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**ADDENDUM REPORT**

**REPORTS THROUGH GENERAL MANAGER**

**REPORTS FROM DIRECTOR PLANNING & REGULATION**

**aaP17      Addendum Report\_ DA07/1314 for Multi Dwelling Housing  
Comprising 4 Units in Part 3 and Part 4 Storey Configuration at Lot 8  
DP 250390, No. 99 Tweed Coast Road, Bogangar**

**ORIGIN:**

**Development Assessment**

**FILE NO:    DA07/1314 Pt1**

**SUMMARY OF REPORT:**

The subject site is described as Lot 8 in DP250390, being No. 99 Tweed Coast Road, Bogangar. The development site is a sloping block, with a total site area of 676m<sup>2</sup>.

The immediate locality surrounding the subject site is essentially holiday apartment / residential in character. The lot directly on the southern boundary is currently subject to another application for development for a residential flat building of similar design and proportion and is being assessed concurrently with this application.

The application before Council seeks consent for the erection of a multi dwelling housing development for four (4) x 3 bedroom units and roof deck. The development is largely three storey, with elements of four storey on a site constrained by a three storey height limit. A SEPP 1 variation to Clause 16 of the Tweed LEP has been provided.

Vehicular access to the site is provided via Tweed Coast Road, with on-site car parking provided within a basement arrangement. A lift and stairwell are proposed for pedestrian access from the basement to all levels of the development.

A SEPP 1 Objection is also sought for a variation to the North Coast Regional Environmental Plan 1988 relating to overshadowing of waterfront open space.

As per a recent Planning Circular (issued 14 November 2008) from the Department of Planning, all SEPP 1 Objections involving a variation greater than 10 % of the standard are now required to be reported to a full Council for determination. Due to the inability to measure 10% of a storey (height) or time (relating to overshadowing), the Department issued further advice on 4 December 2008 to the effect that all SEPP 1 Objections for height and overshadowing are to be determined by Council rather than under delegation.

The proposal was advertised for a period of 14 days. One submission was received.

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Having considered the application against all relevant policies and the proposed SEPP 1 variations, the proposed development is recommended for conditional approval.

**RECOMMENDATION:**

That Development Application DA07/1314 for multi dwelling housing comprising 4 units in part 3 and part 4 storey configuration at Lot 8 DP 250390, No. 99 Tweed Coast Road Bogangar be approved subject to the following conditions: -

**"DEFERRED COMMENCEMENT"**

**This consent shall not operate** until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 6 months of the date of notification.

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

**SCHEDULE "A"**

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

- A. Amended plans shall be submitted to the satisfaction of Council's General Manager or his delegate demonstrating compliance with Council's front setback provisions.
- B. An amended Stormwater Management Plan shall be submitted to the satisfaction of Council's General Manager or his delegate demonstrating that compliant on-site detention can be accommodated behind the front building line of the subject site.

**SCHEDULE B**

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

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects and Approved Plans under Schedule A of this consent, except where varied by the conditions of this consent.  
[GEN0005]
2. The demolition of all structures on the site must be the subject of a separate development consent.  
[GEN0035]

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3. **The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**  
[GEN0115]
4. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**  
[GEN0135]
5. **The development is to be carried out in accordance with Councils Development Design and Construction Specifications.**  
[GEN0265]
6. **Stormwater management shall be in general accordance with the Stormwater Management Plan (Rev C) prepared by Cozen Regan Williams Prove dated 3/9/08, except where varied by the conditions of this consent.**  
[GENNS01]
7. **The visitor space is to be maintained with appropriate signage.**  
[GENNS02]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

8. **The developer shall provide the following parking facilities including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.**
  - **A minimum of 8 car parking spaces for residence,**
  - **A minimum of 1 visitor car space,**
  - **A minimum of 1 car wash bay – note Council will accept this car wash bay being of dual use with a visitor car space,**
  - **Storage for a minimum of 8 bicycles.**

**Note – Council will only accept tandem car parks if each pair of tandem spaces is allocated to an individual unit.**

**Full design detail of the proposed parking and maneuvering areas shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.**

**Note, access to the basement car park must be designed accordingly to provide sufficient height clearance to allow appropriate vehicles to access the basement stormwater treatment device for servicing or the building proper must provide acceptable alternative access facilities.**

[PCC0065]

9. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,552).**

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

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

[PCC0275]

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

[PCC0285]

11. 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 and 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]

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

- (a) Provision of a vehicular access in accordance with Council's "Access to Property" pamphlet, consolidated Tweed DCP and Development Design and Construction Specifications

The access shall provide the required 2m x 2m "sight triangle" envelope, clear of any obstacles on both sides of the entrance at all times.

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]

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13. **Permanent stormwater quality treatment shall be provided in accordance with the following:**
- (a) **The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.**
  - (b) **Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.**
  - (c) **Specific Requirements to be detailed within the Construction certificate application include:**
    - (i) **Shake down area shall be installed at the entry / exit point of the site, within the site, prior to any earthworks being undertaken.**
    - (ii) **Runoff from all hardstand areas, (including basement car parking and hardstand landscaping areas and excluding roof areas) must be treated to remove oil and sediment contaminants prior to discharge into the On Site Detention facilities on site. All permanent stormwater treatment devices must be sized according to Council's *Development Design Specification D7 - Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.**
    - (iii) **Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.**
- [PCC1105]
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]

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

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

[PCC1165]

16. 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]

17. Prior to the issue of a Construction Certificate, an application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any of the following works including (but not limited to);

a. water,

b. sewerage, including;

- Removal of existing and construction of new sewer infrastructure.
- New main must be located a minimum of 1.0m from the property boundary, with appropriate manholes provided.

c. drainage works, including;

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

[PCC1195]

18. Prior to the issue of a Construction Certificate, a letter signed by the owners of Lot 1 DP 831012 (Diamond Beach) shall be provided to Council, giving the Applicant and the developer of neighbour allotment

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Lot 9 DP 250390, permission to enter Lot 1 DP 831012 and undertake approved works to relocate and decommission the sewer to service the proposed developments on Lot 8 & Lot 9 DP 250390.

[PCCNS01]

19. A detailed landscape plan, consistent with the submitted Statement of Landscape Intent and deferred commencement requirements, shall be submitted to and approved by the General Manager or delegate prior to issue of the construction certificate. The plan shall be prepared by a landscape architect or landscape consultant to a standard acceptable to the General Manager or delegate. The plan shall include the following documentation:
- (a) Construction details of planter boxes (including width and depth), paving, edging, fencing, screening, panels and other hard landscape components. As far as possible deep root zones must be provided for large trees and paving is to be porous. Paving works within 2m of the trunk of the large trees shall be constructed in such a way as to ensure the existing moisture infiltration and gaseous exchange to the tree root system is maintained.
  - (b) Planting details for the preparation and planting of tube and potted plants, super-advanced plants, bare-rooted stock and any other planting.
  - (c) A detailed plant schedule and plan at a scale of 1:100 to 1:1000 indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site. The plan is to include a detailed plant schedule which shall include;
    - species listed by botanical and common names, with the majority of plants constituting local native species;
    - specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.
    - maintenance methods including the use of drip irrigation and mulching or groundcovers to reduce bare soils areas and including a maintenance schedule for a minimum period of one year after completion of landscaping on site.

[PCCNS02]

**PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0005]

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21. 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]

22. 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]

23. 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]



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**ADDENDUM REPORT****24. 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]

25. 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]

26. 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.

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**ADDENDUM REPORT**

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]

27. 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]

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

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

[PCW0765]

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

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

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

[PCW0775]

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

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

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

[PCW0985]

- 31. 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]

- 32. Prior to the commencement of works sedimentation and erosion control measures shall be placed and maintained to the satisfaction of the General Manager or his delegate.**

[PCWNS01]

**DURING CONSTRUCTION**

- 33. All proposed works are to be carried out in accordance with the conditions of development consent, approved plans under Schedule A, approved management plans, approved construction certificate, drawings and specifications.**

[DUR0005]

- 34. 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]

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

**A. Short Term Period - 4 weeks.**

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

**B. Long term period - the duration.**

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

[DUR0215]

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

[DUR0245]

- 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 construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.**

[DUR0415]

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

[DUR0795]

- 42. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house or building is strictly prohibited.**

[DUR0815]

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43. 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]

44. Provision to be made for the designation of at least one (1) car wash-down area. The area must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the area. Surface run-off must be discharged into landscape areas or alternatively must be treated to remove oil and grit (in accordance with Council's Design Specification D7 – *Stormwater Quality*) before discharging into the piped stormwater system.

[DUR0975]

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

[DUR0985]

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

[DUR0995]

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

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

[DUR1005]

48. 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]

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

[DUR1795]

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50. 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]
51. 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 Council's Development Design and Construction Specifications prior to any use or occupation of the buildings.
- [DUR1875]
52. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Council's Engineering and Operations Division to arrange a suitable inspection.
- [DUR1925]
53. All retaining walls in excess of 1metre in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.
- [DUR1955]
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. 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]
57. Appropriate measures are to be put in place during the construction and/or demolition period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.
- [DUR2405]
58. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

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- [DUR2425]
59. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg.
- [DUR2435]
60. 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]
61. 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]
62. 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]
63. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]
64. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
- [DUR2535]
65. 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]
66. 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:-

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- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50<sup>0</sup>C 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]

67. 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]

68. 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]

69. All works shall comply with the Erosion and Sediment Control Plan, Cozens, Regan, Williams & Prove, November 2007.

[DURNS01]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

70. 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]

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

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

[POC0165]

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

[POC0205]



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**ADDENDUM REPORT**

- 73. 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]*

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

*[POC0435]*

- 75. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.**

*[POC0745]*

- 76. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate.**

*[POC0865]*

- 77. 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]*

- 78. 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]*

- 79. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of a minimum 3m wide easement for drainage of sewer, located over all reticulated sewer**

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**ADDENDUM REPORT**

within the subject property. The easement shall be created in favour of Council.

No permanent structures are permitted within this easement, excluding approved stormwater level spreaders, provided the associated 88B instrument is worded to clearly specify that it is the owners responsibility and obligation to reinstate the level spreader if it is damaged by Council accessing the sewer main.

[POCSN01]

80. Council approved landscaping shall be completed prior to the release of the occupation certificate. Landscaping shall be maintained at all times to the satisfaction of the General Manager or delegate.

[POCNS02]

**USE**

81. 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 and odours or the like.

[USE0125]

82. Except as may be expressly provided in a licence approval under the Protection of the Environment Operations Act 1997 (POEO) Act, the licence holder must comply with section 120 of the POEO Act 1997 prohibiting the pollution of waters.

[USE0155]

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

[USE0175]

84. 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]

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

[USE0235]

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**ADDENDUM REPORT**

- 86. The use being restricted to the floor area designated on the approved plan.**  
[USE0415]
- 87. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.**  
[USE0435]
- 88. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.**  
[USE0875]
- 89. The premises shall be maintained in a clean and tidy manner.**  
[USE0965]
- 90. Water held in the rainwater tank shall not be used for potable purposes.**  
[USENS01]
- 91. The erection of any roof structures on the proposed roof deck is prohibited.**  
[USENS01]

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**ADDENDUM REPORT****REPORT:**

**Applicant:** Whale Watchers Development Pty Ltd  
**Owner:** Whale Watchers Development Pty Ltd  
**Location:** Lot 8 DP 250390, No. 99 Tweed Coast Road Bogangar  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$1,513,199

**BACKGROUND:**

The subject site is a 676 sqm residential block set back some 15 metres from Tweed Coast Road at the southern boundary of Cabarita/Bogangar. The site is prominent in the vista available on approach to the township as Tweed Coast Road climbs gently from the south. The importance of the site's visual prominence is also reinforced by the fact that it is situated just north of the car park which services the popular Cabarita Headland which offers views across Cabarita Beach and subsequent coastline to the north.

Directly to the north of the site is a two storey holiday apartment building. To the west at the rear of the block is residential dwelling. The lot directly on the southern boundary is currently subject to another application for development for a residential flat building of similar design and proportion and is being assessed concurrently with this application through DA07/1287.

The block is not strictly regular in shape and slopes from north east to south west. It currently hosts a residential flat building (incorporating 4 units) and ancillary structures including a shed. Despite the inclusion of a demolition plan, on Dwg A1, the subject application does not propose demolition of existing structures on site, with the applicant noting that a separate application will be made at a later date.

**THE PROPOSAL:**

The application before Council seeks consent for the erection of a multi dwelling housing development, incorporating four (4) x 3 bedroom units. A roof deck with spa, accessible by all units, is also proposed. The development is largely three storey, with elements of four storey on a site constrained by a three storey height limit. A SEPP 1 variation to Clause 16 of the Tweed LEP has been provided.

Vehicular access to the site is provided via Tweed Coast Road, with on-site car parking provided within a basement arrangement. A stairwell is proposed for pedestrian access from the basement to all levels of the development. The geometry of Tweed Coast Road results in the road pavement being located approximately 15m from the boundary of the subject site. The proposed development incorporates a concrete driveway (approximately 6m in width) from the roadway to property boundary, which will require a S138 driveway approval.

A SEPP 1 Objection is also sought for a variation to the North Coast Regional Environmental Plan 1988 relating to overshadowing of waterfront open space.

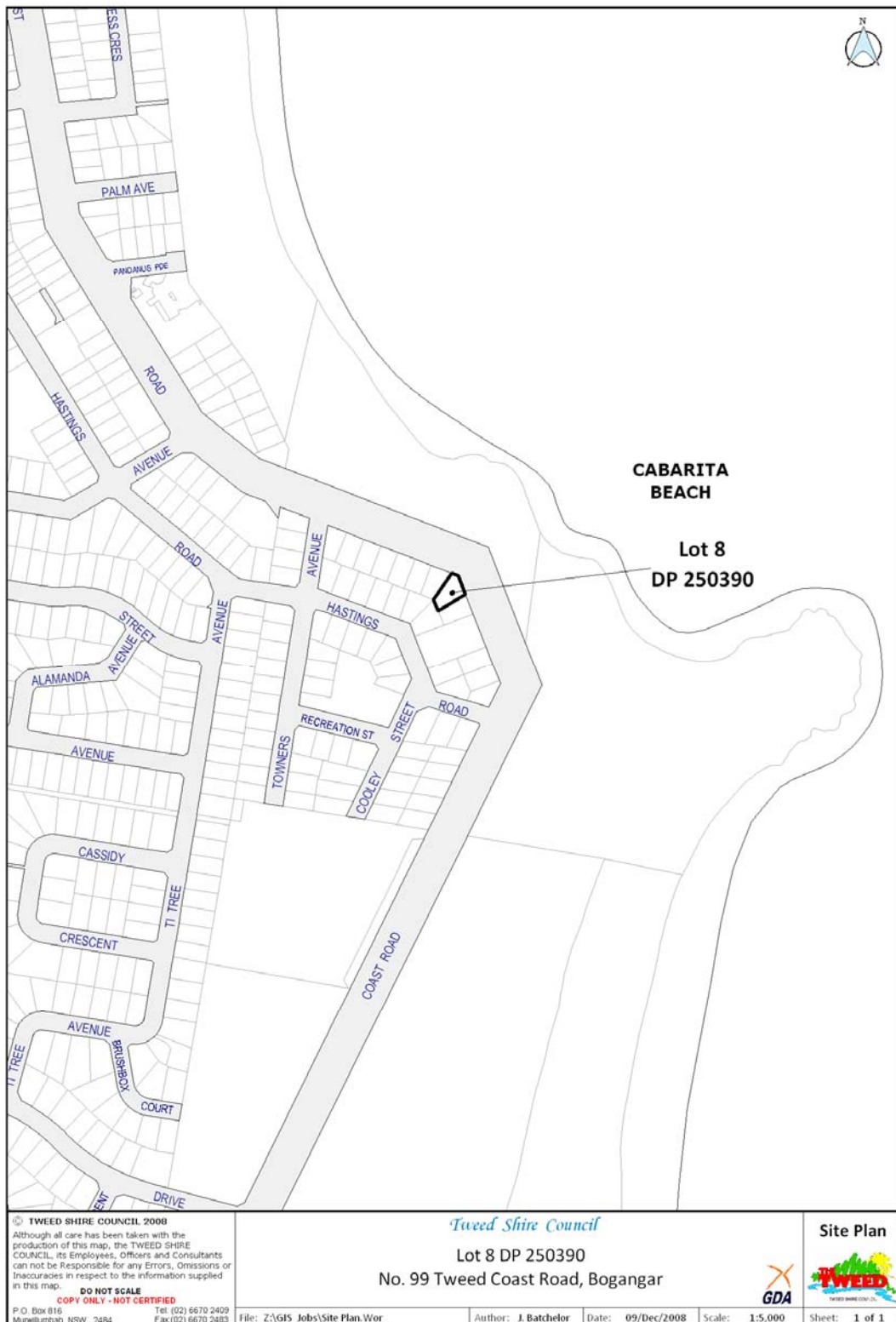
### **ADDENDUM REPORT**

The proposal was advertised for a period of 14 days, with one (1) submission being received during that time.

Having considered all issues raised by the submission, in addition to the statutory assessment, the proposed development is recommended for conditional approval.

**ADDENDUM REPORT**

**SITE DIAGRAM:**



**ADDENDUM REPORT**

**DEVELOPMENT PLANS:**

**TWEED COAST ROAD & EASTERN ELEVATION**

103 COAST ROAD, 101 COAST ROAD, 99 COAST ROAD, 97 COAST RD

**LOCATION & DRIVEWAY PLAN**

**99 - AREA CALCULATIONS**

SITE AREA	676.00 m <sup>2</sup>
GROSS FLOOR AREA	338.00 m <sup>2</sup>
FLOOR SPACE RATIO	1 : 0.8

**DEMOLITION PLAN**

**SITeworks PLAN**

**ISSUED FOR DEVELOPMENT APPLICATION**  
Date: 31/10/07

**GINA GHIONI Architect**  
12 South Coast Street, Ruyter, NSW 2458  
T: 02 7555 5344 F: 02 7555 5787  
E: gghioni@architect.com.au

**GENERAL NOTES**

1. ALL DIMENSIONS ARE NOMINAL ONLY.
2. THESE DIMENSIONS ARE FOR DEVELOPMENT APPLICATION ONLY & ARE NOT TO BE USED FOR CONSTRUCTION.

**DRAWING NOTES**

L.B.SCHEDULE

B. BENCH MARK

**AMENDMENTS**

Slip No.	Description	Date

**PROPOSED MULTI-DWELLING REDEVELOPMENT**  
99 Tweed Coast Street  
Bogangra NSW 2458  
Lot 4 of RP 2302 3252

Client: Whole Watchers Development P/L

Slip No: 000 Slip No: 00000007

Scale: 1:300 at A1  
1:600 at A2

Date: 31/10/07

Drawn: MC

Sheet: 01

**WINDOW & DOOR SCHEDULES**

STAIRWELL		
ITEM	DESCRIPTION	SIZE
01	2 PAIR OF DOOR (Hinged) DOOR WITH FULL FILING	3600H x 800W
02	RELOCATE AND RE-BAITED DOOR & STAIR WELLS	DOOR & STAIR WELLS
03	ALUMINUM 2 PANEL & 4 PANEL STAIRWELL & STAIRWELL RELOCATE AND RE-BAITED DOOR & STAIR WELLS	DOOR & STAIR WELLS

WALL SCHEDULE	
ITEM	DESCRIPTION
01	200mm x 200mm CONCRETE COLUMN
02	200mm x 200mm CONCRETE COLUMN
03	DOOR STAIRWELL WALL
04	200mm STAIRWELL WALL
05	200mm STAIRWELL WALL
06	200mm STAIRWELL WALL
07	200mm STAIRWELL WALL

**CARPARK LEVEL** R.L. 13.50

**ISSUED FOR DEVELOPMENT APPLICATION**  
Date: 31/10/07

**GINA GHIONI Architect**  
12 South Coast Street, Ruyter, NSW 2458  
T: 02 7555 5344 F: 02 7555 5787  
E: gghioni@architect.com.au

**GENERAL NOTES**

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99 Tweed Coast Street  
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Client: Whole Watchers Development P/L

Slip No: 000 Slip No: 00000007

Scale: 1:300 at A1  
1:600 at A2

Date: 31/10/07

Drawn: MC

Sheet: 01

ADDENDUM REPORT

WINDOW & DOOR SCHEDULES		
STARHALL		
ITEM	DESCRIPTION	SIZE
137	2 FRAME DOUBLE FRAMED DOORS WITH FULL GLAZING	2400H X 8 ROOM
138	SOLID CORE FIBRE BATED DOOR & STEEL JAMB	2000H X 8 ROOM
95	ALTERNATING 2 FRAME & 4 FRAME WINDOWS 4 FRAME HIGH IN FIBRE PANELS & 4 FRAME AS FIBRE EVASION TUNNELS COLLOURED GLASS WINGO HEAD	8000H/8000H X 8 ROOM

WALL SCHEDULE	
ITEM	DESCRIPTION
8000m	8000m EXTERNAL WALLS
8000m	8000m EXTERNAL WALLS TO STAIR WLL

**ROOF DECK LEVEL** RL 2220

**GENERAL NOTES**

1. All drawings are shown on A3 paper.
2. All dimensions are in millimeters unless otherwise stated.
3. All work is to be done in accordance with the Australian Standards.
4. The contractor is to ensure that all work is done in accordance with the Australian Standards.
5. The contractor is to ensure that all work is done in accordance with the Australian Standards.

**DRAWINGS NOTES**

1. ALL DIMENSIONS ARE IN MM, ONLY.
2. THESE DRAWINGS ARE FOR DEVELOPMENT APPLICATION ONLY. THEY ARE NOT TO BE USED FOR CONSTRUCTION.

**LEGEND**

- L - LOUNGE
- D - DINING
- K - KITCHEN
- B - BEDROOM
- M - MEDIA ROOM
- Ba - BATHROOM
- Ld - LAUNDRY
- T - TOILET
- E - ENCLITE
- WR - WALK-IN-ROBE
- H - HALL
- Bal - BALCONY
- SH - STAIRWELL
- LC - LINEN CUPBOARD
- ST - STOREROOM

REVISIONS		
Desc	Description	Date

Project: PROPOSED MULTI-DWELLING REDEVELOPMENT	
22 Tweed Coast Road, Ruggahongah NSW 2455	
Lot 6 DP 2457350	
Client: Whole Watchers Development P/L	
Drawing Title: ROOFDECK & ROOF PLAN	
Drawn: GG	Job No: WWH00017
Scale: 1:200 or A3	Dwg No: A5
	1:100 or A3
Date: 3/10/07	Rev No: 1 of 10
Checked: WC	Rev: 01

**ISSUED FOR DEVELOPMENT APPLICATION**

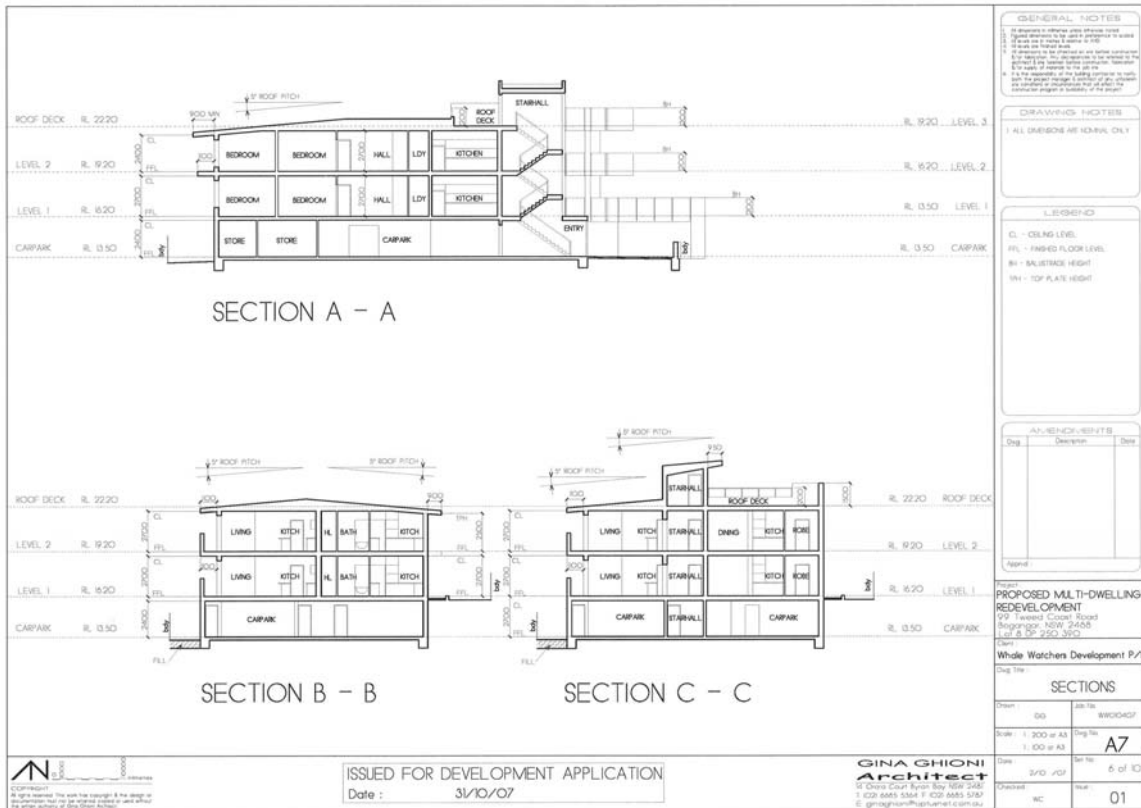
Date: 31/10/07

**GINA GHIONI Architect**

11 Chalmers Street, Ruggahongah NSW 2455  
 T: 6522 6655 5364 F: 6522 6655 5767  
 E: gghioni@wholewatchers.com.au



**ADDENDUM REPORT**



**GENERAL NOTES**

- All dimensions are in millimetres unless stated otherwise.
- Level markers are to finished floor level unless stated otherwise.
- Roof pitch is 12° unless stated otherwise.
- Roof deck is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.
- Roof pitch is to be finished to the level of the roof pitch.

**DRAWING NOTES**

1. ALL DIMENSIONS ARE METRIC ONLY

**LEGEND**

CL - CEILING LEVEL  
 FL - FINISHED FLOOR LEVEL  
 RH - RAUSTRACE HEIGHT  
 RW - TOP PLATE HEIGHT

**APPROVED/REVISED**

Drawn	Description	Date

**PROPOSED MULTI-DWELLING REDEVELOPMENT**  
 27 Tweed Coast Road  
 BRAGGANGA NSW 2448  
 Lot 8, DP 2250 350

Client: Whole Watchers Development P/L

Drawn: [Signature]

**SECTIONS**

Sheet	Rev No	Rev Date
00	00	00/00/00


Scale: 1:200 or A3  
 1:100 or A4

Date: 3/10/07  
 Drawn: [Signature]  
 Checked: [Signature]

**ISSUED FOR DEVELOPMENT APPLICATION**  
 Date: 3/10/07

**GINA GHIONI Architect**  
 1/100 South Byron Way NSW 2448  
 T: 02 6655 5344 F: 02 6655 5787  
 E: gghioni@ghioniarchitect.com.au

ADDENDUM REPORT



**EASTERN ELEVATION**

**NORTHERN ELEVATION**

**GENERAL NOTES**

1. All drawings are shown unless otherwise stated.

2. All dimensions are in millimetres unless otherwise stated.

3. All work is to comply with the Building Code of Australia (BCA) and the National Construction Code (NCC).

4. The responsibility for the building contract is with the client. It is the client's responsibility to ensure that the building contract is suitable for the project and that it is amended if necessary.

**DRAWINGS NOTES**

1. ALL DIMENSIONS ARE NOMINAL ONLY

**LEGEND**

Symbol	Description	Date

**PROPOSED MULTI-DWELLING REDEVELOPMENT**  
 99 Tweed Court Road  
 Ruggahong, NSW 2458  
 Lot 8 of SP 2503 3003

Client: **Whole Watchers Development P/L**

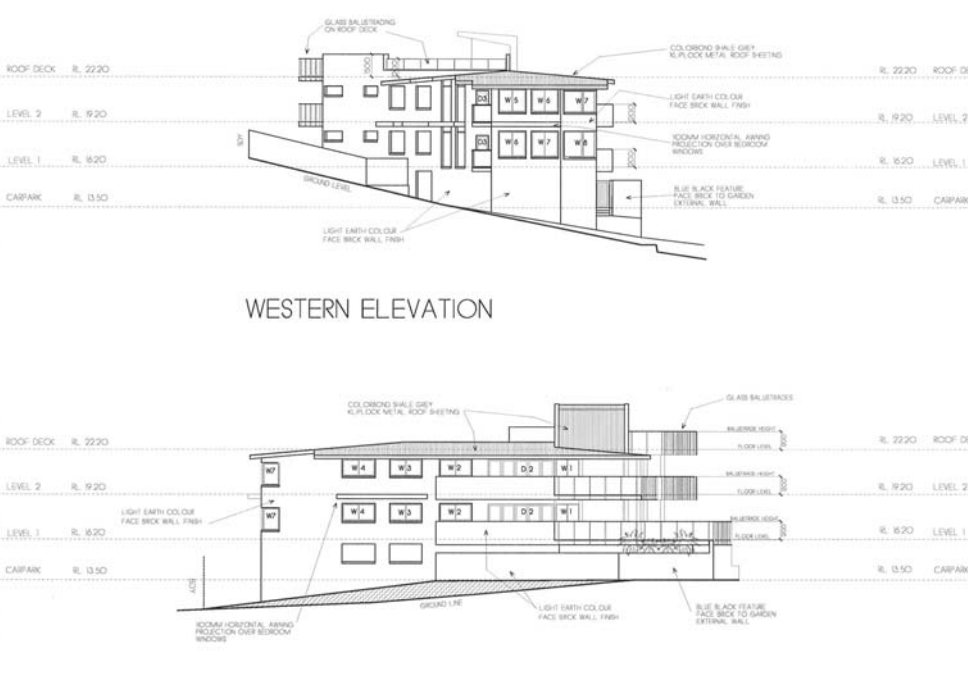
Proj. No: **EAST & NORTH ELEVATIONS**

Drawn: **GS** Job No: **WRC040P**

Scale: **1:200 at A3** Date: **3/10/07** Set No: **A8**

1:600 at A4

Checked: **BC** Date: **01**



**WESTERN ELEVATION**

**SOUTHERN ELEVATION**

**GENERAL NOTES**

1. All drawings are shown unless otherwise stated.

2. All dimensions are in millimetres unless otherwise stated.

3. All work is to comply with the Building Code of Australia (BCA) and the National Construction Code (NCC).

4. The responsibility for the building contract is with the client. It is the client's responsibility to ensure that the building contract is suitable for the project and that it is amended if necessary.

**DRAWINGS NOTES**

1. ALL DIMENSIONS ARE NOMINAL ONLY

**LEGEND**

Symbol	Description	Date

**PROPOSED MULTI-DWELLING REDEVELOPMENT**  
 99 Tweed Court Road  
 Ruggahong, NSW 2458  
 Lot 8 of SP 2503 3003

Client: **Whole Watchers Development P/L**

Proj. No: **WEST & SOUTH ELEVATIONS**

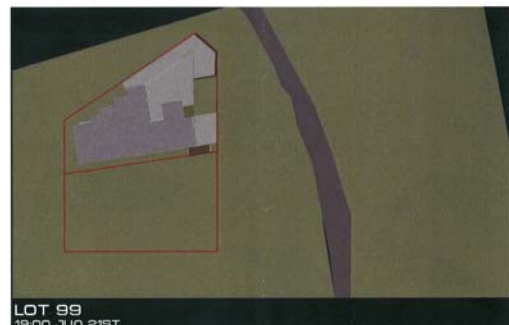
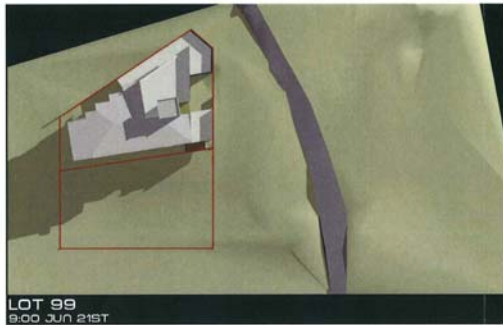
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Scale: **1:200 at A3** Date: **3/10/07** Set No: **A9**

1:600 at A4

Checked: **BC** Date: **01**

**ADDENDUM REPORT**



**99 TWEED COAST ROAD BOGANGAR : PROPOSED MULTI-DWELLING REDEVELOPMENT  
SHADOW DIAGRAMS FOR JUNE 21  
PREPARED BY NEOCONCEPTS FOR GINA GHIONI ARCHITECT 22 NOVEMBER 2007**

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**ADDENDUM REPORT****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 4 - Aims of the Plan**

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is "*the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced*".

Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire's environmental and residential amenity qualities.

The proposed development is considered to meet the provisions of Clause 4 by way of maximising the density of the property whilst being compatible with the existing and future streetscape and amenity of the area.

**Clause 5 - Ecologically Sustainable Development**

Clause 5 of the LEP relates to ecologically sustainable development. The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*.

Appropriate conditions of consent have been applied, which will ensure that the proposed extensions will not significantly impact upon the surrounding residences. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

**Clause 8 – Consent Considerations**

This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:

- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*

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### ADDENDUM REPORT

- (b) *it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and*
- (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

In this instance, the proposed development is considered to meet the primary objective of the zone by way of optimum utilisation of the site, whilst taking into account environmental constraints. The proposal generally complies with Clause 8(a).

Other relevant clauses of the TLEP have been considered elsewhere in this report, and it is considered that the proposal generally complies with the aims and objectives of each.

The proposed development is not considered to have an unacceptable cumulative impact on the locality or the community as a whole.

#### Clause 11 - Zone objectives

Clause 11 of the LEP relates to zone objectives. The subject land is zoned 2(b) Medium Density Residential under the provisions of the LEP. The primary objective of the zone is to:

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

The subject application is for multi dwelling housing, and is considered to achieve acceptable design outcomes. The application can subsequently be considered to satisfy the primary objective of the zone and is therefore compliant with Clause 11.

#### Clause 15 - Essential Services

The objective of Clause 15 is to ensure that development occurs in an orderly manner and that development does not occur without adequate provision of essential services such as water and facilities for effluent disposal. The site is in an established residential area and has been assessed by Council's Development Assessment Engineer who has advised that connection to all essential services is available.

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## ADDENDUM REPORT

### Clause 16 - Height of Building

The objective of Clause 16 is to regulate the height of development relative to its locality. The subject site is affected by a 3 storey height limit. The proposal is largely three storey in height but does have elements of four storey, and as such does not comply with the provisions of Cl 16. The applicant has provided a SEPP 1 Objection, which is addressed within the body of this report.

### Clause 17 - Social Impact Assessment

The objective of Clause 17 is to ensure proper consideration of development that may have a significant social or economic impact and deems that where a proposal is likely to have a significant social or economic impact it must be accompanied by a socio-economic impact statement. The proposal is for infill multi dwelling housing and is not considered to have a significant social or economic impact. The proposal is subsequently compliant with Clause 17 of the LEP.

### Clause 22 Development Near Designated Roads

Clause 22 applies to land that has frontage to a designated road and Tweed Coast Road is a Council designated road. Pursuant to the Clause, Council must be satisfied that the following matters have been addressed prior to granting consent to any development on land to which the clause applies:

- (a) *the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and*
- (b) *the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and*
- (c) *the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and*
- (e) *the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and*
- (f) *the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and*
- (g) *where practicable, access to the land is provided by a road other than the designated road.*

The nature of the development is not considered likely to constitute a traffic hazard or materially reduce the capacity of efficiency of Tweed Coast Road.

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## ADDENDUM REPORT

The only access and egress point for the site for vehicles is from Tweed Coast Road. A large verge (between the road pavement and property boundary) result in on-site traffic movement considered unlikely to impede the through traffic movement on the designated road.

The proposed development is not considered to be sensitive to traffic noise and is not likely to detract from the scenic values of the locality. It can therefore be concluded that the development as proposed satisfies the aims and heads of consideration outlined in Clause 22.

### Clause 35 - Acid Sulfate Soils

The subject site is land classified as Class 5 Acid Sulfate Soils. Clause 35 states that Council cannot grant consent to works within 500 metres of Class 1, 2, 3 or 4 land which are likely to lower the water table below 1 metre AHD in adjacent Class 1, 2, 3 or 4 land unless it has considered a preliminary soil assessment.

Council's Environment & Health Unit has noted that the site is above 5m AHD and does not propose basement car parking, with acid sulfate soils deemed not likely to be disturbed. As such, a preliminary soil assessment is not required and the proposal is to satisfy Clause 35 of the LEP.

### Clause 36 - Coastal Erosion Hazard Outside Zone 7(f)

Council's mapping records indicate the subject site is not affected by the 50 or 100 year hazard line. As such, Clause 36 of the LEP is considered satisfied.

## **North Coast Regional Environmental Plan 1988**

### Clause 32B: Coastal Lands

Clause 32B – Development Control applies as the NSW Coastal Policy 1997 applies to the subject site.

The proposal is consistent with the NSW Coastal Policy 1997, Coastline Management Manual and North Coast: Design Guidelines.

The proposal will not impede public access to the foreshore.

The applicant's submission and shadow plans demonstrate that the carrying out the development will result in the 6(a) waterfront open space being overshadowed before 7pm midsummer (daylight saving time).

The applicant is seeking Council's support to assume the Director-General's concurrence in this instance. This matter is discussed in further detail in the SEPP No. 1 variation section within this report.

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## ADDENDUM REPORT

### Clause 33: Coastal hazard areas

The subject site is not located within any mapped Coastal Hazard areas, nor is the site within any specific management areas identified within Council's Coastline Management Manual.

### Clause 43: Residential development

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

## State Environmental Planning Policies

### SEPP No. 1 - Development Standards

The proposed development incorporates two (2) SEPP 1 Objections in relation to height and overshadowing matters.

The first SEPP 1 Objection relates to the proposal incorporating elements of four (4) storey when a height limit of three (3) storey applies to the site, pursuant to Clause 16 of the Tweed Local Environmental Plan 2000.

The area of non-compliance relates to a small portion of the building to the northern boundary which exceeds the three storey height limit. In this regard, the applicant notes that the extent of building defined as four storeys extends for a distance of approximately 7.8m, from the point where the basement protrudes more than 1.5m out of the ground. This represents approximately 25% of the buildings external length. (See attached coloured diagram).

The applicant has submitted the following in support of the SEPP 1 objection:

*'The objective of providing foundation for the three (3) storey height limit affecting the subject site states, inter alia:*

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

*As discussed above and confirmed by judgments supported by the Land & Environment Court, the ability of a proposal to attain the objective of the standard and its intent are fundamental to the appropriateness of applying the standard in the first instance. We note therefore that the variation requested is done so with particular reference to the content*



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### ADDENDUM REPORT

and wording of the objective to the standard. Accordingly, we have broken down the request for variation in to three (3) specific headings, each of which is identified within the objective proper.

An analysis in this context has been carried out as follows:-

**Is the development appropriate to its location and surrounding development?**

It is contended that the development responds in the positive in relation to this question. In this regard, the key elements to consider are defined as follows:-

1. What is the character of the locality;
2. What elements form or shape development in the locality;
3. Will the development appear out of character with surrounding development; and
4. Will the development translate into excessive or avoidable impacts?

With reference to the above objective, it is noted that the site is located within the 2(b) Medium Density Residential Zone, whereby the objectives of the zone encourage medium density housing forms.

Development within the locality is mixed; with older sites being redeveloped in a manner consistent with Council's planning controls. Recent prominent proposals which have been completed include the Cabarita Hotel Redevelopment, The Breakwater Views Building at 47 Tweed Coast Road, and the Mixed Use residential / commercial development at 38 Tweed Coast Road. While not all dedicated residential buildings, have clearly set a precedent for building height variation, when appropriate design consideration is given.

The future character of the immediate area will largely be dictated by both the continued development of medium density forms, however in terms of scale, the future character will more commonly be defined by the provisions of Section B18 of DCP 2007. In this regard, future development will largely incorporate a maximum height of 11.0m only.

The latter is considered more relevant to the future character of the area than the actual definition of a storey (or number of storeys requirement), as the provisions of Section B18 of DCP 2007 are a more accurate and translatable measure of scale than the number of storeys. Significantly the proposal is generally compliant with the overall 11 metre height requirement.

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

1. The proposal presents as a part two (2) and three (3) storey form to Tweed Coast Road;
2. The proposal will appear predominantly as three (3) useable storeys only, with the lay person unlikely to be able to decipher whether the proposal is four (4) storeys in part;

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### ADDENDUM REPORT

3. *The proposal steps down the slope and adopts urban design principles such as are promoted within Section A1 of DCP 2007;*
4. *Recently approved and constructed buildings within Cabarita and elsewhere along the Tweed Coast incorporate a form of three (3) storeys or more. The latter has a significant bearing on the character of the area as it currently stands and can only lead to the conclusion that the proposal, with its minor 4 storey element, will not be inconsistent with the current character of the locality.*

*Is the proposal appropriate to the environmental characteristics of the land?*

*The form of the proposed development and indeed the introduction of the four (4) storey element is directly related to the slope of the land. In this regard, the proposed development is constrained by slope as the land falls away sharply from the north corner to the rear boundary.*

*The basement could be pushed further into the ground and therefore lower the building further to ensure a greater degree of compliance with the height controls, however this would result in alternative problems as a much greater degree of cut and fill would be required to facilitate the proposal. In particular the design of the development is aimed at minimizing such works and any lowering of the basement could potential require subsequent treatment of acid sulfate soils. The development as proposed does not disrupt acid sulfate soils.*

*In terms of the urban or built environment the proposed fourth storey element does not adversely impact upon surrounding residents to the south east, south west and north west in the form of over shadowing, loss of sea views, privacy or amenity. This is in part to the minor nature of the non compliant element, but also to the characteristics of the site and the compliant spatial separation provided by the development'.*

In conclusion, it is considered that the development is of a scale and design that complements the locality without undue or unnecessary impact and that strict compliance with the three-storey height limit is both unreasonable and unnecessary in the circumstances of this case. The applicant has included reference to DCP B18, which at the time of lodgement was current. The provisions of B18 have since been incorporated into DCP A1, which is addressed later in this report.

In any case, the proposed variation to the 3 storey height limit is considered to be acceptable in this instance, particularly when the proposed development meets overall height provisions (when measured in metres). As such, it is recommended that the concurrence of the Minister administering the Environmental Planning and assessment Act, 1979 be assumed in this instance.

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## ADDENDUM REPORT

The second SEPP 1 Objection relates to the proposed development overshadowing the adjacent foreshore reserve, pursuant to Clause 32(b) of the North Coast Regional Environmental Plan 1998. Section 4 of Clause 32(b) states:

*'4 Council must not consent to the carrying out of development :*

*(b) Elsewhere in the region, if carrying out of the development would result in beaches or waterfront open space being overshadowed before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).'*

The proposal results in the overshadowing of the reserve immediately across the road from the site. This section of the reserve contains the escarpment leading to the north section of beach adjacent to Cabarita Headland, an access road and car park. The extent of overshadowing is limited to these areas and does not impact upon the beach itself or the immediate open space surrounding the area.

The applicant has acknowledged that the proposed development will result in overshadowing of the reserve at 7.00pm midsummer, with no overshadowing occurring during midwinter. See attached coloured diagram, which indicates the extent of overshadowing. The expected shadow cast by the proposed development has been estimated by the applicant as approximately 200m<sup>2</sup> in area.

Having regard for the underlying objective of the development standard, that is to protect the recreational integrity of foreshore open space areas, the applicant has submitted the following in support of the SEPP 1 objection:

*'It is contended that the proposal is consistent with the abovementioned objective and that the integrity of Clause 32(b) would not be impacted upon by via the approval of the structure. In this regard, the following matters are considered relevant to assessing the merits of the proposed departure from the development standard:*

- The extent of overshadowing at the prescribed time (approx 200sq.m) is considered to be minor in scale, relative to the overall size of the Coastal Reserve and the extent of shadows cast by other existing buildings;*
- That area subject to overshadowing is already heavily overshadowed during the summer months by existing vegetation and existing buildings;*
- The area in question contains the Dreamtime beach car park and access road;*

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### ADDENDUM REPORT

- *The proposed overshadowing in no way precludes the future use or reclassification of the adjacent reserve;*
- *No overshadowing will occur before 3pm in midwinter;*
- *The proposal will not overshadow the beach;*
- *Given the timeframes of overshadowing expected, no impacts will occur in relation to existing or future landscaping or specific stands of vegetation in the adjacent open space areas.*

*In light of the foregoing analysis it is concluded that compliance with the development is both unreasonable and unnecessary. Furthermore, as the proposed development demonstrates consistency with the intent of the development standard, the granting of the variance in this instance would not prejudice the future integrity of that standard nor impact upon the amenity of the locality.*

*It is also further noted in table 3 of the NSW Coastal Policy 1997 provides for comments under the heading of 'Design and Locational Principles for Consideration in LEP's DCP's and Development Control'. In this regard and with reference to the overshadowing standard within NCREP 1988, the policy states, inter alia:*

*'The suggested standard in this principle may be difficult to apply in highly urbanized environments. An LEP or DCP which is tailored to local conditions and which has the overriding objective of minimising overshadowing may be required in these situations'.*

*In this circumstance, the subject environment is indeed urbanized, with the proposal representing an infill development of an existing residential development. Further, the proposal is consistent with the current overriding objectives of the Tweed LEP in that medium density development consistent with Council's desired density is proposed.*

*Given the locational characteristics of the area, its evolution as a highly urbanized village and the scale and nature of the reserve opposite, strict compliance with the development standard is considered both unjustifiable and unnecessary'.*

In conclusion, it is considered that the extent of overshadowing into the adjacent reserve is of a scale that would not result in any significant impact upon the recreational integrity of the foreshore open space area and that strict compliance with the overshadowing restriction is both unreasonable and unnecessary in the circumstances of this case. The Development Assessment Unit recommends that the concurrence of the Minister administering the Environmental Planning and Assessment Act, 1979 be assumed in this instance.

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## ADDENDUM REPORT

### SEPP No. 65 - Design Quality of Residential Flat Development

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

#### **Context and Built Form**

The development is considered to be consistent with the desired future character of the area. The applicant has submitted that the development has been designed in regard to the geographical context in which it is located and the natural and built features of the area. The context is based on the development's relationship to Cabarita and the redevelopment of the locality for medium density purposes. The building has been designed to address Tweed Coast Road and is of a contemporary design that will not detract from the surrounding built environment.

The proposed design incorporates a level of articulation often absent in older residential buildings. The building incorporating significant horizontal and vertical stepping and setbacks and through the use of different materials, colours and building elements such as generous balconies the design facilitates both an interesting and varied aesthetic.

#### **Scale and Density**

Having regard for the size of the land and the desired vision of a medium density residential precinct, the development is suitable in both bulk and scale. Although the building transgresses the building height provisions, the design avoids bulk by being well articulated with varying setbacks.

There are several older style 2 and 3 storey holiday apartment buildings in close proximity to the site. The proposed development is considered to be consistent with such medium density development. The density of 1 dwelling per 169m<sup>2</sup> is considered to be acceptable for the subject site.

#### **Resource Energy and Water**

The applicant has submitted Nat HERS and BASIX certificates demonstrating the development is sound in terms of energy efficiency. The design of the development has been developed to maximize solar energy and natural ventilation.

#### **Landscaping**

Landscaping Intent plans have been provided with the development application. The applicant has noted that the proposed development integrates the landscaped area as an extension to the living environment achieves this aim. Appropriate conditions of consent have been imposed to

## ADDENDUM REPORT

ensure that landscaping will be completed prior to occupation of the development.

### **Amenity**

The applicant has submitted that the proposed development has been designed to provide a functional residential living environment rather than the facilitation of 'turnover' driven tourist accommodation units. The dwellings have sufficient private open space balcony areas for each unit. Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of this area.

### **Safety and Security**

The applicant has submitted that the development has been designed to enable casual surveillance of the street and internal open space areas. Appropriate garden lighting will be installed for security purposes within the open space and car parking areas, while the proposed landscaping and fencing will clearly delineate the public and private domain.

### **Social Dimension**

Socially the development represents good utilisation of land zoned for medium density development, with each unit of sufficient size to utilised by a variety of family units.

### **Aesthetics**

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

The overall aesthetics of the building provide a desirable modern development, which is in keeping with the existing and future character of the surrounding area.

### **SEPP No 71 – Coastal Protection**

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

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## ADDENDUM REPORT

### SEPP (Building Sustainability Index: BASIX) 2004

The applicant has provided a BASIX certificate for the proposal which is consistent with the required energy target.

### Tweed Coastline Management Plan

Council Officers have reviewed the proposal and advised it is consistent with the plan. The proposed development is significantly clear of any hazard lines and the subject site is not located within any specific management areas identified within the Coastline Management Plan.

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

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

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

### Tweed Development Control Plan

#### A1-Residential and Tourist Development Code

*(Adopted 22 April 2008)*

When DCP Section A1 was adopted Council resolved that:

3. *That an application for development lodged, but not yet determined, prior to the adoption of the draft Development Control Plan be saved from strict compliance with that Plan.*

The proposed development is considered to best fit within category Part C of the DCP for Residential Flat Buildings. The DCP introduces detailed parameters for improved site outcomes including the provision of deep soil zones, impermeable site area, private open space, landscaping, car parking, setbacks and general street presence.

The proposed development does not meet all of these requirements given the application was lodged in September 2007 prior to the adoption of the DCP (adopted 22 April 2008). In accordance with Council's resolution applications lodged but not yet determined prior to the adoption of the then draft DCP shall be saved from strict compliance with that plan. A detailed assessment of the development against DCP A1 is located on file. Where the proposal is not consistent with the current design controls, where applicable, the previous controls/requirements have been discussed.

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## ADDENDUM REPORT

### Part C – Residential Flat Buildings and Shop-Top Housing

#### Deep soil zones (DSZs)

The proposed development does not provide DSZ's. As a result the proposal has been assessed against the landscaping requirements current at the time of lodgement.

Landscaping required =  $80\text{m}^2$  per dwelling =  $320\text{m}^2$   
Landscaping provided = approximately  $345\text{m}^2$ , which is compliant.

#### Front Setbacks

The required front setback is 6m from front boundary. The proposal meets this provision for the Levels 1 and 2, however the basement (and terrace area for Unit 2) extends to the front boundary. The applicant was advised that such encroachment of the front building line is not supported. The applicant has provided sketch plans that indicate that the basement will be amended to be in line with the compliant building above. This amendment results in a visitor car space being located within the building line, with the remainder of the front setback landscaped.

Due to time constraints, the applicant has been unable to provide amended plans prior to the application being determined. As such, a deferred commencement condition has been applied, requiring amended plans to be lodged demonstrating that the development is compliant in this regard.

#### Side Setbacks

The required basement setback is 1.5m setback from side boundary, preferably in line with the building above. The proposal's basement incorporates a southern side setback of 1.61m.

There were no side setbacks for basements prior to the implementation of the current DCP A1, with previous policies allowing basements to be constructed to the boundary. It is noted that the basement is in line with the balcony of Unit 2 above. As such, the 1.61m setback is considered to be acceptable.

#### Rear Setbacks

The required setback is 8m to allow for deep soil zones. The proposed development incorporates a 3m setback, which is compliant with the former DCP A1. As such, the proposed rear setback is considered to be acceptable.



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### **Basement Carparking**

The current provisions do not allow basement carparking to extend more than 1m above ground where it faces a public street. The proposal's basement extends above this requirement.

There were no limitations for basements in terms of extending beyond the ground level, apart from the height provisions applicable to the site (ie a basement protruding more than 1.5m above the ground level is considered to be a storey – as is the case with this application). As such, the basement protrusion is considered to be acceptable. The implications of the additional storey are discussed elsewhere in this report.

As noted above, the original design indicates a basement extending to the front boundary. A deferred commencement condition has been applied, requiring the lodgement of amended plans. The applicant has acknowledged that the basement will be amended so that it does not encroach the front building line.

### **Building Height**

The maximum wall plate height for residential flat buildings is 9.6m. The proposed development incorporates a 10.2m maximum wall plate height. As such, the proposal has been assessed against the building height provisions of B18 current at the time of lodgement.

The applicant has requested a variation to the Acceptable Solution of 9.0m from finished ground level to the underside of the eave, noting that the proposed development satisfies the performance criteria underpinning this design element.

The justification provided by the applicant is considered to be acceptable. In light of the proposal meeting the overall maximum height limit of the former and current policies, the proposed variation to maximum wall plate height is warranted in this instance.

### **Ceiling Height**

The control encourages a minimum ceiling height of 2.7m for habitable rooms. The architectural plans show a minimum floor to ceiling height of 2.4m which is consistent with the Building Code of Australia. This height is considered to be acceptable.

### **Acoustic Privacy**

The applicable control relates to constructions methods required for development located on designated roads. There were no minimum

## ADDENDUM REPORT

requirements applicable to the subject site in this regard prior to the adoption of the current DCP A1.

### **Front Fencing**

The proposal incorporates a 1.5m high face brick front fence to the north of the proposed driveway. The height of the proposed fence is consistent with current fencing requirements; however the proposal does not meet the openness ratio provisions. There were no requirements in this regard prior to the adoption of the current DCP A1. The design and use of materials is consistent with the design of building itself and the front fence will not detract from the streetscape of the locality.

Notwithstanding the proposed variation to the maximum wall height provision, the proposed development is considered to be generally consistent with all applicable design controls for residential development, upon lodgement of amended plans for the front setback.

### A2-Site Access and Parking Code

The section requires the provision of two (2) car spaces per 3 or more bedroom unit, as well as one (1) visitor space per four units. As a result, nine (9) on-site car spaces are required. The development plans indicate a total of ten (10) spaces. This being, eight spaces within the basement and an additional two spaces adjacent to the driveway, at the entry point of the basement.

As a result of front setback non-compliances, the visitor spaces have been reduced to one (1), which is compliant with Council's requirements. The large terrace for Unit 2 is no longer proposed to extend to the front boundary. As such, the visitor space is no longer covered, but is located within the front building line which is now proposed to be landscaped. Amended plans demonstrating compliance with front setback provisions are required as a deferred commencement condition. Council's Development Engineer has assessed the proposed development with no objection, subject to conditions of consent.

It is also noted that the car parking proposal incorporates 4 tandem spaces. Council's Development Engineer is in support of this configuration, subject to the tandem spaces being allocated to a specific unit. An appropriate condition of consent has been applied in this regard.

### A9-Energy Smart Homes Policy

The proposal is consistent with the SEPP (BASIX) requirements and the subsequent requirements of the DCP.

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## ADDENDUM REPORT

### B19-Bogangar/Cabarita Beach Locality Plan

The site is identified as being within the Residential B precinct. Development within the Residential B precinct may be supported where the proposal reflects outstanding urban design standards applied to medium density style development and contributes positively to the character and amenity of the area. Medium density residential development must be in accordance with the preferred outcomes which include:

- The Vision for Bogangar/Cabarita Beach.
- The Precinct Objectives and Strategic Policies.
- The development design guidelines stipulated within Clauses B19.15 and B19.16 of this Section.
- The design guidelines outlined within Section A1 – Multi-Dwelling Housing.

The proposal represents medium density residential development and is generally consistent with the vision, objectives and strategic objectives of the precinct. The proposal represents high quality urban development which does not impact upon the natural environmental character of the area. The proposal is consistent with the objectives of the zone as detailed previously in this report, the development provides an interesting visual façade to the streetscape, the proposal is generally consistent with Section A1 and the proposal is sympathetic to its surroundings.

The matters for consideration which also must be regarded include B19.15 and B19.16 which are discussed below.

#### Building Mass

The proposal is articulated through the incorporation of varied setbacks and a variety of materials and finishes.

#### Energy Efficiency

The proposal has been designed so as to optimise the northerly aspect, with the main living areas orientated north and east. The depth of the dwellings will enable sufficient ventilation and access to daylight.

#### Roof Lines

The DCP encourages imaginative rooflines. The proposed roof line is not obtrusive and is considered to be suitable for the proposal. The roof form is articulated, providing interest to the existing roofline character of the area.

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### Privacy

Visual privacy between developments is encouraged in the DCP. 3m side and rear setback provisions have been incorporated into the design to minimise any potential impact in this regard. In addition, the proposal includes a landscaped buffer along each boundary.

Within the proposed development itself, privacy has been achieved by way of ensuring spatial separation between balconies or dividing solid wall to maintain privacy.

### Security

The proposal has been designed such that it is a safe and secure development for residents and visitors. The entrances to the dwellings are clearly identifiable. The implementation of decks, courtyard areas and the location of the primary living areas encourages casual surveillance of the street and surrounding land.

### Materials and Colours

The proposal represents sound urban design, which incorporates a variety of finishes and materials. Predominantly lighter colours and shades have been incorporated in the buildings' façade. Darker colours have been used to highlight features of the development and to create interest in the building's façade. The applicant has provided colour photomontages to this effect. The external finishes shall be consistent with the requirements of the DCP, being predominately lighter in colour.

### Access and Parking

The proposed on-site car parking arrangement is consistent with the Section's requirements. This section of the DCP states that *'parking located at ground level, underneath a residential or commercial building, and is visible from a main street frontage will not be permitted'*.

The proposed garage door at the basement's entry may be visible from Tweed Coast Road. However, the slope of the site and setback distance from the road pavement may limit viewing opportunities from the roadway. It should be noted that at the time of lodgement of this application, B19 did not apply to the subject site. As such, strict compliance with this requirement is not considered necessary.

### Building Height

The DCP identifies the subject site as having a maximum overall height of 12m. The plans submitted by the applicant demonstrate that the proposal

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## ADDENDUM REPORT

meets the minimum maximum overall height requirements, with an overall building height of 11.4m.

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

#### Clause 92(a) Government 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.

#### Clause 92(b) Applications for demolition

The existing structures on the subject site will be required to be demolished. The applicant has noted that an application for demolition will be carried out under separate application.

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

#### Context and Setting

The subject site is located within a well established medium density residential area of Cabarita. The locality primarily consists of multi dwelling houses arranged in apartment building / flat format. As such, the proposed development is considered to be consistent with the desired character of the surrounding area.

#### Access, Transport and Traffic

Access to the subject site is via Tweed Coast Road to the east, which is a designated road. Traffic impact has been addressed under Clause 22 of the LEP. The 2(b) Medium Density zoning of the subject site suggests that the local road network is capable of accommodating the additional traffic demand generated by the proposed development.

#### Cut and Fill

Council's Development Assessment Engineer has assessed the proposed development in terms of earthworks, noting that the proposed retaining walls are considered minor and will be contained within the footprint of the building and driveway access. No objection to the proposed fill works, subject to conditions of consent.

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## ADDENDUM REPORT

### (c) Suitability of the site for the development

#### Stormwater Drainage

Council's Development Assessment Engineer has assessed the proposed development in terms of stormwater drainage, noting that the subject site grades primarily to the west and south. Council's records indicate that drainage easements through either of the adjoining residents benefiting the subject site. As a result of the applicant being unable to obtain an easement through the downstream properties, Council has limited site discharge to 200l/s/ha.

Council's Development Assessment Engineer has noted that an acceptable amended Stormwater Management Plan (SWMP) has been provided by the applicant, which proposes to split the discharge into 2 catchments; one to the east and one to the west.

As noted elsewhere, amended plans are required demonstrating compliance with front setback requirements. A deferred commencement condition has been applied in this regard. An additional requirement shall be an amended SWMP incorporating the relocation of the proposed on-site detention tank, beyond the 6m front setback. Appropriate conditions of consent have been applied.

#### Effluent Disposal

Council's Development Assessment Engineer has assessed the proposal in terms of effluent disposal, noting that the development proposes to connect to the relocated sewer main on the adjoining property to the south (proposed under DA07/1287). In order to facilitate the sewer relocation, works will be required to be undertaken within the neighbouring Diamond Beach development. Appropriate conditions of consent have been applied, including the provision of owners consent from the Body Corporate of Diamond Beach, allowing the developer to enter the adjoining property and undertake appropriate, approved works.

#### Contaminated Land

Council's Environment & Health Unit has the assessed the proposed development in terms of contamination, in light of the existing dwelling and shed on the subject site being of slab on-ground construction. It is noted that the applicant has provided an Under-slab Contamination Assessment, which concludes that no material above action levels were detected.

**ADDENDUM REPORT**

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

The proposal was exhibited for 14 days from 12 December to 28 December 2007, with one submission been received. The issues raised within the submission have been addressed below:

<b>Issue</b>	<b>Comment</b>	<b>Assessment</b>
4 <sup>th</sup> Storey	The proposed 4 <sup>th</sup> storey is an example of a developer determined to undermine the Locality Plan. There is no likelihood of the said site being deprived of views, given its geographical location overlooking Norries Headland	The proposed development has been supported by a SEPP 1 objection to the height restrictions on the site. The proposal incorporates only two levels of residential dwellings (2 units on each level). The 4th storey is relating to the definition under the LEP, as a result of the basement protruding out of the ground by more than 1.5m.
Exceeding height limit	The citing of developments exceeding the height limit in the past has been rejected. Each of the cited developments were strongly opposed by the community whilst awaiting the completion of the Locality Plan.	The notation of other approved developments exceeding the height limit was not a critical factor in the support of the SEPP 1 objection. The proposal was assessed on merit.
Locality Plan	Now there is a Locality Plan in place, stating quite clearly the community's wishes, there is no good reason for any precedents or exemptions in the future.	The proposed development was assessed against the Locality Plan in force at the time of lodgement. It should be noted that the development is compliant with the building height provisions of the Locality plan (i.e. 12m overall height).
Acid sulfate soils	Suggestions that excavation works could result in the release of acid sulfate soils defy all belief; indeed, excavation is more likely to encounter pockets of basalt rock.	The applicant's geotechnical report identified loose sands, gravels and areas of basalt during testing. Council's Environment & Health Unit has assessed the proposed development with regard ASS.

**(e) Public interest**

Despite the issues raised by the submission, the proposed development is considered to be in the public's interest.

**OPTIONS:**

1. Council resolve to assume the Director's concurrence and resolve to approve the development application.

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**ADDENDUM REPORT**

2. Council not resolve to assume the Director's concurrence and resolve to refuse the development application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the determination they have the right to appeal the decision in the Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation to Clause 16 of the Tweed LEP 2000 and Clause 32B of the NCREP, and is generally consistent with the applicable Council policies, subject to amended plans being lodged. The proposal represents quality urban development which will make a positive contribution to the locality.

**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](http://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. SEPP1 Objection (Building Height) (DW 1950172)
  2. Photomontage (DW 1950171)
  3. Shadow Diagram (DW 1950170)
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