956, No. 40 Leeward Terrace, Tweed Heads

ORIGIN:

Building Services Unit

FILE NO: DA3030/220 Pt1

SUMMARY OF REPORT:

Council originally received a development application for the construction of a multi storey single dwelling on the subject site which was determined by Development Assessment Panel by refusal on 9 January 2006.

The grounds for refusal related to unresolved matters regarding building height limits, protection of views from public lookout ,vehicular access across Council property and neighbour objections.

Council is now in receipt of an application for Review of Determination under the provisions of Section 82A of the Environmental Planning and Assessment Act, 1979 for development application 0622/201DA, which seeks to have Council reconsider its determination for the proposed development.

In this regard additional documentation has been provided to enable Council to make a proper assessment of the application.

This additional information addresses the grounds for refusal which were identified in the notice of refusal.

RECOMMENDATION:

That the Review of Determination of Development Application 0622/2001DA for the erection of a dwelling at Lot 377 DP 250956, No. 40 Leeward Terrace, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**
[GEN0015]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]

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

[GEN0135]

4. The proposed driveway to the subject lot shall be constructed in a manner that will not impede the existing vehicular access to Lot 2 DP 543534.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a site stability 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]

PRIOR TO COMMENCEMENT OF WORK

6. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and

- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

7. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

8. 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]

9. 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]
10. 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]

11. 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]

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

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

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

[PCW0985]

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

[PCW1005]

DURING CONSTRUCTION

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

[DUR0005]

15. 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]

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

[DUR0245]

17. 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]

18. **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]

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

[DUR0445]

20. **All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.**

Please note timber retaining walls are not permitted.

[DUR0835]

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

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

[DUR1005]

22. **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]

23. **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]

24. **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]
25. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
26. 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]
27. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

28. 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]
29. 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]
30. 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]

REPORT:

Applicant: Southern Cross Homes Pty Ltd
Owner: Southern Cross Homes Pty Ltd
Location: Lot 377 DP 250956 No. 40 Leeward Terrace, Tweed Heads
Zoning: 2(a) Low Density Residential
Cost: \$98,000

BACKGROUND:

Application was received on 6 July 2001 for the construction of a multi storey single dwelling on the subject allotment.

The dwelling was considered to be four storeys under the provisions of the Tweed Local Environmental Plan 2000 due to the height of the sub floor area above the proposed finished ground level adjacent to the dwelling.

The allotment is located on the western side of Razorback lookout and slopes steeply down from the roadway.

The dwelling is proposed to be constructed of rendered concrete block with a pitched metal roof.

Vehicular access to the site will be via a suspended concrete bridge from Razorback Lookout of which approximately 10.5 metres will be located on Council's road reserve.

Council repeatedly requested additional information from the Applicant in order to carry out a proper assessment of the application however after almost four and a half years this information had not been supplied to Council's satisfaction and subsequently a report was submitted to Development Assessment Panel on 6 January 2006 with a recommendation for refusal.

A Notice of Refusal was issued on 9 January 2006 which identified the following reasons for refusal :-

- "1. *The proposed vehicular access to the site from Razorback lookout does not comply with Council's policy on structures within the road reserve.*
- 2 *No evidence, in the form of survey levels from a registered Surveyor, has been submitted to Council to determine that the ridge of the roof of the dwelling will be no higher than the centre of the roadway on Razorback lookout, adjacent to the site.*
3. *Objections from adjoining property owners have not been adequately addressed.*
4. *The dwelling is considered to be four storey under the provisions of the Tweed Local Environmental Plan 2000 which is prohibited on this allotment."*

Since the original determination of the application the Applicant has submitted additional information in response to the grounds for refusal, in order to substantiate why the application should be approved.

This additional information is considered to satisfy the original reasons for refusal as follows :-

Vehicular Access to Site

Notwithstanding that the subject allotment is rated to Leeward Terrace, the dwelling is proposed to be constructed close to the Razorback Lookout site boundary to take advantage of the panoramic views which are available from this part of the allotment. Vehicular access to the site will be from Razorback Lookout via an elevated concrete bridge which will be located partly on Council's road reserve.

The original proposal indicated that the bridge would be suspended on concrete piers across the road reserve however Council's Manager Works, at the time, advised that the part of the driveway bridge over Council's road reserve must be supported by a solid block – masonry structure which is backfilled and compacted prior to the placement of concrete.

At that time the Manager Works commented that Council's policy on structures within the road reserve would normally apply where the Applicant would be requested to purchase this area of Council land and indemnify Council against any claims arising from this construction, however this condition was not applied to the adjoining property (lot 378) as a result of assessment of Building Application BA 55/96 and will therefore be waived in this instance.

Amended plans have been submitted which indicate that that part of the driveway which will be on Council's road reserve will be supported by a reinforced concrete block retaining wall in accordance with previous advice from Manager Works.

Height of Building

The dwelling will be located adjacent to Razorback lookout from which panoramic views to the west are available over the subject site.

The Applicant was previously advised that the building height must be maintained below the Razorback Road frontage of the allotment to ensure that the view from this area is not impeded and appropriate survey levels must be provided to demonstrate that this outcome can be achieved.

In response to this request a copy of a Topographic Survey plan, prepared by Andrews and Hansen Pty Ltd, Consulting Surveyors number 9238- 3D and dated 27/4/2001 was submitted.

Perusal of this plan in conjunction with proposed floor levels shown on the submitted architectural plans has enabled an assessment of the height of the ridge of the dwelling to be identified.

The levels which are indicated on the survey plan appear to have been taken along the western edge of a driveway which provides access to an adjoining allotment and is not an accurate representation of the level of the roadway adjacent to the subject allotment.

Visual inspection of the roadway adjacent to the eastern boundary of the allotment revealed that this area is relatively level and a deduction of levels shown on the plans revealed that the roof ridge will be generally level with the roadway adjacent to the north eastern corner of the allotment.

It is considered that as the dwelling will have a relatively small footprint and that it will be located a minimum of fifteen metres from the edge of the road pavement then the panoramic vista which is currently available from this area will not be adversely impacted.

The southern frontage of this site and the adjoining allotment are heavily vegetated which already restricts views from part of this area.

The roadway in front of the site appears to be designed as access to the lookout further to the south and has not been constructed as a lookout.

Objections

In accordance with Council's neighbour notification policy adjoining property owners were originally notified of the proposal and consequently several objections were received.

The applicant's original response to these objections was inadequate.

The objections could be summarised into two main categories, namely:-

- Impact on privacy of adjoining property, and
- Vehicular access to site.

The Applicant has advised that he will overcome privacy issues by providing timber shutters to the external face of the windows on the southern side of the dwelling.

The proposed driveway access to the property is in accordance with previous advice provided by Council's Manager Works and will be located to minimise any impact on the existing driveway to Lot 2 DP543534 which is also located over Council's road reserve.

The height of the driveway bridge is consistent with other similar structures on steeply sloping allotments in the Tweed Shire.

As part of the review process notification letters were sent to the three property owners who were originally notified.

Letters of objection were received from each of these property owners.

One of these properties has changed ownership since the original notification process however the objections were identical to the original objections and related to driveway access and privacy issues.

The amended driveway details were referred to Council's Planning & Infrastructure Unit for comment and a response was received that the proposal was acceptable subject to the existing access driveway to Lot 2 DP543534 not being impeded.

Privacy issues are considered to have been addressed by the provision of privacy screen to windows on the southern face of the building.

Number of Storeys

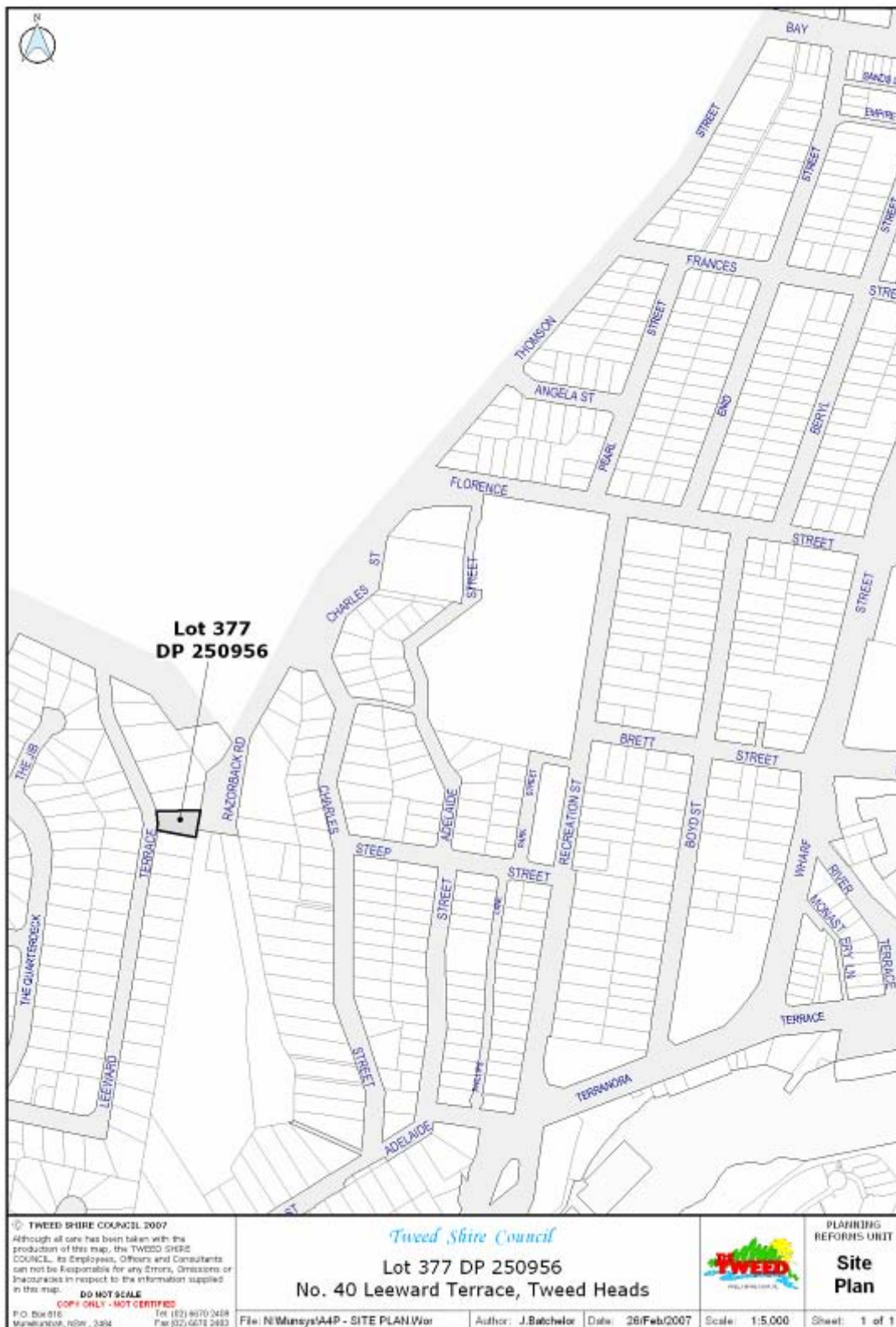
The plans which were submitted with the original application indicated that the dwelling would contain three levels however as the area between the ground floor and finished ground level exceeded 1.50 metres the dwelling was considered to contain four storeys as defined in the Tweed Local Environmental Plan 2000.

The maximum building height in this area at the time of assessment of this application was three storeys and therefore a building which contained four storeys could not be approved.

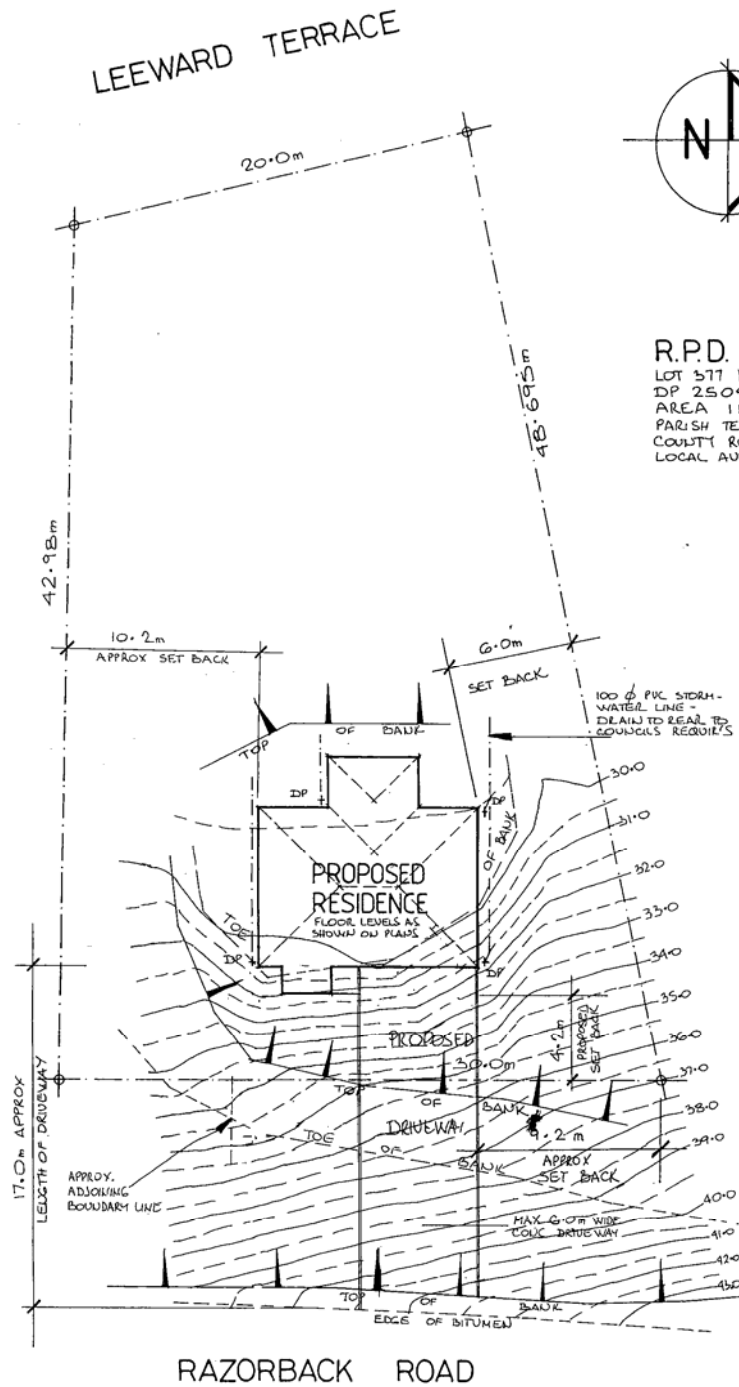
The Applicant has now submitted amended plans which indicate a reduction in height of the subfloor area to a maximum of 1.20 metres.

The dwelling can therefore be considered as a three storey dwelling.

SITE DIAGRAM:



ELEVATION & SITE PLANS:



R.P.D.
 LOT 377 N^o
 DP 250956
 AREA 1146m²
 PARISH TERRANORA
 COUNTY ROOS
 LOCAL AUTHORITY TWEED SHIRE COUNCIL

NOTE:
 DRAWING TO BE READ IN CONJUNCTION WITH SURVEYORS DRAWING N^o 923B-2D

BUILDER:
 SOUTHERN CROSS HOMES P/L.
 Ph. 0411 886060

NOTE:
 FIGURED DIMENSIONS TAKE PRECEDENCE OVER SCALING. ALL DIMENSIONS TO BE CHECKED & VERIFIED BY BUILDER BEFORE COMMENCEMENT. DRAWINGS TO BE READ IN CONJUNCTION WITH BRACING DETAILS / ENGINEERS DRAWINGS. ALL WORK CARRIED OUT IN ACCORDANCE WITH AS 1684 OR RELEVANT TRADE MANUAL

b BEAM SIZES ARE FOR ADVICE AND COUNCIL APPROVAL ONLY - AND ARE TO BE CONFIRMED BY STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION
Building Designers Association of Queensland Inc.

ATT-HOME DRAFTING SERVICE
 CURRUMBIN (07) 55 988 268
 PROPOSED - QBSA LIC. N^o 066205

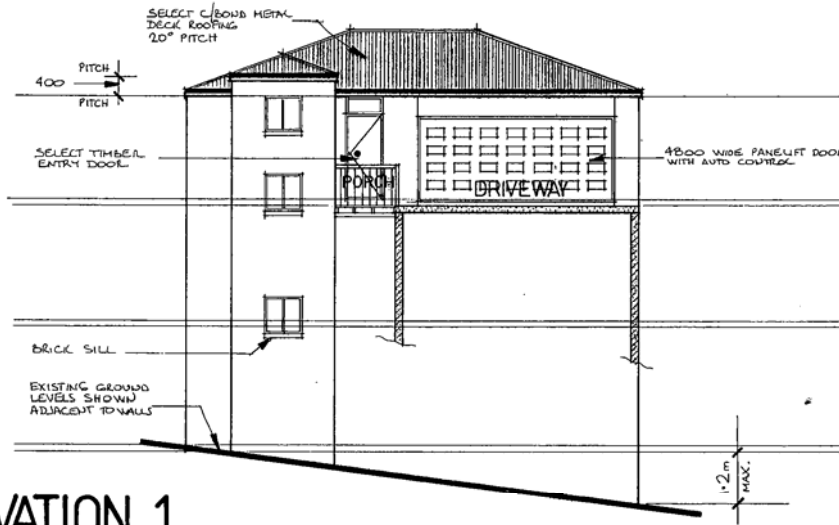
ROBERT TAYLOR RESIDENCE 47

AT
 LOT 377N^o RAZORBACK RD.
 TWEED HEADS

SCALE 1:100 & 1:200
 DATE: 16 MARCH 2001
 DRWG N^o

01 / 1229 -1A

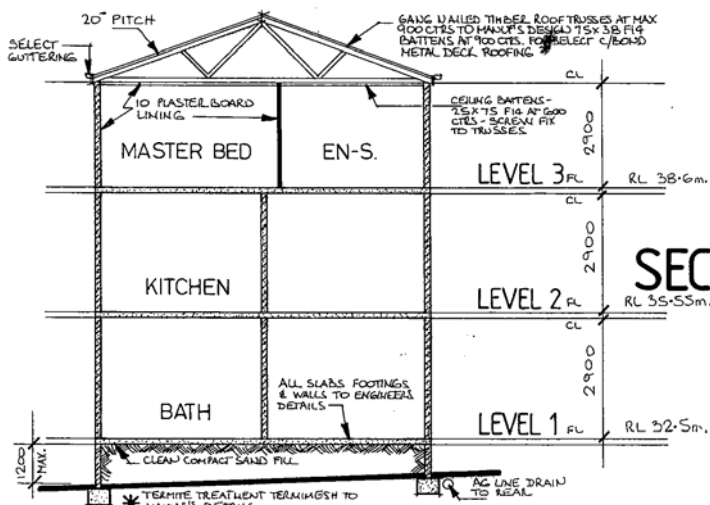
SITE PLAN
 SCALE 1:200



ELEVATION 1



ELEVATION 3



SECTION

ROBERT TAYLOR RESIDENCE -4B
 LOT 377 N° RAZORBACK RD.

CONSIDERATIONS UNDER SECTION 82A OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Note - The original application was lodged in 2001 therefore this review has been assessed in accordance with Council's policies which were applicable at that time.

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

Tweed Local Environmental Plan 2000

The proposed dwelling is considered to contain three storeys as defined in the Tweed local Environmental Plan (LEP) 2000 which is permissible in this area.

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

The site is not affected by any draft planning instrument.

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

There were no development control plans applicable to this site at the time of assessment.

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

There are no matters prescribed by 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 additional information which has been provided in support of the application for review has enabled a proper assessment of the above impacts to be undertaken.

The dwelling will not have a major impact on views from Razorback Lookout.

The driveway has been relocated to minimise conflict with the driveway access to the allotment to the south and has been redesigned to satisfy the requirements of Council's Manager Works.

Privacy issues to the adjoining lot have been addressed by the provision of timber shutters to the windows on the southern face.

Due to the steep slope of the allotment any dwelling which is erected on this site will have some impact on the privacy of allotments which are at a lower level.

(c) Suitability of the site for the development

The allotment was created at subdivision stage for the purpose of residential housing and the proposal is consistent with this use.

Whilst the dwelling is considered to be utilitarian in appearance the steep nature of the site would make the design and construction of any dwelling an onerous process.

Previous geotechnical concerns in relation to the site have been overcome and therefore the site is considered to be suitable for the development.

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

Three written objections were received as part of the review process of this application and are discussed above under the heading of 'objections'.

(e) Public interest

It is considered that previous concerns in relation to the public interest have been resolved by the additional information which was provided by the Applicant.

OPTIONS:

1. Approve the application subject to conditions, or
2. Refuse the application, or
3. Defer the application and provide reasons for doing so.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the Applicant be dissatisfied with the decision for the Review of Determination the Applicant may determine to lodge an appeal with the Land & Environment Court.

POLICY IMPLICATIONS:

Support for the recommendation of this report is not considered to be likely to have adverse implications on current Council policies as this review was carried out in accordance with those policies and procedures which were applicable at the time of assessment.

CONCLUSION:

The arguments presented by the Applicant for the S82A Review of Determination are considered sufficient to warrant approval of this application. The merit assessment of the applicable issues of the application relating specifically to height limits, restriction of views from the public lookout, vehicular access across Council property and privacy are not considered to be unsustainable or result in an inappropriate use of the site.

Therefore the application for Review of Determination should be supported and the amended application approved, subject to conditions of consent.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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