

TITLE: [PD-PC] Development Application DA06/0413 for a Staged Seniors Living Development Under SEPP (Seniors Living) 2004 Comprising 84 Independent Living Units, 94 Supported Living Units and 67 Beds within a High Care Facility at Lot 1 DP 786570, No. 87-89 Tweed Coast Road, Hastings Point

ORIGIN:

Development Assessment Unit

FILE NO: DA06/0413 Pt4

SUMMARY OF REPORT:

Council is in receipt of a Development Application for the re-development of the existing Hastings Point Holiday Caravan Park for the purposes of an aged care facility.

The new development proposes to provide a total of 245 units (or 394 beds) in a combination of independent living units, hostel use units and residential care units, which will have 24-hour medical assistance available.

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

In addition to the re-development of the site the applicant proposes to continue operating the existing Holiday Caravan Park under a diminished caravan park licence. This would be at a lower density to that currently provided and could potentially affect up to thirteen long term mobile home sites

To accommodate this reduction in density the current owner of the property and the applicant for the Development Application have presented existing residents with options of purchase and/or relocation to another mobile home site or relocation to one of the new units.

The proposed complex would involve the construction of seven (7) distinct three-storey buildings (some comprising multiple wings) each centred around landscaping.

The proposed development will represent a change to the existing streetscape, as it is one of the first developments seeking utilisation of the three-storey height limit under Tweed LEP 2000.

The subject site is distinct from other land within Hastings Point due to its size (approximately 37,970m² or 3.797ha) and different zoning 2(c) Urban Expansion compared to other land zoned 2(b) Medium Density. The site is also separated from the other residential land by Crown Reserve and is therefore a stand-alone site with no impact to adjoining properties in regard to overshadowing or privacy.

At completion of the project the proposed development would occupy 10,817m² of the site, which equates to 28.1% of the total site area. This type of density is considered suitable given the size of the site.

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

- The impact on existing residences;
- The impact the development would have on the character of Hastings Point;
- The overall bulk and scale of a three storey development within Hastings Point;
- The suitability of the setback variation to the 50m criteria to Cudgera Creek;
- The suitability of the interpreted SEPP 14 boundary line;
- The suitability of the site for the development; and
- The general public interest.

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

RECOMMENDATION:

That: -

- A. Council assumes the Director-General's concurrence to vary Clause 32B (4)(b) of the North Coast Regional Environmental Plan as it relates to a variation to the extent of shadow impacts to the adjacent Council Reserve to the south and the Coastal Reserve east of the site at 4pm on the midwinter solstice in accordance with State Environmental Planning Policy No. 1.**
- B. That Development Application DA06/0413 for a staged seniors living development under SEPP (Seniors Living) 2004 comprising 84 independent living units, 94 supported living units and 67 beds within a high care facility at Lot 1 DP 786570, No. 87-89 Tweed Coast Road Hastings Point be approved subject to the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the State Environmental Planning Policy (Senior Living) 2004 and the Statement of Environmental Effects and Plans as follows:**
 - **Overall Site Plan TP01 Rev N prepared by R.H Frankland and Associates and dated 30/10/2006;**
 - **Overall Unit Details TP11 Rev B prepared by R.H Frankland and Associates and dated 03/04/2006;**

Stage 1:

- **ST01 Rev D prepared by R.H Frankland and Associates and dated 30/10/2006,**
- **TP02 Rev D prepared by R.H Frankland and Associates and dated 24/03/2006,**
- **TP03 Rev D prepared by R.H Frankland and Associates and dated 03/04/2006,**
- **TP04 Rev D prepared by R.H Frankland and Associates and dated 03/04/2006,**
- **TP05 Rev E prepared by R.H Frankland and Associates and dated 19/09/2006,**

- TP06 Rev E prepared by R.H Frankland and Associates and dated 19/09/2006

Stage 2:

- ST02 Rev B prepared by R.H Frankland and Associates and dated 03/04/2006,
- TP07 Rev G prepared by R.H Frankland and Associates and dated 19/09/2006,
- TP08 Rev D prepared by R.H Frankland and Associates and dated 03/04/2006,

Stage 3:

- ST03 Rev C prepared by R.H Frankland and Associates and dated 02/10/2006,
- TP09 Rev D prepared by R.H Frankland and Associates and dated 03/04/2006,
- TP010 Rev D prepared by R.H Frankland and Associates and dated 19/04/2006, and

Stage 4:

- ST04 Rev B prepared by R.H Frankland and Associates and dated 02/10/2006,

except where varied by the conditions of this consent.

[GEN0005]

2. In accordance with State Environmental Planning Policy (Seniors Living) 2004, the following restrictions on occupation of senior housing allowed is as follows: -

- (a) seniors or people who have a disability;
- (b) people who live within the same household with seniors or people who have a disability;
- (c) staff employed to assist in the administration of and provision of services to housing provided under this policy

[GEN0005]

3. The owner of the land and the applicant for this Development Application are to have consideration for those permanent residents currently living on the premises. All efforts are to be made to ensure a variety of housing options remain open to existing residents to ensure the permanent residents maintain their quality of life.

[GEN0005]

4. The applicant is to progressively surrender all previous consents as the development stages are complete in accordance with Section 80A(5) of the Environmental Planning and Assessment Act 1979 and Clause 97 of the Environmental Planning and Assessment Regulations 2000.

[GENNS03]

5. **Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.**
[GEN0045]
6. **The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
7. **All signage is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.**
[GEN0075]
8. **All works shall be completed in accordance with the recommendation of the Environmental Noise Impact Assessment (Jay Carter Acoustic Consultant, January 2006). Prior to occupation or use of the building a validation statement from a suitably qualified person shall be provided to Council which confirms compliance with requirements for the acoustic wall and acoustic treatment of building facades.**
9. **Surface water monitoring in Cudgera Creek shall comply with the Environmental Monitoring Program (Bushfiresafe (Aust) P/L, December 2005). Results shall be maintained on site and provided to Council officers upon request.**
10. **All works shall comply with the Erosion and Sediment Control Plan (Cozens, Regan, Williams, Prove, March 2006).**
11. **All works shall comply with the management strategies identified under Part 3.5 of the CRG Traffic and Acoustical Consultants letter dated 22 September 2006.**
12. **Amendments and upgrades to the existing caravan park shall comply with Part 5 Recommendations, of the Compliance Report - Caravan Park, HMC March 2006 (Report No.2006.112a) and the stages community maps included in that Report.**
13. **The caravan park shall be constructed and operated in accordance with Subdivisions 1-8 of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005.**
14. **The development shall comply with Public Health (Microbial Control) Regulation 2000 and NSW Health Policy Directive PD2006_078, Microbial Sampling - Warm Water Systems including thermostatic mixing valves (10 October 2006).**
[GENNS01]
15. **In accordance with the Tweed Coast Estuaries Management Plan 2004-2008 a buffer between the development and Cudgera Creek shall be provided as indicated on the approved plans. The buffer will comprise a 20 metre core buffer of dense local native**

vegetation, rehabilitated or replanted as necessary, and ranging from the surveyed top of bank to a line 20 metres to the east; and a residue (up to 30m) outer buffer of planted native vegetation of lesser density which has limited potential for compatible land uses, such as parkland and other recreational uses, and can include asset protection zone and stormwater capture and infiltration functions.

16. This consent does not authorise any clearing of native vegetation, filling or draining of any land within the revised and accepted SEPP 14 boundary as delineated on Plan No 05170 Sheet Number TP16 Revision B dated 18/10/2006 and prepared by RH Franklin & Associates.

17. Advertising structures/signs to be the subject of a separate development application, where statutorily required.

[GEN0065]

18. Submission of a further Development Application(s) for the first use of the shops, if different in nature to that shown on the approved plans, such to be approved by Council prior to their use or occupation.

[GEN0055]

19. The front fence shall not exceed 1.2m in height.

[GEN0095]

20. The development is to be carried out in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

21. All water sensitive design facilities designated in the approved Water Management Plan (WMP) shall be installed in accordance with relevant standards and specifications. The landholder shall operate and maintain in perpetuity all water sensitive design facilities designated in the WMP. This includes retaining in perpetuity the minimum permeable site area and deep planting areas for natural infiltration of stormwater, as specified by Clause 2.2.1(ii) of Tweed Shire Council Development Control Plan, Part A14 Cut and Fill on Residential Land.

[GEN0175]

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

[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

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

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

Stage 1

Water DSP6:	11.4 ET @ \$4598	\$52,417
Sewer Hastings Point:	12.4 ET @ \$2863	\$35,501

Stage 2

Water DSP6:	31.2 ET @ \$4598	\$143,458
Sewer Hastings Point:	39 ET @ \$2863	\$111,657

Stage 3

Water DSP6:	45.3 ET @ \$4598	\$208,289
Sewer Hastings Point:	65 ET @ \$2863	\$186,095

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

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

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

[PCC0265/PSC0165]

24. Section 94 Contributions

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

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

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

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

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

Stage 1

(a) Open Space (Structured):	\$26,007
S94 Plan No. 5	
(b) Open Space (Casual):	\$4,810
S94 Plan No. 5	
(c) Shirewide Library Facilities:	\$22,951
S94 Plan No. 11	
(d) Eviron Cemetery/Crematorium Facilities:	\$4,590
S94 Plan No. 13	
(e) Community Facilities (Tweed Coast - South)	\$14,600
S94 Plan No. 15	
South Coast	
(f) Emergency Facilities (Surf Lifesaving)	\$3,227
S94 Plan No. 16	
(g) Cycleways	\$2,481
S94 Plan No. 22	
(h) Regional Open Space (Casual)	\$6,137
S94 Plan No. 26	

Stage 2

(a) Tweed Road Contribution Plan:	\$34,996
S94 Plan No. 4 (Version 4.0)	
Sector8a_4	
(b) Open Space (Structured):	\$27,028
S94 Plan No. 5	
(c) Open Space (Casual):	\$6,605
S94 Plan No. 5	
(d) Shirewide Library Facilities:	\$23,851

	S94 Plan No. 11	
(e)	Bus Shelters:	\$576
	S94 Plan No. 12	
(f)	Eviron Cemetery/Crematorium Facilities:	\$4,770
	S94 Plan No. 13	
(g)	Community Facilities (Tweed Coast - South)	\$20,051
	S94 Plan No. 15	
	South Coast	
(h)	Emergency Facilities (Surf Lifesaving)	\$6,943
	S94 Plan No. 16	
(i)	Extensions to Council Administration Offices & Technical Support Facilities	\$57,439.95
	S94 Plan No. 18	
(j)	Cycleways	\$12,190
	S94 Plan No. 22	
(k)	Regional Open Space (Casual)	\$29,627
	S94 Plan No. 26	
	<u>Stage 3</u>	
(a)	Tweed Road Contribution Plan:	\$99,285
	S94 Plan No. 4 (Version 4.0)	
	Sector8a_4	
(b)	Open Space (Structured):	\$13,259
	S94 Plan No. 5	
(c)	Open Space (Casual):	\$6,413
	S94 Plan No. 5	
(d)	Shirewide Library Facilities:	\$41,852
	S94 Plan No. 11	
(e)	Bus Shelters:	\$1,488
	S94 Plan No. 12	
(f)	Eviron Cemetery/Crematorium Facilities:	\$8,370
	S94 Plan No. 13	
(g)	Community Facilities (Tweed Coast - South)	\$19,467

S94 Plan No. 15**South Coast**

- (h) **Emergency Facilities (Surf Lifesaving) \$4,216**

S94 Plan No. 16

- (i) **Extensions to Council Administration Offices
& Technical Support Facilities \$111,124.12**

S94 Plan No. 18

- (j) **Cycleways \$5,980**

S94 Plan No. 22

- (k) **Regional Open Space (Casual) \$36,577**

S94 Plan No. 26

[PCC0215/PSC0175]

25. **Where a private certifier is appointed, prior to release of the construction certificate, documentation shall be provided to the satisfaction of Council's General Manager or his delegate detailing the construction of the food premises.**

[PCC0745]

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

[PCC1255]

27. **Prior to the issue of a Construction Certificate for each stage a Construction management Plan shall be submitted to the satisfaction of the Director of Environment and Community Services. All works shall comply with the approved plan.**
28. **Prior to the issue of a Construction Certificate for each stage an Acid Sulfate Soils Management plan shall be submitted to the satisfaction of the Director of Environment and Community Services. Additional soil sampling shall be completed across the site. All works shall comply with the approved plan.**
29. **Prior to release of the Construction Certificate for each stage Council shall be provided with a groundwater monitoring program to the satisfaction of Director of Environment and Community Services. All results shall be reported to Council on a minimum quarterly basis. All works shall comply with that program. Should any contaminants above relevant thresholds be detected all works shall cease and a remediation action plan shall be submitted for the approval of Director of Environment and Community Services.**

[PCCNS01]

- 30. Prior to issue of the Construction Certificate for Stage 1 a detailed Restoration and Planting Plan for the Creek buffer from Cudgera Creek shall be submitted to the satisfaction of Council. The Restoration and Planting Plan shall incorporate the information supplied within the revised Regeneration Plan by Bushfiresafe (December 2005), shall adhere to the species lists contained within Appendix 1: Work Unit Planting Key of that plan, and shall provide the following additional information:**
- (a) A site plan or plans at a scale of 1:1000 or greater for the whole site clearly indicating:**
 - (i) the 20 metre core buffer and residue (up to 30 metre) outer buffer for the whole site and proposed treatment (restoration or planting) and native plant schedules applying to each;**
 - (ii) final building design and locations;**
 - (iii) mapped extent of existing vegetation communities;**
 - (iv) proposed location, botanical name, mature height and spread of planted shrubs, trees and ground covers;**
 - (v) overall density to be achieved, in stems per hectare, for the 20 metre core buffer and 30 metre outer buffer;**
 - (vi) density of each life form (tree, shrub and ground cover) proposed for the 20 metre core buffer;**
 - (vii) the location of any trees identified for retention in the development application plans;**
 - (viii) location of grassed areas, boardwalk (if any), paved areas (if any) and stormwater infrastructure including swales and infiltration basins.**
 - (b) Planting techniques, maintenance details and timing including all of the following or statements of alternate approaches:**
 - (i) site preparation;**
 - (ii) planting methods;**
 - (iii) spacing;**
 - (iv) staking, tying and tree guards;**
 - (v) mulching, watering and irrigation systems;**
 - (vi) maintenance, including fertilising and inspections.**
 - (c) A program of works to remove invasive weed species including treatment methods for each species;**
 - (d) A schedule of timing of proposed works and a maintenance schedule for a period not less than 5 years;**
 - (e) Performance indicators and adaptive management techniques to deal with failure;**
 - (f) Monitoring and reporting details.**

31. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate, for each stage.
32. A detailed plan of colours and finishes is to be submitted and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate, for each stage.

[PCC0585]

33. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
 - (a) The habitable and operational areas of the building are to be at a level no less than 500mm above the design flood level of RL 2.4 AHD.
 - (b) The facility should be provided with a back-up power source should electricity supply to the facility be interrupted during flooding emergencies.
 - (c) The facility may be isolated by road during large flood events requiring residents and staff to shelter within the facility for an extended period of time. Contingency plans for the ongoing care of residents throughout a flood emergency, with regard to staffing, continuous medical, food and water supply, sewerage and waste management, options for re-supply, and options for the evacuation of high care and at risk residents due to medical emergency should be discussed with the NSW State Emergency Service (SES), for inclusion within a Flood Management Plan for the facility.

[PCC0705]

34. Any carparking floodlighting shall not spill beyond the boundaries of the site. Lighting shall comply with AS 4282 and other relevant Australian Standards. A plan of the lighting shall be approved by the Principal Certifying Authority PRIOR to the issue of a Construction Certificate, for each stage.

[PCC0055]

35. The developer shall provide a minimum 132 parking spaces and two ambulance parks including parking for the disabled in accordance with Tweed Shire Council Development Control Plan, Part A2, AS 2890 and Austroads Part 11.

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

[PCC0065]

36. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

37. The site is to be filled to a minimum level of RL 2.4m AHD. The fill

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

[PCC0675]

38. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.4m AHD in accordance with Tweed Shire Council Development Control Plan, Part A3 - Development of Flood Liable Land. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.

[PCC0685]

39. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for any works within the road reserve.

[PCC0885]

40. 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 kerb and gutter for the full frontage of the site.
- (b) provision of a bus set down / collection bay in accordance with Austroads Part 11 - Parking.
- (c) provision of sheltered right turn and left turn lanes into the site in accordance with Austroads Pt 5 – Intersections at Grade.
- (d) Provision of vehicular access in accordance with Tweed Shire Council Development Control Plan, Part A2, and AS 2890.

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]

41. The footings and floor slab are to be designed by a practising

Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

Certification shall take into consideration the matters raised by Coffey Geosciences within the preliminary geotechnical assessment tabled in the Statement of Environmental Effects

[PCC0945]

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

(a) copies of compliance certificates relied upon

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

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

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

[PCC0985]

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

(a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

(b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the *Tweed Urban Stormwater Quality Management Plan* and Councils *Development Design Specification D7 - Stormwater Quality*.

(c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features

include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.

- (d) Specific Requirements to be detailed within the Construction certificate application include:
- (i) Shake down area along the haul route immediately before the intersection with the road reserve.
 - (ii) all road, open car parking and basement car parking storm water shall be treated (GPT etc)and infiltrated (infiltration basin etc) before surcharging / overtopping via sheet flow to Cudgera Creek

[PCC1105]

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

[PCC1125]

45. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - (i) As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably

qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.

- (i) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

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

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

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

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

[PCC1145]

47. 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]

48. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. OSD devices including discharge control pits (DCP) are to comply with standards in *The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999"* except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP.

[PCC1165]

49. 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]

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

[PCC1195]

51. Applications for construction certificates shall include detail of all infrastructure to be provided for each stage of development ensuring that adequate stormwater quality control measures, parking and manoeuvring areas and provision of service shall be put in place.

PRIOR TO COMMENCEMENT OF WORK

52. 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]

53. 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]

54. 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]

55. 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]

56. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which

building work, subdivision work or demolition work is being carried out:

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

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

[PCW0255]

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

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

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

[PCW0775]

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

[PCW0985]

59. 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]

60. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to

submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

61. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.

[PCW0575]

62. Prior to commencement of any stage of the seniors living development application shall be made to Council to amend the existing caravan park facilities, Section 68 approval to operate and community map. This application shall be supported by a report from a suitable person which details the necessary changes (roads, site layout, self contained dwellings, amenities, parking, fire hose reels etc) and certifies compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005. An amended Section 68 approval shall be obtained and the amendments to the caravan park completed to the satisfaction of the Director of Environment and Community Services, prior to commencement of construction of the relevant stage of the seniors living development.
63. Prior to the removal of existing amenities in the caravan park all remaining dwellings on the site shall be self contained to the satisfaction of Director of Environment and Community Services.

[PCWNS01]

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

[PCW0965]

65. Prior to the commencement of works a highly visible and durable traffic barrier shall be erected parallel with the surveyed top of creek bank and located at the eastern extent of the dripline of riparian vegetation for the full length of the development site. An exception can be made for the area notated as "existing residential accommodation abutting riparian margin" on the Bushfiresafe plan contained in Appendix 5 of the Marine Flora and Fauna Report (December 2005), until such time as these residences are removed. No machinery shall enter beyond the traffic barrier and no stockpiling or storage of materials, plant or equipment shall occur within this zone, or in any case within 10 metres of the creek top of bank. The traffic barrier is to remain at all times during earthworks and construction activities but may be removed between development stages.

66. *Prior to commencement of Stage 3 the applicant and current owners are to fund a formalised viewing and/or access point to the Creek. The final design and development approval shall be co-ordinated through liaising with Tweed Shire Council's Recreational Services Unit and Council's Waterways and Coast Co-Ordinator.*

[PCWNS01]

67. Prior to commencement of Stage 3 the applicant and current owners are to fund an upgrade of beach access opposite the subject site. The final design and development approval shall be co-ordinated through liaising with Tweed Shire Council's Recreational Services Unit and Council's Waterways and Coast Co-Ordinator.

DURING CONSTRUCTION

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

[DUR0005]

69. 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]

70. 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]

71. 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]

72. 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]

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

- Noise, water or air pollution

- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

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

[DUR1695]

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

[DUR1705]

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

[DUR1875]

77. **Swimming Pools (Building)**

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

[DUR2075]

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

[DUR2085]

79. 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]

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

[DUR2195]

81. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.

[DUR2485]

82. Plumbing

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

[DUR2495]

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

[DUR2505]

84. 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]

85. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

86. 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]

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

[DUR2675]

- 88. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:**
- A. Short Term Period - 4 weeks.**
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.**
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
- [DUR0215]
- 89. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.**
- [DUR0415]
- 90. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.**
- [DUR0645]
- 91. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.**
- [DUR0815]
- 92. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.**
- [DUR0915]
- 93. Provision to be made for the designation of a minimum of 2 durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.**
- [DUR0975]
- 94. 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]
- 95. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled,**

cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be coved to a radius of not less than 25 millimetres.

[DUR1495]

- 96. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.**

[DUR1505]

- 97. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.**

[DUR1515]

- 98. Shop fitters are to liaise with the Principal Certifying Authority prior to fitting out of shop.**

[DUR1525]

- 99. Separate hand washing facilities must be provided in all food preparation areas with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.**

[DUR1545]

- 100. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room.**

[DUR1565]

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

[DUR1795]

- 102. 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]

- 103. Construction and operation of all food preparation areas shall comply with the Food Act, 1989 and AS4674, 2004.**

- 104. Following the completion of any excavations or site disturbances greater than 300mm deep below existing surface levels in a development stage and prior to the commencement of any construction works in the stage a surface radiation survey shall be completed and reported to the satisfaction of Director of**

Environment and Community Services. Each stage and validation statement shall be vetted by an EPA accredited contaminated land auditor. Should NSW Health Action Level Criteria be exceeded then a remediation action plan shall be submitted for the approval of Director of Environment and Community Services. All works shall comply with the approved remediation action plan. All excavated material would be retained on site until validation testing confirms compliance to the satisfaction of Director of Environment and Community Services. Where remediation works are required the relevant stage or future stages shall not continue until the auditor's statement has been received to the satisfaction of Director of Environment and Community Services.

- 105. Any future excavation on the site greater than 1 metre deep below existing surface levels will require development consent from Council.**
- 106. Materials which have not been monitored for radiation levels and certified to be below NSW Health Action Level Criteria shall not be removed from the property.**
- 107. If a centralised hot water system is utilised that system shall comply with AS3666.1 and AS3666.2 and certification of same shall be provided to Council prior to the commencement of operation of any stage. The premise shall comply with NSW Health Policy Directive PD2006_078 (10 October 2006) and the Public Health (Microbial Control) Regulation 2000.**
- 108. The existing caravan park residents shall be adequately screened and shielded from construction works such that amenity impacts are minimised.**
- 109. Walls within all food preparation areas such as kitchens and cafes shall of solid masonry construction to the satisfaction of Director of Environment and Community Services.**

[DURNS01]

- 110. A water quality monitoring program is to be undertaken weekly during any earthworks and construction activity for any runoff from the site, and is to continue until stabilisation of any exposed areas. Parameters to be measured include pH, suspended solids (mg/L), salinity (ppt), Total N and Total P. Any runoff to the creek that breaches ANZECC guidelines for receiving waters shall be reported to Council and will include adaptive management measures proposed to rectify the breach.**
- 111. A marine vegetation monitoring program is to be undertaken annually during October-November for a five-year period from the commencement of construction, using methodology sufficient to determine any significant changes in distribution compared to the baseline plan provided by Bushfiresafe as Appendix 5 of the Marine Flora and Fauna report. An annual report shall be provided to Council by December 31 of each of the five years detailing current distribution. Should loss of seagrass, saltmarsh or mangroves greater than 20% of the baseline distribution occur due to impacts other than stochastic events (major floods etc) and attributable to**

the development, the applicant will be required to make a payment commensurate with the extent of damage as agreed by DPI Fisheries to be placed into DPI's Fish Conservation Trust Fund where it will be used on projects that are supported by both DPI's Aquatic Ecosystems Unit and Tweed Shire Council to rehabilitate fish habitat in Tweed local government area.

112. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.

[DUR2215]

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

[DUR2355]

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

[DUR2405]

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

[DUR2425]

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

[DUR2435]

117. The provision of a minimum of 132 off street car parking spaces and 2 ambulance spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls, the Building Code of Australia and AS 2890. Please note that the 11 car parking spaces along the northern boundary shall be allocated for staff parking only.

[DUR0085]

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

[DUR0995]

119. Landscaping of the site shall be carried out in accordance with the

submitted/approved landscaping plans.

[DUR1045]

120. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, Tweed Shire Council Development Control Plan, Part A5 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

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

Water Reticulation, Sewer Reticulation, Drainage

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

Sewer Pump Station

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

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

The EP&A Act, 1979 (as amended) makes no provision for works

under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

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

[DUR2015]

122. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway in accordance with Council adopted Design and Construction Specifications.

[DUR2365]

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

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

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

[DUR2375]

124. 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]

125. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

126. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by Tweed Shire Council prior to installation

[DUR2735]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

127. 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]

128. 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]

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

[POC0225]

130. Prior to the issue of an occupation certificate,

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

[POC0235]

131. 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]

132. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and notification requirements of the Food Standards Code as called into force by the Food Regulation 2001.

[POC0605]

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

[POC0615]

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

[POC0635]

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

[POC0475]

136. A survey certificate signed by a registered surveyor is to be submitted to the PCA at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 2.7m AHD.

[POC0565]

137. 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]

138. Prior to issue of an Occupation Certificate, all water sensitive design facilities are to be completed in accordance with the approved Water Management Plan.

[POC0995]

139. Prior to the issue of occupation certificates for each approved stage the Council approved restoration and planting of available sections of buffer zone shall be completed. Landscaping and restoration areas shall be maintained at all times to the satisfaction of Council and for a minimum five-year period following planting and/or weed removal works. Trees identified for retention in the development application plans shall not be removed without separate Council approval.

USE

140. Swimming Pools (Building)

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

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

[USE1295]

141. Waste storage and collection shall not be permitted to impact local amenity by way of colour, drainage or noise. The central waste collection point shall be adjacent to buildings B & C and shall not be adjacent to the northern boundary.

142. All cooking gases shall be discharged above the roof line in accordance with AS 1668.

[USENS01]

143. Upon the creek front home sites being vacated the current owners and/or any subsequent land owners are to dedicate (at no cost to Council) 30m of Creek front land to Council (or that part of the setback to the Creek not comprising an APZ) to ensure public

access to the Creek is available. In addition a formal right of carriageway is to be formed from Tweed Coast Road through the site to enable access to the Creek.

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

[USE0125]

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

[USE0135]

146. 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 minimized, notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive noise.

[USE0175]

147. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

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

[USE0825]

149. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

150. A food safety program in accordance with HACCP requirements is to be implemented in the conduct and operation of the food preparation area. Advice regarding this can be obtained from the NSW Food Authority.

[USE0885]

151. Any area to be used for the purpose of hairdressing shall comply with the requirements of the Local Government (orders) Regulation 1999 and where necessary the Public Health (Skin Penetration) Regulation 2000.

[USE0945]

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

[USE0965]

153. The premises shall be operated in accordance with the *Public Health (Skin Penetration) Regulation 2000* and current NSW Health Skin Penetration Code of Best Practice and Guidelines.

[USE0975]

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

[USE0985]

155. Clinical wastes shall be separated from the general waste stream and disposed via Council's approved clinical waste collection and disposal service.

[USE0995]

156. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

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

[USE0735]

158. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE1455]

GENERAL TERMS OF APPROVAL

PERMIT UNDER PART 3A OF THE RIVERS AND FORESHORES IMPROVEMENT ACT 1948

1. Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering Cudgera Creek.
2. Provision of stormwater quality treatment measures (in accordance with the Soil and Stormwater Management Plan) to ensure retention of pollutants and no detrimental water quality impacts downstream.
3. Excavated material may contain potential acid sulfate soils and shall be tested. If present then appropriate management measures shall be employed to control any acid sulfate soil impacts in accordance with the ASMACC Manual.
4. Excavation operations shall be conducted so as not to damage or cause erosion of the adjoining riverbank of Cudgera Creek.
5. Excavation operations and construction activities shall be conducted with minimal impact on riparian vegetation.

GENERAL TERMS OF APPROVAL UNDER SECTION 205 OF THE FISHERIES MANAGEMENT ACT (Permit to cut remove damage or destroy marine vegetation on public water land or an aquaculture lease

on the foreshore of any such land or lease)

- That stormwater discharge points ie. pipes be located greater than 50 metres from seagrass beds and if possible avoided through the use of appropriate water sensitive urban design and other best management practice measures.

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. Access is to comply with section 4.3.2 Planning for Bushfire Protection 2001.
2. Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road.
3. The structures of the proposed development fronting Coast Road to the east and adjoining the southern boundary are to comply with the requirements of Level 2 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'. The remaining structures within the proposed development are to comply with Level 1 construction.
4. At the commencement of building works and in perpetuity, the Asset Protection Zones as depicted in Appendix 5 - Asset Protection Zones prepared by Bushfiresafe Ref:5052 and dated Oct 2005, shall be maintained as an 'Inner Protection Area' (IPA), as outlined within Planning for Bush Fire Protection and the Service's document 'Standards for asset protection zones'.
5. The existing demountable dwellings are required to be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. This includes any sub floor areas where applicable and eaves. Roof guttering and valleys are to be screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
6. A Bush Fire Evacuation Plan is to be submitted to the District RFS office of the NSW Rural Fire Service for approval. The evacuation plan is to detail the following:
 - a) under what circumstances will the complex be evacuated.
 - b) where will all person be evacuated to.
 - c) roles and responsibilities of persons co-ordinating the evacuation.
 - d) roles and responsibilities of persons remaining with the complex after evacuation.
 - e) a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

REPORT:

Applicant: Aeklig Pty Ltd
Owner: Mr AP McIntosh
Location: Lot 1 DP 786570, No. 87-89 Tweed Coast Road, Hastings Point
Zoning: 2(c) Urban Expansion
Cost: \$25 Million

BACKGROUND:The Subject Site

The site is described as Lot 1 in DP 786570, being No. 87-89 Tweed Coast Road, Hastings Point. The site is at the southern most end of Hastings Point Village and is separated from the other residentially zoned land by Crown Reserves. The site is located 800m north of Pottsville urban area and 2.5km from Coronation Street Shopping Centre of Pottsville.

The site is irregular in shape with a 163m frontage to Tweed Coast Road (to the east) and 257m frontage to Cudgera Creek (to the west). The site has a depth of 148m along the northern boundary and 174m on the southern boundary. The total site area is approximately 37,970m² (or 3.797ha).

The site is generally level however it has a fall from 6.5m AHD adjacent to Tweed Coast Road and 2m AHD adjoining Cudgera Creek.

Vehicular access to the site is via existing crossings from Coast Road. Kerb and gutter extends for the Coast Road frontage south from the southern entry driveway. A concrete footpath extends for the full frontage to the Coast Road. A bus shelter is located adjacent to the northern entry into the site on the Coast Road frontage.

The site was historically sand mined and is located next to an existing petrol station. This report assesses the sites potential for contamination and concludes that based on the results of testing for contaminants the subject site is suitable for the proposed activity.

The site is also affected by SEPP 14 wetlands, contains acid sulphate soils, is bushfire prone and is constrained by Cudgera Creek to the west.

The site is currently occupied by the Hastings Point Holiday Caravan Park, which has been licensed for 60 long-term sites, 40 short-term sites and 20 tent sites. The site also contains a marine flora and fauna museum, a motel with eight (8) dormitory style rooms each with toilet facilities. In addition a separate common dining room and toilet block facility, pool and tennis court also occupy the site.

Please note that whilst the site has been licensed (as a caravan park) for 60 long-term sites the park is not operating at full capacity and currently only has approximately 25 permanent (long term) residents within the existing caravan park.

The Proposed Development

Council is in receipt of a Development Application seeking consent for a staged Seniors Living Development. The proposed complex would involve the construction of seven (7) distinct buildings (some comprising multiple wings) each centred around landscaping. All buildings will have lifts to provide access between levels.

Stage 1 would comprise the construction of the independent living units as follows:

- Basement parking under Building (A-1) & (A-2) comprising 51 car parking spaces and seven (7) storage areas
- Building (A-1) being a three-storey building fronting Tweed Coast Road. This component of the building will accommodate 19 independent living units (15 comprising two bedrooms and 4 comprising 3 bedrooms). The ground level of this building is divided between units 3 and 4 to accommodate a feature pool that extends east and west of the building. The building is setback a minimum of 15m from Tweed Coast Road;
- Building (A-2) being a three-storey building behind building (A-1). This component of the building will accommodate 18 independent living units (all comprising two bedrooms);
- Building (A-3) being a three-storey building behind building (A-1). This component of the building will accommodate 7 independent living units (all 7 comprising two bedrooms). The ground level of this building also accommodates a gym, games room and kiosk for residents only;
- Building (B) being a part single and part three storey building fronting Tweed Coast Road, comprising the main foyer areas (including administration, hairdresser, sales, chemist/doctor, café, kiosk, common laundry, staff kitchen, public meeting rooms and lawn bowl green), activity club house, and nine independent living units at levels 1 & 2 (all 9 comprising two bedrooms);
- Basement parking under Building (C-1) & (C-2) comprising 62 car parking spaces (including 8 staff parks) and ten (10) storage areas
- Building (C-1) being a three storey building located behind Building (C-2) comprising 12 independent living units (all 12 comprising two bedrooms); and
- Building (C-2) being a three storey building located behind the service station comprising 19 independent living units (15 comprising two bedrooms, and 4 comprising three bedrooms).

Stage 1 would represent a site coverage of 5732m², which equates to 14.1% of the total site area.

The applicant has provided that at completion:

“58 percent of the site will be landscaped. There would be an emphasis on walking tracks and “mature trees” although this is not shown in any detail on the artists impressions, We will be complimenting the local native palms, including Pandanus, Bangalow, and although not native, mature canary island date palms. A lush Tropical oasis, which also reduces the impact”.

Stage 1 would retain long-term caravan park sites for existing residents under a diminished caravan park licence. However, due to the location of the construction works some permanent home sites would need to be relocated to either 1 of 12 creek frontage sites or 1 of 15 sites along the southern boundary within the park.

Stage 2 would comprise the construction of hostel units. The hostel units would be similar to a motel style suite with a small kitchenette, bathroom and two bedrooms (thus providing the opportunity for separate sleeping quarters for partners):

- Building (D-1) being a three-storey building on southern portion of the site. This component of the building will accommodate 9 hostel units (each comprising two bedrooms and a small kitchenette). All units will have access to a central kitchen and dining hall;
- Building (D-2) being a three-storey building parallel to building (D-1) on the southern boundary. This component of the building will accommodate a central kitchen and dining hall, 3 low cost hostel units (each with 2 bedrooms), and eleven (11) hostel units (all comprising two bedrooms);
- Building (E) being a three-storey “U” shaped building in the south-western corner of the site. This building will accommodate 30 hostel units (27 comprising two bedrooms and three comprising one bedroom);

Stage 2 would represent a site coverage of 2440m², which equates to 6.5% of the total site area.

Stage 2 would retain 12 long-term sites along Cudgera Creek frontage, and 15 long-term sites along the southern boundary for existing residents under a diminished caravan park licence.

Stage 3 would comprise the construction of:

- Building (F) being a three-storey building on the western portion of the site. This component of the building will accommodate staff amenities, and 67 individual residential care bedrooms (sharing 56 bathrooms/toilets) All units will have access to a central lounge and dining areas;
- Building (G) being a three-storey building on the western portion of the site. This component of the building will accommodate a central dining and servery area, and 29 hostel units (28 comprising one bedroom and one bathroom and 1 comprising 2 bedrooms and 2 bathrooms);
- Building (G-2) being a three-storey building on the western portion of the site. This building will accommodate 12 hostel units (26 comprising two bedrooms and 6 comprising one bedroom);

Stage 3 would represent a site coverage of 2645m², which equates to 7.5% of the total site area.

At the completion of Stage 3 the development would occupy 10,817m² of the site, which equates to 28.1% of the total site area.

Stage 3 would retain only the 12 long-term park sites along the Creek for remaining residents under a diminished caravan park licence.

Stage 4 would not involve any additional construction but represents a time when all existing mobile home sites are vacated i.e. people move out of the park or into a new unit. At this time the cabins would be removed and the sites landscaped in accordance with the Creek Regeneration Plans.

Options for Existing Long Term Residents

The site is licensed for 60 long-term sites, but currently only accommodates approximately 25 permanent home sites.

The proposed development ultimately decreases the availability of long-term sites from the 60 to the 12 sites fronting Cudgera Creek. This will have the effect that some permanent residences will need to consider alternative housing options before commencement of Stage 3.

At this stage it appears that this will only affect a maximum of 13 permanent sites – being the current 25 permanent sites less the 12 creek site frontages available.

The current owner and applicant for this development have stated that *“they are about providing accommodation for the aging and not about decreasing it”*. Therefore the applicant has indicated that they have previously offered and will continue to offer permanent residents the following options:

- a) *“Paying market value of their cabin/caravan as valued by an independent valuer – note: the value on site, not valued as if on the back of a truck;*
- b) *Move into a new unit, in the new retirement village for the same rent they are now paying. \$100- \$120 per week.*
- c) *Be relocated to a new relocatable home park (that we are sourcing) at our cost. This could potentially double the price of their home as the deteriorated Hastings Point Holiday Village, will not value up as high as neighbouring relocatable home/caravan parks.*
- d) *The Creek front sites, as they become vacant, i.e. move out of the park or into a new unit. The cabins will be removed and the sites landscaped to the new Creek regeneration plans.”*

It appears that the current owner and applicant are making a genuine and valid attempt to provide housing options for the elderly. As the site will continue operating under a diminished caravan park licence the applicant and owner will be bound by the requirements of that licence and the applicable legislation relating to residential tenancy agreements.

It is unlikely Council can force the applicant to provide for higher compensation for existing tenants than that detailed in the Residential Tenancy Act. Based on the effort the applicant has made to ensure existing residences are protected within the scope of this development application and the written communication provided to date about the options being presented to the permanent residences, it is recommended that this development be given support. This is despite the fact that up to thirteen permanent home sites will ultimately be lost.

The applicant has indicated that this may not affect anyone currently within the park because when Stage 3 is ready of commencement those 13 permanent home sites that are proposed for re-development may be vacant as people may choose to voluntarily vacate the premises or sell the premises to the owner prior to Stage 3.

However, if by the time that the applicant is ready to commence Stage 3 and there are still residents within the 13 sites those people would need to consider taking up one of the options being presented to them by the applicant (as detailed above).

The following condition of consent is recommended:

The owner of the land and the applicant for this Development Application are to have consideration for those permanent residents currently living on the premises. All efforts are to be made to ensure a variety of housing options remain open to existing residents to ensure the permanent residents maintain their quality of life.

Based on all the available information the applicant has sought to provide the existing permanent residents with fair and equitable housing options.

Advertised & Notified Development

The proposed development was originally advertised in the Tweed Link with additional notification letters going out to all residents within close proximity of the site. Following the lodgement of additional information pertaining to the impact on the existing residents in September 2006 Council sent an information letter to all residents within the park itself and provided existing residents with an opportunity to review the original DA and the amended DA within the comfort of their own park by leaving a copy of the application with the president of the liaison committee.

Council received a total of 20 submissions.

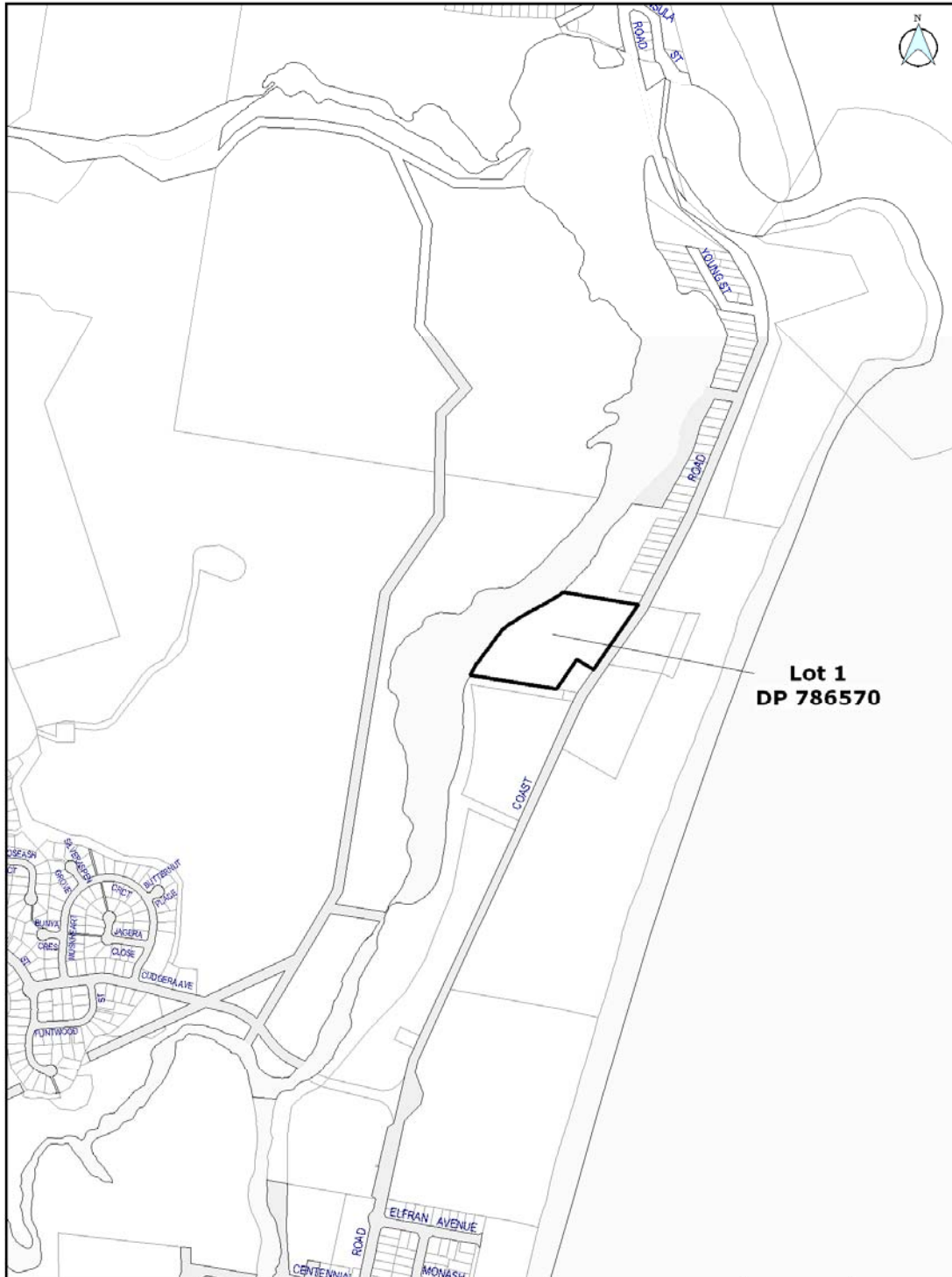
These submissions also incorporate representations from the Pottsville Community Association, The Hastings Point Progress Association and the Sustainable Coastal Villages Alliance.

The main issues identified within these submissions correspond with the core issues that require deliberation as part of the determination process and include:

- Impact on existing permanent residences;
- Proposed setback variation to the 50m criteria to Cudgera Creek;
- Interpretation of the SEPP 14 boundary line;
- Bulk and scale of the three storey development within Hastings point;
- Suitability of the site for the development; and
- The general public interest.

Having considered all of the above in the assessment of the application it is recommended that Council approve the development application subject to the recommended conditions of consent.

SITE DIAGRAM:



**Lot 1
DP 786570**

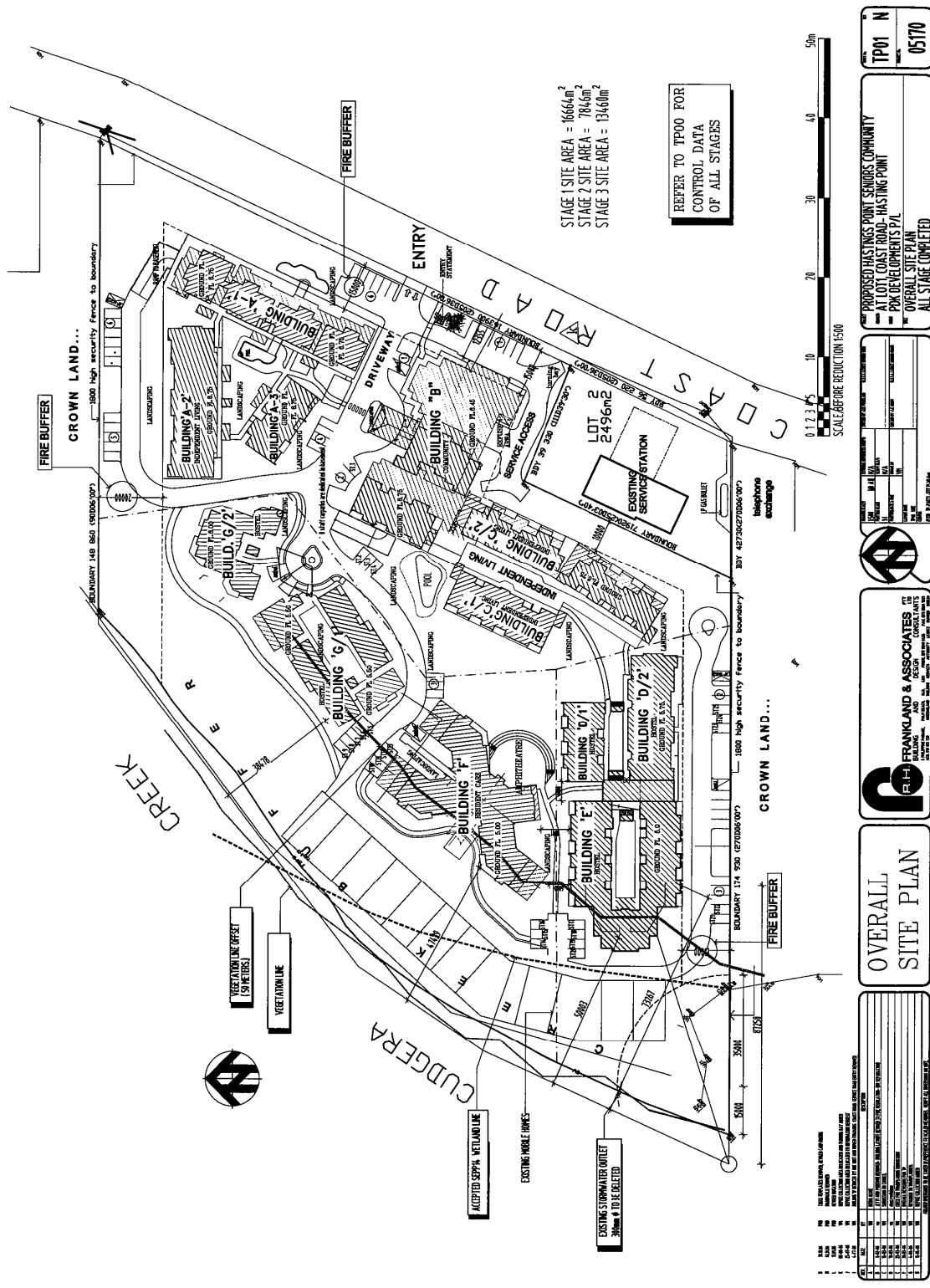
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DO NOT SCALE
COPY ONLY - NOT CERTIFIED
 P.O. Box 816
 Murwillumbah, NSW, 2484
 Tel: (02) 6670 2409
 Fax: (02) 6670 2483

Tweed Shire Council
Lot 1 DP 786570
No. 87-89 Tweed Coast Road Hastings Point



PLANNING REFORMS UNIT
Site Plan
 Sheet: 1 of 1

DEVELOPMENT PLANS:



STAGE 1 SITE AREA = 16664m²
 STAGE 2 SITE AREA = 7846m²
 STAGE 3 SITE AREA = 13460m²

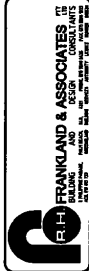
REFER TO TP00 FOR
 CONTROL DATA
 OF ALL STAGES



TP01 N
 05170

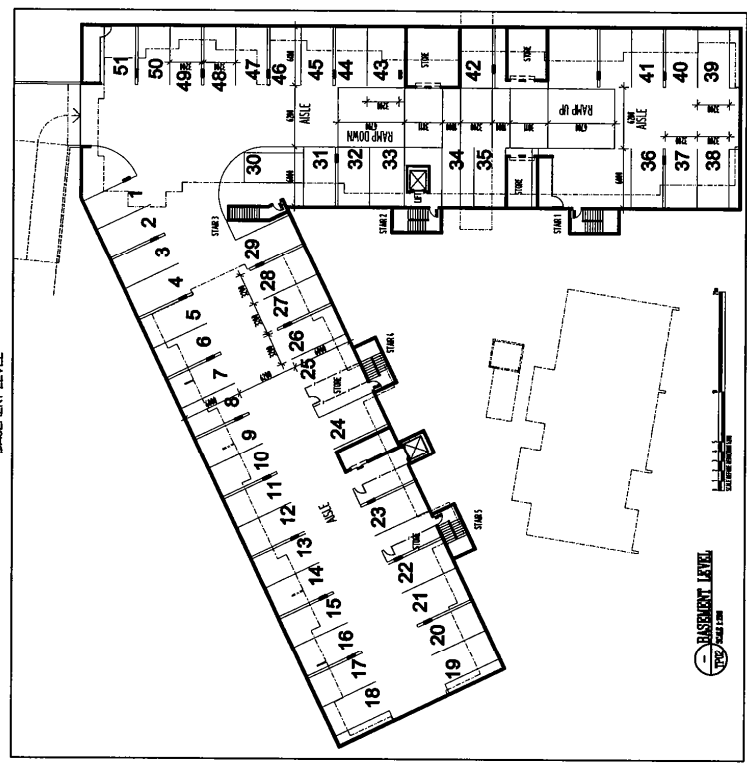
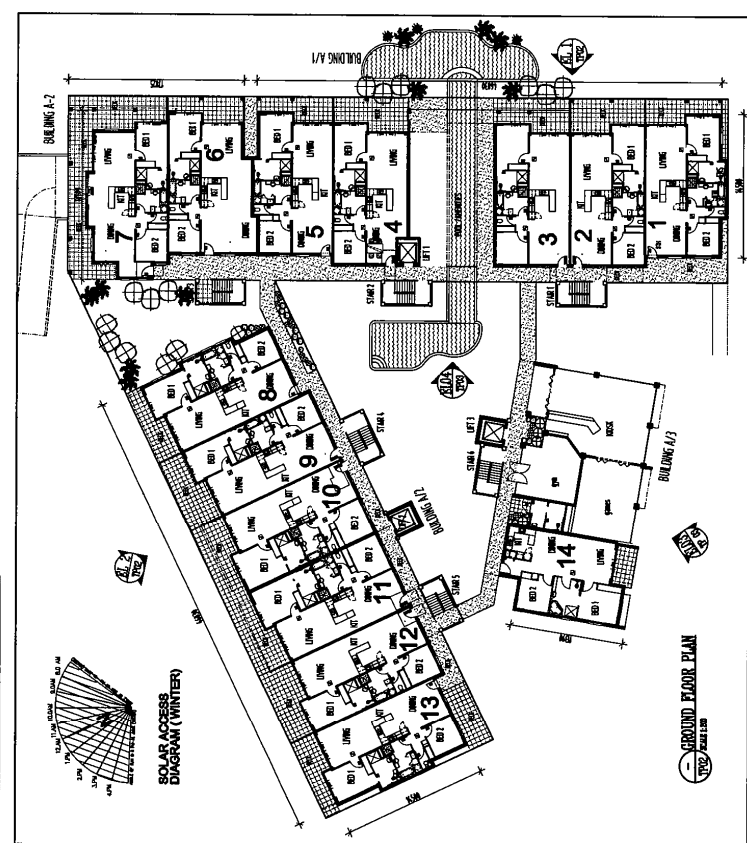
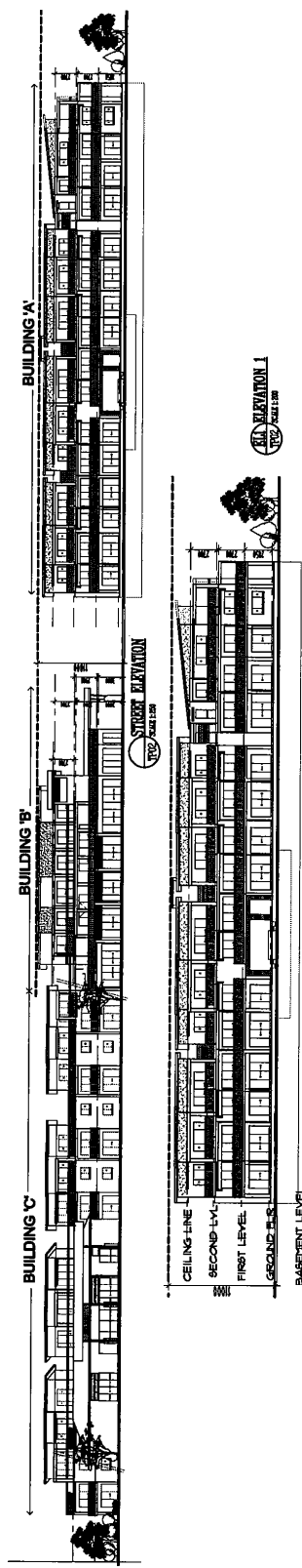
PROPOSED HASTINGS POINT SENIORS COMMUNITY
 AT LOT 2 COAST ROAD - HASTING POINT
 PARK DEVELOPMENTS P/L
 OVERALL SITE PLAN
 ALL STAGE COMPLETED

NO.	REVISION	DATE	BY	CHKD.	APP'D.
1	ISSUE FOR PERMIT	15/08/2024	...	...	...
2	...	...	...	...	...



OVERALL SITE PLAN

NO.	REVISION	DATE	BY	CHKD.	APP'D.
1	ISSUE FOR PERMIT	15/08/2024	...	...	...
2	...	...	...	...	...



BUILDING 'A'
INDEPENDENT LIVING

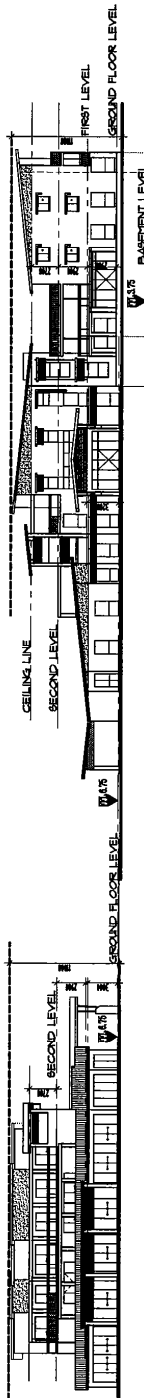
PROPOSED HASTINGS POINT SENIORS' COMMUNITY
AT LOT COAST ROAD, HASTINGS POINT
PARK DEVELOPMENT SP/L
BUILDING A - BASEMENT - GROUND FLOOR
ELEVATIONS

NO.	DATE	BY	DESCRIPTION

TP02 D
REV: 05/170

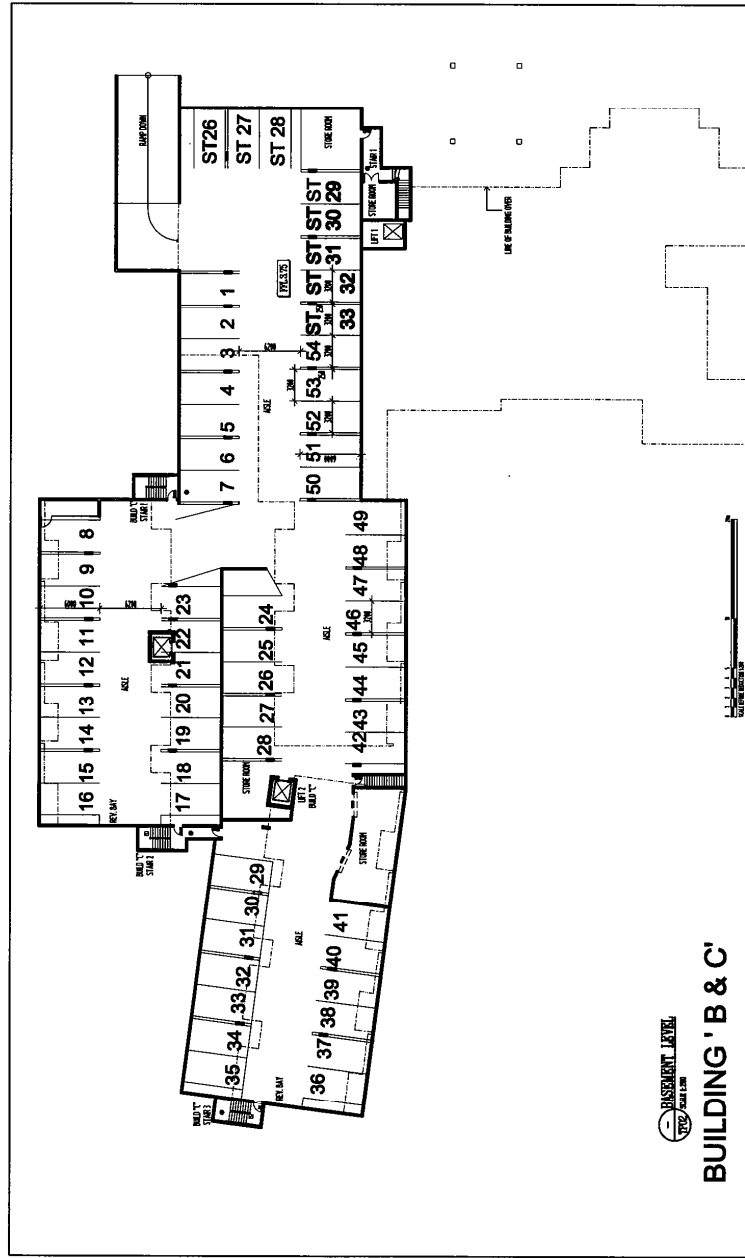
FRANKLAND & ASSOCIATES
ARCHITECTS AND DESIGN CONSULTANTS
100/102 WILSON STREET, HASTINGS, NSW 2250
PH: 02 4321 2222 FAX: 02 4321 2223
WWW.FRANKLAND.COM.AU

PROJECT NO. 1702
CLIENT: HASTINGS POINT SENIORS' COMMUNITY
DESIGNER: FRANKLAND & ASSOCIATES
DATE: 05/170



ELEVATION 1 - EAST ELEVATION
 1/2" = 1'-0" (AS SHOWN)

ELEVATION 2 - NORTH ELEVATION
 1/2" = 1'-0" (AS SHOWN)

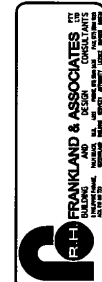


CONSENT LEVEL
 1/2" = 1'-0" (AS SHOWN)

BUILDING 'B & C'

NO.	DATE	DESCRIPTION

BUILDING 'B & C'
 INDEPENDENT LIVING

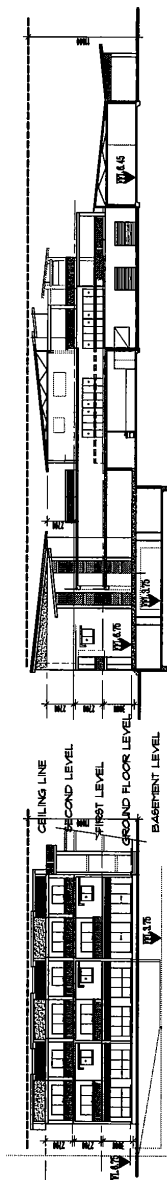


FRANKLAND & ASSOCIATES, INC.
 ARCHITECTS
 1100 WEST 10TH AVENUE, SUITE 100
 DENVER, COLORADO 80202

NO.	DATE	DESCRIPTION

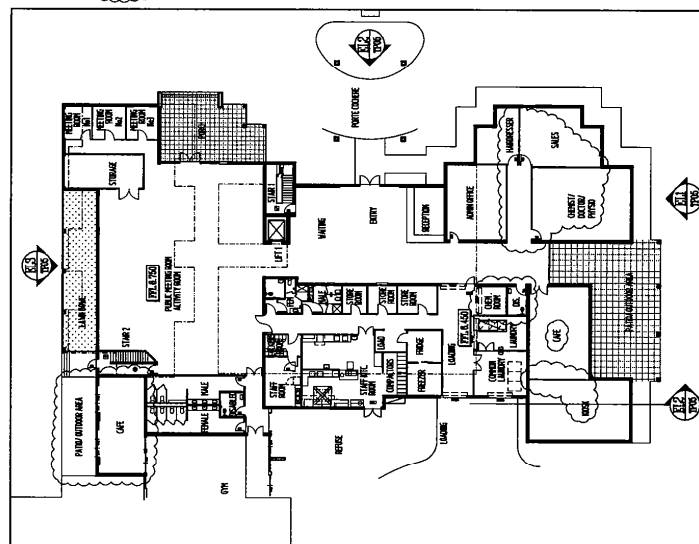
PROPOSED HASTINGS POINT SENIORS COMMUNITY
 AT LOT COAST ROAD - HASTING POINT
 PHA DEVELOPMENT SP/1
 BUILDING 'B & C' BASEMENT LEVEL
 GROUND FLOOR AND ELEVATIONS

TP04 D
 05.170

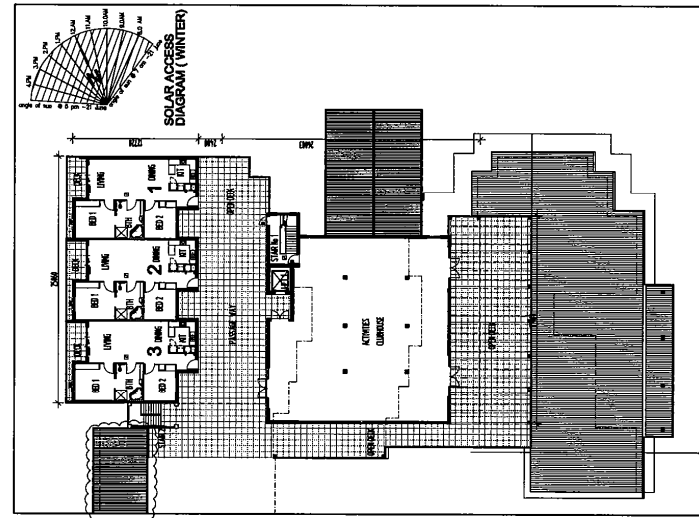


ELEVATION 3 - WEST ELEVATION
SCALE: 1/8" = 1'-0"

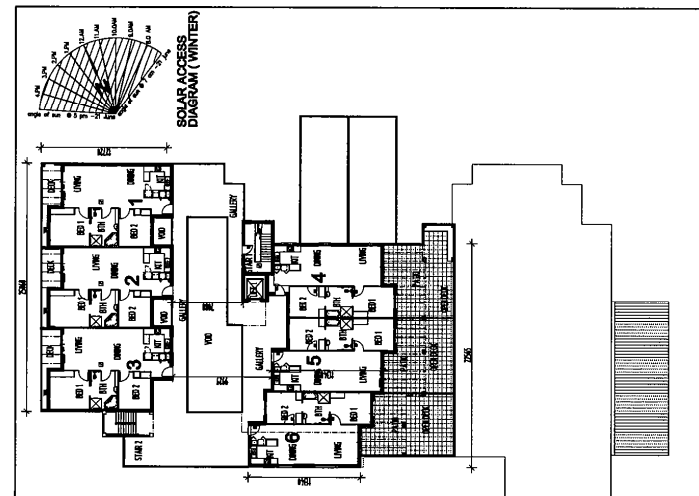
ELEVATION 4 - SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



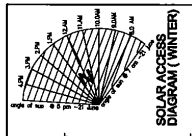
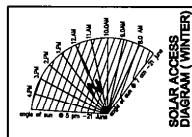
GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"



FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"



TP05 E
DATE: 05/170

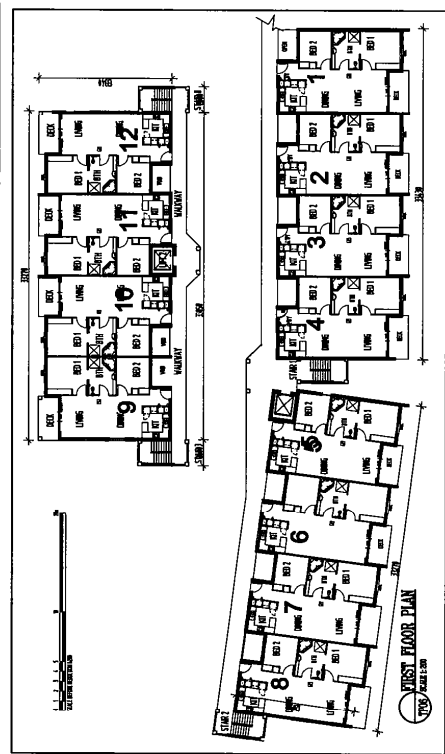
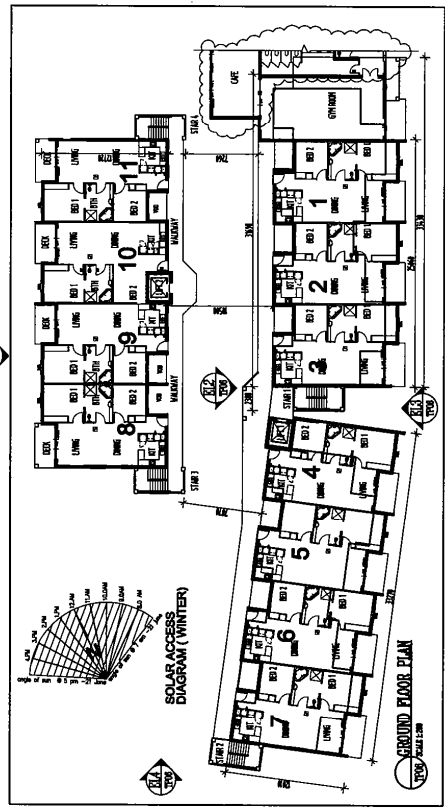
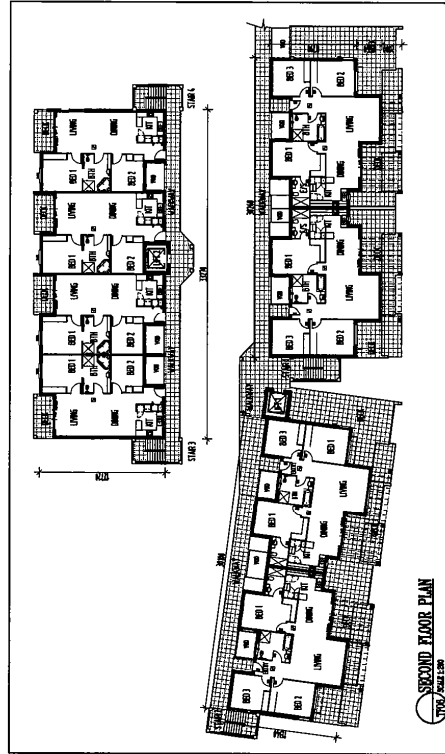
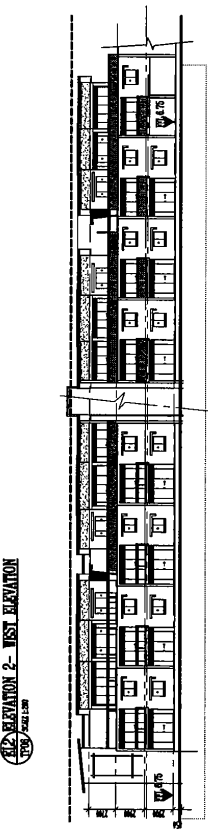
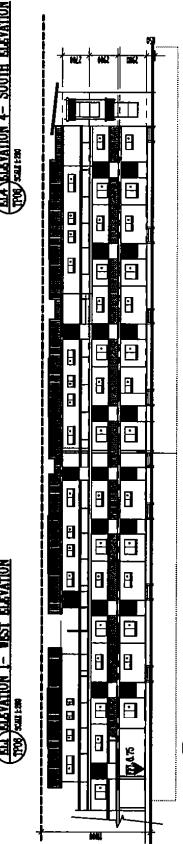
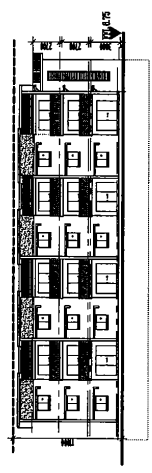
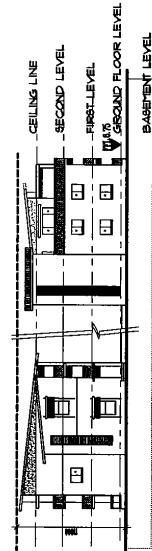
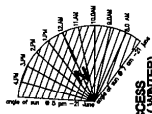
PROPOSED HASTINGS POINT SENIORS COMMUNITY
AT LOT COAST ROAD - HASTING POINT
PWA DEVELOPMENT SP/1
BUILDING 'B' FIRST FLOOR PLAN
SECOND FLOOR PLAN AND ELEVATIONS

PROJECT NO.	DATE	BY	CHECKED

F314 FRANKLAND & ASSOCIATES
ARCHITECTS
1111 HASTING STREET
VICTORIA, BC V8W 2E1
TEL: 250-383-8888
WWW.FRANKLAND-ARCHITECTS.COM

BUILDING 'B'
INDEPENDENT LIVING

NO.	DATE	DESCRIPTION



TP06 E
05170

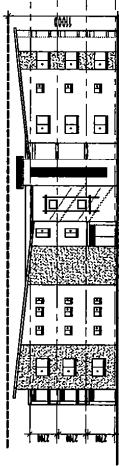
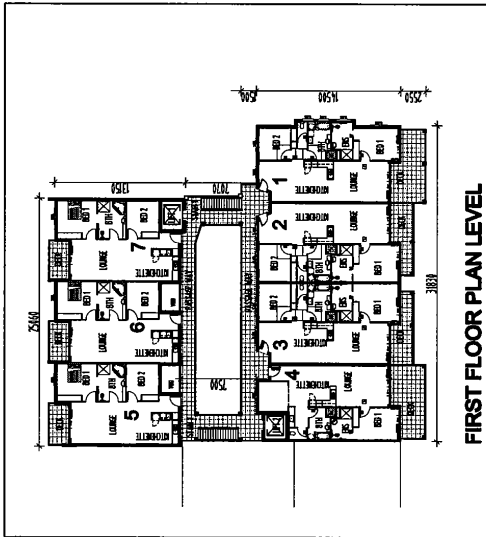
PROPOSED HASTINGS POINT SENIORS COMMUNITY
AT LOT COAST ROAD - HASTING POINT
PKN DEVELOPMENT S/P/L
BUILDING 'C' P&I SET

NO.	REVISION	DATE	BY	CHKD BY

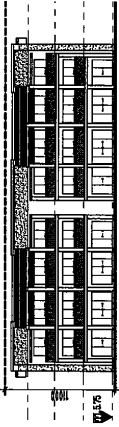
F.H. FRANKLAND & ASSOCIATES
ARCHITECTS
100-1000
VANCOUVER, B.C. V6P 6M5
TEL: 604-271-1111
WWW.FHFRANKLAND.COM

BUILDING 'C'
INDEPENDENT LIVING

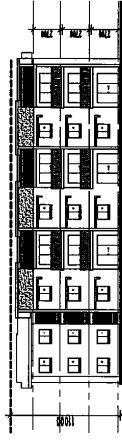
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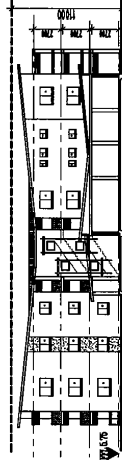
ELEVATION 2 - EAST ELEVATION



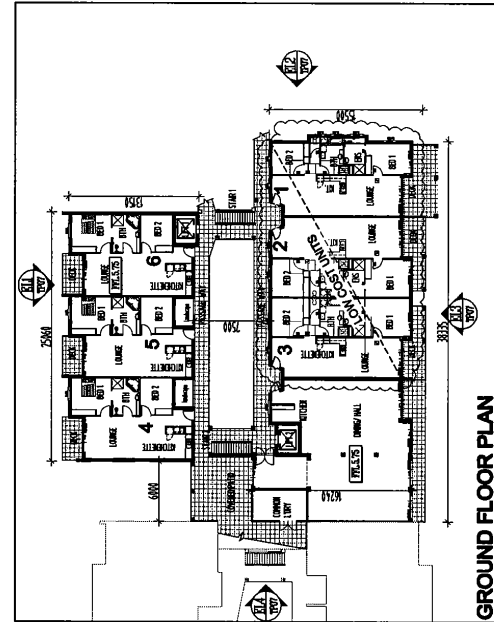
ELEVATION 3 - SOUTH ELEVATION



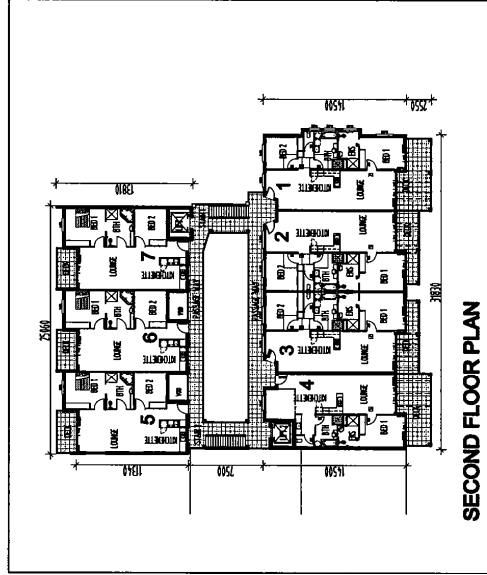
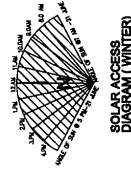
ELEVATION 1 - NORTH ELEVATION



ELEVATION 4 - WEST ELEVATION



GROUND FLOOR PLAN



SECOND FLOOR PLAN

NO.	DATE	DESCRIPTION

BUILDING 'D'
HOSTEL

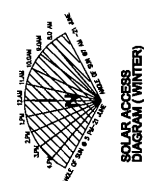
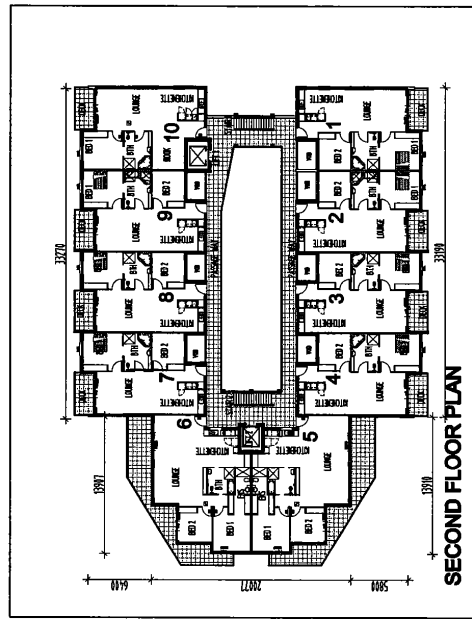
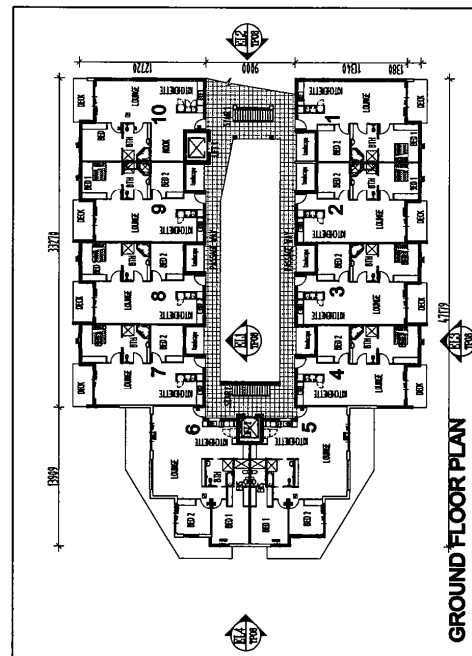
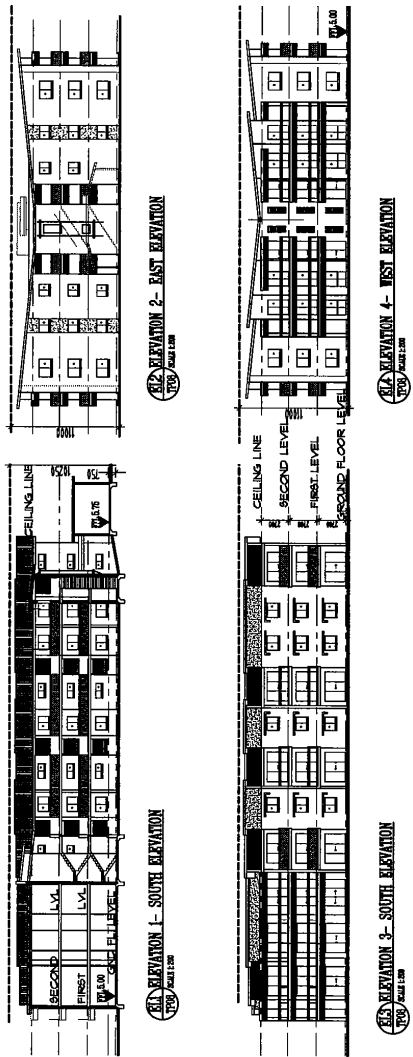
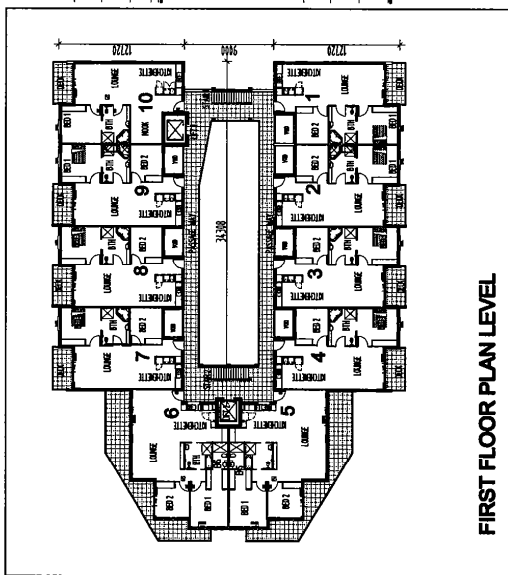
F.H. FRANKLAND & ASSOCIATES
ARCHITECTS
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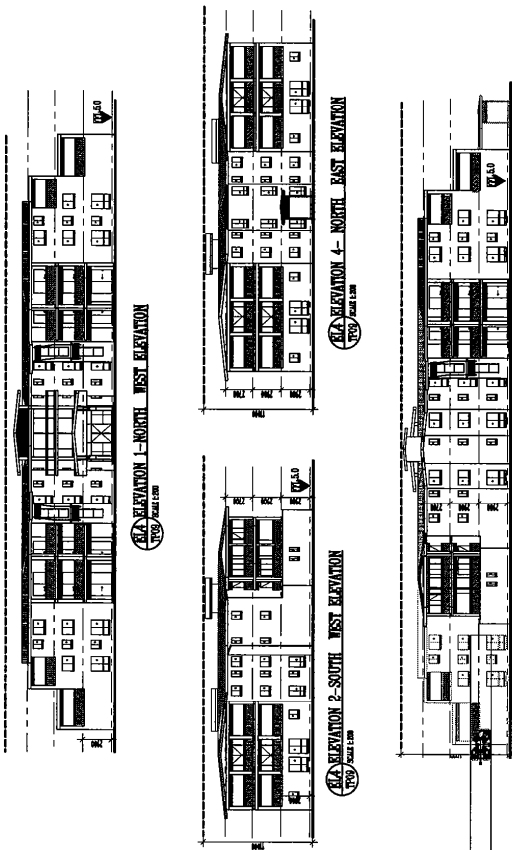
NO.	DATE	DESCRIPTION

PROPOSED HASTINGS POINT SENIORS COMMUNITY
AT LOT COAST ROAD - HASTING POINT
PDX DEVELOPMENT SP/L
BUILDING 'D'

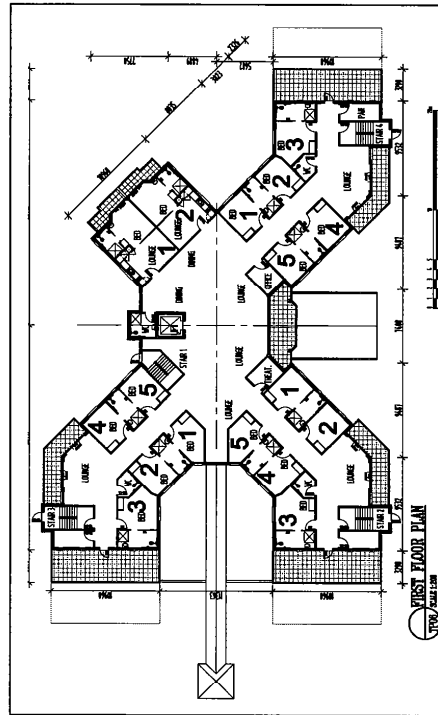
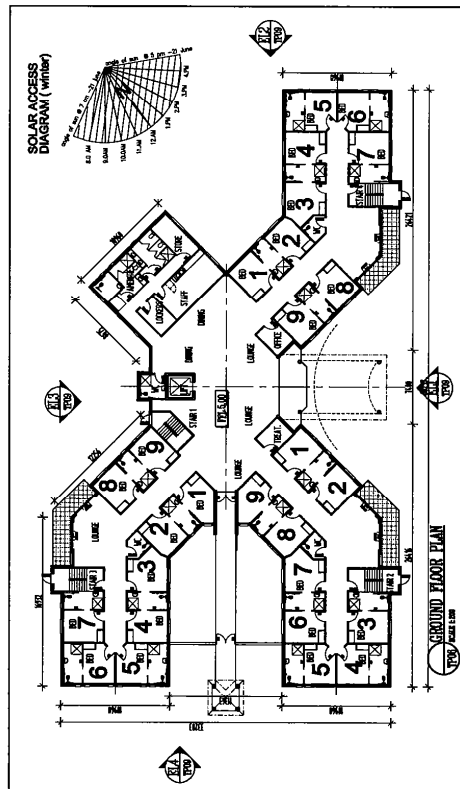
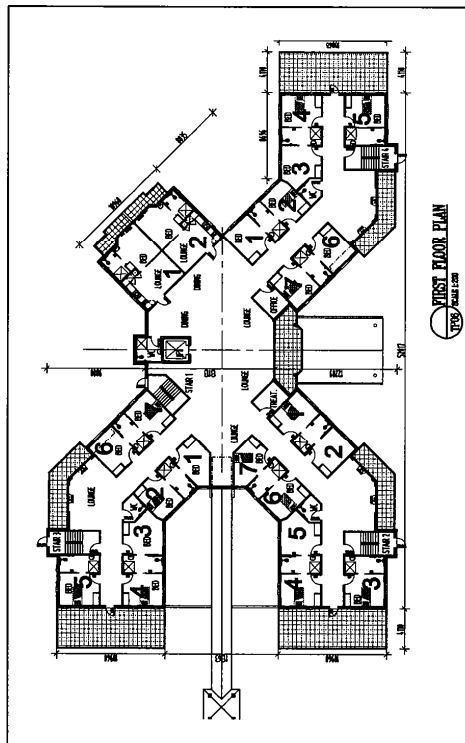
TP07 G
05/170



		FRANKLAND & ASSOCIATES ARCHITECTS 1111 HASTINGS STREET VICTORIA, BC V8M 1Y1 TEL: 250-363-1111 FAX: 250-363-1112	BUILDING 'E' HOSTEL	TP08 D 05/170
PROPOSED HASTINGS POINT SENIORS COMMUNITY AT LOT COAST ROAD - HASTINGS POINT P.M. DEVELOPMENT S.P./L BUILDING 'E'				



ELEVATIONS



TP09 05/170

PROPOSED HASTINGS POINT SENIORS COMMUNITY
AT LOT COAST ROAD - HASTINGS POINT
P/M DEVELOPMENT SP/L
BUILDING 'F'

DATE	DESCRIPTION	BY	CHECKED

FRANKLAND & ASSOCIATES
ARCHITECTS
111/113 COAST ROAD
HASTINGS POINT
NSW 2540
PH: 02 4373 1111
WWW.FRANKLAND.COM.AU

BUILDING 'F'
HOSTEL

NO.	DATE	DESCRIPTION

GROUND FLOOR PLAN
SCALE: 1/8" = 1'-0"

FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"

SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

THIRD FLOOR PLAN
SCALE: 1/8" = 1'-0"

FOURTH FLOOR PLAN
SCALE: 1/8" = 1'-0"

ELEVATION 1 - SOUTH WEST ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION 2 - SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION 3 - NORTH ELEVATION
SCALE: 1/8" = 1'-0"

ELEVATION 4 - WEST ELEVATION
SCALE: 1/8" = 1'-0"

SOLAR ACCESS DIAGRAM (WINTERS)
SCALE: 1/8" = 1'-0"

PROPOSED HASTINGS POINT SENIORS COMMUNITY
AT LOT 10 EAST ROAD - HASTING POINT
BY PMA DEVELOPMENTS P/L
BUILDING 'G'

FRANKLAND & ASSOCIATES
ARCHITECTS
150/152 HASTINGS STREET
MELBOURNE VIC 3000
TEL: 03 9412 1234
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BUILDING 'G'
HOSTEL

TP10 D
DATE: 05/170

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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(c) Urban Expansion under the provisions of the Tweed Local Environmental Plan 2000. The objectives of the zone include:

- *To identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake*

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

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

The proposed use of the subject land as a residential aged care facility is permissible under State Environmental Planning Policy (Senior Living) 2004 which allows Council to set aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in the SEPP.

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

Clause 15 of the TLEP requires the provision of essential services to be available to the site prior to any consent being granted. The proposed development will be able to connect to all necessary services.

Clause 16 of the TLEP provides a three-storey height limitation over the site. The proposed development complies with the height requirements.

Clause 17 of the TLEP requires a social impact assessment for development types likely to have a significant social impact in the locality. The proposed development is such a development type and as such the applicant has submitted the required Socio-Economic Impact Assessment. Socio-economic impacts of the proposed development are further examined in this report.

Clause 22 of the TLEP provides requirements for development near designated roads. The development site has frontage to the Tweed Coast Road, Hasting Point. The road is classified as a Council Designated Road

providing a link to the local community and major road network to the broader region. The application has been supported by a traffic impact assessment undertaken by Skild traffic and it is anticipated that the traffic impact of the proposed development shall be minimal.

The proposal is considered to meet the objectives of the clause, in that:

- the development is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and
- the location, standard and design of access points, and on-site traffic movement and parking arrangements, will ensure that through traffic movement on the designated road is not impeded, and
- the access point, will not prejudice any future improvements to, or realignment of, the designated road, and
- 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
- the development would not detract from the scenic values of the locality, particularly from the point of view of road users.

Clause 25 of the TLEP relates to development on land adjacent to land zoned 7(a) – Environmental Protection (Wetlands and Littoral Rainforests). The aim of this Clause is to ensure that wetlands and littoral rainforests are preserved and protected in the environmental and economic interests of the area of Tweed. It is considered that the aims of this Clause have been achieved, in that:

- Investigations were undertaken to ascertain the likely effects of the development on the flora and fauna found in the wetlands or littoral rainforest, and the proposal has been designed to ensure that the development has no adverse impact on the adjacent wetlands.
- To minimize the potential for disturbance of native flora and fauna as a result of intrusion by humans the developer will consider as a future application a designated access to the creek.
- A plan of management has been submitted showing how any adverse effects arising from the development can be mitigated, and
- The quantity and quality of groundwater would not be adversely affected by the proposal and the development will not intercept the water table or involve dewatering., and
- All works are contained within the site and will not result in detrimental effects on the wetlands or littoral rainforest , in terms of clearing, draining, excavating or filling.

Clause 34 of the TLEP provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land.

Council's Infrastructure & Planning Engineer has provided that:

"The site is not considered flood liable with survey confirming that the existing levels exceed the design flood level (2.4m AHD + 300mm freeboard) for residential development. The site is also below the tidal high water mark. Basement car park entrances are above design flood levels."

The proposed development is three storey's, and as such, emergency accommodation for residents will be available should flood levels exceed the design flood level. The facility will need to be prepared for such an emergency where there is a risk that utilities including electricity, telephone and water and sewerage may be interrupted, and that evacuation by road may not be possible. Contingency plans should be discussed with the SES, particularly in regards to high care or at risk patients.

Appropriate conditions of consent have been recommended to ensure compliance with Clause 34.

Clause 35 of the TLEP provides for the management of acid sulfate soils. The subject land is identified as being in a Class 3 area. An ASSMP (Coffee Geosciences P/L, March 2006) has been submitted. It indicates that the site will not need to be dewatered. The ASSMP states the investigation is preliminary 'and further investigation work should be undertaken prior to development of the site'. It recommends testing in up to eight additional boreholes. The two borehole locations tested are on the elevated eastern Coast Road side of the site. The lower western areas where ASS are most likely were not sampled. Potential ASS were detected on site.

It is necessary that further investigation be completed prior to the commencement of works on site.

Standard conditions of consent have been recommended in this regard.

Clause 39 of the TLEP relates to the remediation of contaminated land. A Preliminary Geotechnical and Site Contamination Assessment (Coffee Geosciences P/L, December 2005) has been submitted. Contamination testing was only carried out regarding potential contamination from the adjacent petrol station.

Contaminants were detected in both soil and groundwater samples. The report concludes that 'it is considered that the results of preliminary assessment are inconclusive as to whether or not the site is affected by contamination resulting from the adjacent service station'.

The applicant was therefore requested to have further analysis completed and provide to Council with a report which indicates that the site is suitable for the proposed use.

The original submission also failed to consider several other issues. The applicant was requested to submit information regarding:

- The 1962 aerial photographs (Run 12, 5020) indicate that sand mining activities may have occurred on the site. Potential radiation contamination (surface and depth).
- Potential contamination from old on site effluent disposal fields on the site.
- Potential sub slab contamination (e.g. under the old amenities building or motel) from termite treatments; and
- Any other source of potential contamination.

The applicant subsequently submitted various revisions to contamination reports with the final report being received in April 2007. Having considered all the potential contaminants the applicants specialist consultants and Council's Environmental Health Officer confirm that the site is suitable for the proposed use subject to the recommended conditions of consent.

Clause 39A of the TLEP requires consideration of bushfire protection issues and the planning for bushfire guidelines in the development of areas mapped as bushfire prone. This clause, aims to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets. The applicant submitted a Bushfire Risk Assessment, which was originally referred to the Rural Fire Service in May 2006. In June 2006, the RFS requested additional information; following receipt of this requested information in February 2007 the RFS have now provided the following General Terms of Approval:

1. *Access is to comply with section 4.3.2 Planning for Bushfire Protection 2001.*
2. *Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road.*
3. *The structures of the proposed development fronting Coast Road to the east and adjoining the southern boundary are to comply with the requirements of Level 2 construction as required by Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas'. The remaining structures within the proposed development are to comply with Level 1 construction.*
4. *At the commencement of building works and in perpetuity, the Asset Protection Zones as depicted in Appendix 5 - Asset Protection Zones prepared by Bushfiresafe Ref:5052 and dated Oct 2005, shall be maintained as an 'Inner Protection Area' (IPA), as outlined within Planning for Bush Fire Protection and the Service's document 'Standards for asset protection zones'.*
5. *The existing demountable dwellings are required to be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. This includes any sub floor areas where applicable and eaves. Roof guttering and valleys are to be screened with non corrosive mesh to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5.*

6. *A Bush Fire Evacuation Plan is to be submitted to the District RFS office of the NSW Rural Fire Service for approval. The evacuation plan is to detail the following:*
- (a) under what circumstances will the complex be evacuated*
 - (b) where will all person be evacuated to.*
 - (c) roles and responsibilities of persons co-ordinating the evacuation.*
 - (d) roles and responsibilities of persons remaining with the complex after evacuation.*
 - (e) a procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.*

These conditions have been incorporated into the recommendation for approval.

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

North Coast Regional Environmental Plan 1988

Clause 15 of the NCREP is applicable. This Clause contains provisions relating to development adjoining rivers or streams. The development has addressed these provisions through, the implementation of stormwater quality control devices and management measures to maintain or improve the water quality to Cudgera Creek. In regards to public access an appropriate condition will be imposed on the consent to ensure a communal point of public access is considered as part of a future application.

Clause 32B(2) and (3) of the NCREP is applicable. This Clause requires the consideration of the NSW Coastal Policy, Coastline Management Manual and the North Coast Design Guidelines for proposals on coastal lands; and also contains provisions relating to public access to the foreshore. The development has been designed following site analysis incorporating North Coast Design Guidelines and Principles. Whilst the site does not presently accommodate public access, it is considered important that a condition be imposed on the consent to ensure that a communal point of public access be provided over the site (depending on suitability), thereby ensuring compliance with this clause.

Clause 32 B(4)(b) of the NCREP is applicable. This clause requires the consideration of potential shadow impacts on beaches and waterfront open space before 4pm midwinter or 7pm midsummer. The submitted overshadowing diagrams are satisfactory in midsummer, however a marginal breach is of the clause is apparent at midwinter to the adjoining coastal reserve.

The proposal seeks a variation to the extent of shadow impacts to the adjacent Council Reserve to the south and the Coastal Reserve east of the site at 4pm on the midwinter solstice. The application was accompanied with a SEPP 1 variation and the applicant has provided the following reasons as to why this standard is unreasonable or unnecessary:

- *The existing caravan park locates movable dwellings immediately adjacent to the southern property boundary. The extent of the existing shadow impacts would be reduced by the proposal. This is due to the substantial setbacks of the proposal from the southern boundary.*
- *The age of the existing movable dwellings indicates that the reserve in this location has been affected by shadow for a number of decades. The coastal vegetation on the Reserve is of healthy vigour and would not appear to demonstrate adverse effect from the existing shadowing.*
- *The area of the Coastal Reserve affected by shadowing has limited public use and does not contain any recreation infrastructure. The vegetation in this located is healthy and it is submitted that the limited shadow impact in the winter solstice would not impact on the vigour of the coastal vegetation.*
- *Council would not appear to encourage public activity in the southern Reserve. There are other reserves in Hastings Point that provide formal recreation facilities, seating and parking as well as passive recreation areas. Hastings Point has extensive public recreation areas that are more prominent and would have substantially higher-level usage than the Reserve area adjacent to the subject land.*
- *The shadow impacts occur at 4pm in the winter solstice, a time when public activity in this location would be unlikely to be significantly affected.*
- *The anticipated shadow impacts would not result in any inconsistencies with the objectives of Clause 30 of the NCREP.*
- *Some shadowing of the Coastal Reserve and southern reserve are unavoidable with the development of the residentially zoned site. It is noted that the proposal is well below the maximum permitted height in the locality under DCP 48 – Tweed Coast Building Heights*
- *The area of the Coastal Reserve affected by overshadowing is separated from the beachfront by vegetation. The amenity and use of the beach would not be impaired by the proposed development.*
- *The visual quality of the coastal environment would not be reduced by the development. The proposal would be obscured by the coastal vegetation and distance from the beach.*

In accordance with Council's assumed concurrence delegations the extent of shadow impacts contained within the North Coast Regional

Environmental Plan is considered unreasonable and unnecessary having regard to the locational context and the overall reduction in actual shadow impacts.

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

Clause 66 on the NCREP is applicable. This clause requires consideration as to the adequacy of community and welfare services available to the land and takes into account the results of that consideration. A socio-economic impact statement and Support Services Statement was submitted with the application and deemed to be satisfactory.

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

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

State Environmental Planning Policies

SEPP 11 – Traffic Generating Developments

In regards to SEPP 11 – Traffic Generating Developments Council sought comments from The Local Traffic Committee in accordance with Schedule 2 (q) as follows:

“areas used exclusively for parking or any other development, in each case having ancillary accommodation for 50 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 50 or more motor vehicles”.

The application provides for 178 spaces on site, which represents a shortfall of 22 spaces based on the requirements contained within DCP No. 2. However, the proposal has been designed under State Environmental Planning Policy (Senior Living) 2004 and exceeds the required onsite car parking under that policy by 40 spaces.

The committee provided that:

"It was noted that the development will house a high number of units. The Traffic Committee comments as follows:-

1. *Having a service access as well as a main access off the Coast Road is unacceptable. The service access needs to be designed to connect to the main access.*

2. *The car parking on the main access driveway is unacceptable as it is too close to the Coast Road and will potentially cause queuing on to the Coast Road as vehicles move into and out of the parking spaces.*
3. *A protected right turn lane off the Coast Road into the site is required and a corresponding left turn lane and all associated road widening provided to accommodate the above turn lanes.*
4. *The applicant needs to address how pedestrians will safely cross the Coast Road to access the beach.*
5. *The car parking would appear inadequate with the size of the development, which could result in a demand for parking on the Coast Road which is unacceptable and will be prohibited with 'No Stopping' signage if required."*

Council's Development Engineer reviewed these comments and ensured that appropriate conditions of consent were applied to cover these issues.

In regards to SEPP 14 Wetlands and SEPP 71 Coastal Protection Council sought comments from the Department of Planning on 12 May 2006.

On 17 May 2006 the Department provided that this development does not require referral to the Department under Clause 11(2) of SEPP 71 and that further advice would be forthcoming for SEPP 14.

On 31 May 2006 the Department of Planning provided that it was Council's decision as to whether SEPP 14 applies.

The subject site is mapped as being partially SEPP 14 land. This affects the south-western portion of the site only. It appears that part of the mapped area was mapped incorrectly as the SEPP 14 line goes through the existing mobile home parks and paved roadways, which were in place prior to the introduction of SEPP 14.

Based on this onsite analysis the SEPP 14 mapping appears to be inaccurate.

On this basis Council's Senior Planner and Council's Senior Environmental Scientist have reviewed all aspects of the proposal and concluded that SEPP 14 does not apply based on the following reasons.

1. The Department of Planning has expressed the view that they consider it to be Council's decision as to whether the policy applies
2. Based on field recognition criteria developed by DIPNR within their "Draft Guidelines to assist Council staff in interpreting SEPP 14 wetland boundaries over short distances (2004)" the creek area before the distinct and defined bank would be wetland, while the area from the edge of the bank eastward would not. By applying the draft guidelines the mapped SEPP 14 boundary could be moved up to 25m until and if, it intersected with the creek bank.

3. The applicant has provided a reasonably interpreted centre-line that Council staff concurs with;
4. The applicant has provided a suitable Environmental Restoration Plan; and
5. Appropriate conditions of consent are recommended that states that no work involving clearing, draining, filling or constructing a levee occur within the revised and accepted SEPP 14 area.

Therefore SEPP 14 is not considered to apply.

SEPP 21 Caravan Parks & SEPP 36 Manufactured Home Estates

The application has been assessed having regard to SEPP 21, SEPP 36 and the applicable Regulations for the existing and continuing component of the site that will require licensing as a diminished caravan park.

Council's Environmental Health Officer has provided that:

"A Compliance Report – Caravan Park, HMC March 2006 has now been received. That report reviews the Regulations and indicates that at each stage of the development the existing caravan park can be progressively decommissioned and services modified (e.g. homes are self-contained and roads, fire hydrant reels and hydrants are modified prior to commencement of construction of aged care facility) so that the caravan park operation will comply with the Regulations. Refer to Part 5 Recommendations of the Report, which details various alterations required to the Park to comply as it is decommissioned.

Importantly, the Report states that 'prior to changes to the caravan park layout during the staged development process, an application to amend the current approval is to be lodged with and approved by Council. The community map is also to be upgraded to accurately reflect, to scale, the features and services of the park'. The modifications to the park would be completed prior to commencement of works associated with construction of the seniors living component."

Based on the imposition of the recommended conditions of consent the proposed development is considered suitable having regard to SEPP21, SEPP 36, The Local Government Act and all relevant Regulations including the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005.

SEPP 55 Remediation of Land

Based on the applicants various geotechnical and contamination site assessments and Council's Environmental Health Officers assessment of such reports contamination is not considered a constraint for this development.

SEPP 71 Coastal Protection

The subject site is mapped within a sensitive coastal location as land within 100m above mean high water mark, and as land within 100m of a mapped

SEPP 14 area. Whilst the Department of Planning Department does not require consultation under Clause 11(2) of SEPP 71 as detailed above the application still needs to be assessed having regard to Clause 8 of the SEPP.

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

The matters for consideration are as follows:

- (a) *the aims of this Policy set out in clause 2,*
- (b) *existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) *opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the [Threatened Species Conservation Act 1995](#)) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the [Fisheries Management Act 1994](#)) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*

- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
 - (i) *the cumulative impacts of the proposed development on the environment, and*
 - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.*

The proposed development is considered to be consistent with the aims of the policy. It is to be noted however that, at present the site does not provide public access to the creek reserve. To improve this situation, a condition will be imposed on the consent to ensure that a communal point of public access will be provided (depending of the suitability of the site). This formalised form of access, potentially in the form of a right of way near the northern boundary to also facilitate the adjoining museum would provide a new opportunity for public access to and along the Creek for pedestrians.

In regards to access to the coastal foreshore, a separate condition will be imposed on the consent, due to the overall increase in density on the site (an additional 394 beds or 245 units will be available) and as a result the need for an improved/upgraded access to the beach will be required.

It is therefore considered that the proposal subject to appropriate conditions satisfies the matters for consideration under SEPP 71.

The proposed development is considered to comply with SEPP 71.

State Environmental Planning Policy (Seniors Living) 2004

Aims of the Policy:

- (1) *This Policy aims to encourage the provision of housing (including residential care facilities) that will:*
 - (a) *increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and*
 - (b) *make efficient use of existing infrastructure and services, and*
 - (c) *be of good design.*

(2) *These aims will be achieved by:*

- (a) *setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and*
- (b) *setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and*
- (c) *ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.*

This policy applies to Tweed Shire. Following is an assessment of the development against the SEPP:

Clause 19 Development adjoining land zoned primarily for urban purposes

- *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land that adjoins land zoned primarily for urban purposes unless the proposed development is for the purpose of one of the following: Hostel or a residential care facility.*

The proposed development contains a combination of all types of housing for the elderly. These are;

1. *Residential Care facilities (67 proposed in Stage 3):*

In this Policy, a "residential care facility" is residential accommodation for seniors or people with a disability that includes:

- (a) *meals and cleaning services, and*
- (b) *personal care or nursing care, or both, and*
- (c) *appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.*

2. *Hostels (94 proposed – 53 in Stage 2 & 41 in Stage 3):*

In this Policy, a hostel is residential accommodation for seniors or people with a disability where:

- (a) *meals, laundering, cleaning and other facilities are provided on a shared basis, and*
- (b) *at least one staff member is available on site 24 hours a day to provide management services.*

3. *Self-contained dwellings (84 proposed in Stage 1)*

In this Policy, a self-contained dwelling is a dwelling or part of a building (other than a hostel), whether attached to another dwelling or

not, housing seniors or people with a disability, where private facilities for significant cooking, sleeping and washing are included in the dwelling or part of the building, but where clothes washing facilities or other facilities for use in connection with the dwelling or part of the building may be provided on a shared basis.

Clause 20 Restrictions on occupation of seniors housing allowed under this Chapter

- (1) *Development allowed by this Chapter may be carried out for the accommodation of the following only:*
- (a) *Seniors or people who have a disability,*
 - (b) *People who live within the same household with seniors or people who have a disability,*
 - (c) *Staff employed to assist in the administration of and provision of services to housing under this Policy.*

The subject application seeks approval for an aged care facility. The majority of people will be seniors that do not necessarily have a disability, however services are made available if required. Parts of the facility will be staffed 24 hours per day with staff available if required with seniors.

- (2) *A consent authority must not consent to a development application made pursuant to this Chapter unless a condition is imposed by the consent authority to the effect that only the kinds of people referred to in subclause (1) may occupy any accommodation to which the application relates.*

The recommended conditions of consent will ensure appropriate restrictions are provided.

Clause 21 details provision for use of seniors housing in commercial zones. This is not applicable to this application as the site is not zoned for commercial purposes.

Clause 22 provides special provisions concerning certain land to which this Policy applies. The subject site is not defined as specific within the Local Government Area and therefore this clause does not apply.

Clause 23 allows the subdivision of the land with consent. The application does not seek approval for subdivision therefore this clause does not apply.

Clause 24 details provisions for heritage conservation areas and heritage items. The subject site is not a nominated heritage listed site, with no heritage significant areas or items in the vicinity of the subject site. This clause therefore does not apply.

Clause 25 Location and access to facilities

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by*

written evidence, that residents of the proposed development will have access that complies with sub-clause (2) to:

- (a) shops, banks and other retail and commercial services that residents may reasonably require, and
- (b) community services and recreation facilities, and
- (c) the practice of a general medical practitioner.

(2) Access complies with this clause if:

- (a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development and the overall average gradient along the distance is no more than 1:14.
- (b) N/A
- (c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division-- there is a transport service available to the residents who will occupy the proposed development:
 - (i) that is located at a distance of not more than 400 metres from the site of the proposed development, and
 - (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the relevant facilities or services, and
 - (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive).

The proposal includes the provision of basic services and facilities on site for residents. These are proposed to be located in Building B (ground level). Further to this, access to the local shopping centres is to be provided by a facility owned/run shuttle bus made available to residents on a daily basis. The service is proposed to operate between the site and a number of destinations including, Pottsville, Cabarita, Kingscliff and Tweed City Shopping Centre. In addition, a bus stop is located adjacent to the northern entry of the site on the Coast Road, which is serviced by Surfside Bus lines. On this basis, residents would be transported to a place that is within 400 metres numerous health care facilities, professionals, commercial and retail and community services.

This Clause is considered satisfied.

Clause 26 Bushfire

- 1) A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as "Bush fire prone land—vegetation category 2" or "Bush fire prone land—vegetation buffer" unless the consent authority is satisfied that the development complies with the requirements of the document titled *Planning for Bushfire Protection, ISBN 0 9585987 8 9, published by*

Planning & Environment Services, NSW Rural Fire Service in co-operation with the Department of Planning (as it then was), dated December 2001.

The application was referred to the NSW Rural Fire Service as an Integrated Development Application following receipt of additional information from the applicant the RFS have now provided appropriate General Terms of Approval.

Clause 27 Water and sewer

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- (2) *Not applicable*

The proposed development is located within the existing urban area of Hastings Point and water and sewerage services are present on site.

This Clause is satisfied.

Part 3 – Design requirements

Division 1 – General

Clause 28 Site analysis

Clause 28 requires that the applicant must provide a site analysis statement with the application addressing the following points; site dimensions, topography, services, existing vegetation, microclimates, location of buildings and other structures, views to and from the site and overshadowing by neighbouring structures.

The applicant has provided sufficient site analysis plans and detail within the statement of environmental effects to satisfy this provision.

This Clause is satisfied.

Clause 31 Neighbourhood amenity and streetscape

This clause specifies a number of requirements that must be taken into consideration when assessing such a facility. They include the need for new development to add to the character and amenity of the area, maintain neighbourhood amenity and appropriate residential character, including setbacks, building form and building heights, appropriate planting and where possible retain existing major trees on the site.

The bulk and scale of the development is a controversial component of the development as a whole. Whilst the Tweed LEP stipulates that the subject site is affected by a three-storey height limit, Council has previously considered reducing the height limit to two storey's in this location. Draft LEP 81 has since

been deferred for consideration in the new LEP and therefore the three-storey height limit remains in force.

The proposed development complies with this height limit but would not be consistent with the existing one to two-storey character of the area. Given the applicable three-storey height limit it can be argued that this development is one of the first to contribute to a changed character for Hastings Point. This is topical, however, given the three-storey height limit for the purposes of this Clause the proposed development is considered satisfactory based on a changing character for Hastings Point.

The subject application satisfies all the above-mentioned requirements. The proposal will add and enhance the character and amenity of the area, through the introduction of modern architecturally designed buildings. The proposal does not involve the clearing of any native vegetation and has the benefit of being relatively cleared, enabling the proposal to be designed with substantial setbacks to Cudgera Creek and its environs. The proposal has also adopted a building form and siting that relates to the site's landform, through 15 metre front setbacks to the street and adopted building heights in Building B that provide for transitional scale.

This Clause is satisfied.

Clause 32 Visual and acoustic privacy

Requires that the proposed development consider the visual and acoustic privacy of surrounding development by appropriate location of windows, balconies, screening devices and landscaping.

The subject site is surrounded by Crown Reserve and will not negatively impact on any immediately adjoining property.

However, onsite existing residences will be affected by noise and privacy both during and after construction.

The application was referred to Council's Environmental Health Unit for assessment who provided the following comments:

An Environmental Noise Impact Assessment (Jay Carter Acoustic Consultant, January 2006) has been submitted. The report considers noise from Coast Road Traffic and the adjacent service station on the proposed development.

The report recommends erection of an acoustic fence between the Service Station and development and acoustic treatments to several building facades. Condition to be applied regarding these requirements.

The report fails to consider the following matters:

- *Potential noise impacts on adjacent properties from the development (eg vehicle movements, plant, waste collection points etc)*
- *Potential impacts of construction noise.*

The applicant is requested to provide information which addresses these two issues.

Following receipt of an amended report Council's Environmental Health Officer provided the following comments:

"Additional information from CRG Traffic and Acoustical Consultants dated 22 September 2006 has been submitted. That report indicates that noise impacts on adjacent premises will be minor. A condition will be applied requiring the 11 car parking spaces along the northern boundary to be allocated for staff use only.

With respect to construction noise the report recommends several management strategies to reduce potential noise impacts – condition to be applied."

This clause is considered satisfied.

Clause 33 Solar access and design for climate

This clause relates to the provision for solar access and design for climate. It is considered that the development has been designed so that the rooms receive adequate solar access, that there is adequate mature landscaping to reduce energy use, whilst also providing for the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction.

This clause is considered satisfied.

Clause 34 Stormwater

The application was referred to Council Development Engineers for assessment who provided appropriate conditions of consent based on the applicants submitted Stormwater Management Plan.

This clause is considered satisfied.

Clause 35 Crime Prevention

This clause relates to crime prevention and aims to protect and provide security for the residents living within the proposed development. The site planning has allowed from general observation (from inside the majority of dwellings) of the street and also within the site. Shared entries that serve a small number of dwellings, have been incorporated into the design to improve security.

This clause is considered satisfied.

Clause 36 Accessibility

This clause aims to facilitate the use of a pedestrian friendly environment for residents and visitors. This proposal incorporates obvious and safe pedestrian links from the site, whilst it also providing access to public transport services. It is considered that the development has incorporated safe environments for pedestrians and motorists with convenient access and parking for residents and visitors.

This clause is considered satisfied.

Clause 37 Waste Management

This Clause states that the development should be provided with waste facilities that maximize recycling by the provision of appropriate facilities. It is noted that this developments' domestic waste would be collected by cleaning staff and disposed of to a bulk container for collection by a work contractor. A waste storage area would be located central to the independent living units that would be transferred by management to the single refuse collection point off the service road on the southern side of Building B. Any medical waste is to be removed and disposed of by a specialist medical waste contractor.

This clause is considered satisfied.

Part 4 – Development standards to be complied with

Clause 38 Development standards – minimum sizes and building height.

- (1) **General** *A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) **Site size** *The size of the site must be at least 1,000 square metres.*
- (3) **Site frontage** *The site frontage must be at least 20 metres wide measured at the building line.*
- (4) **Height in zones where residential flat buildings are not permitted** *If the development is proposed in a residential zone where residential flat buildings are not permitted:*
 - (a) *the height of all buildings in the proposed development must be 8 metres or less, and*
 - (b) *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

Note. *The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

The total area of the site is approximately 3.797ha, exceeding the minimum requirement of 1000m².

The site frontage to Coast Road is 163.9m, exceeding the minimum requirement of 20m.

The site is zoned 2 (c) urban expansion, in which residential flat buildings are permissible with consent, with the site being affected by a three (3)-storey height limit. Therefore the 8m standard is not applicable to this site or development as residential flat buildings are a permissible land use in the 2(c) Urban Expansion zone.

Division 3 & 4 – Hostels and Self Contained Dwellings: Standards concerning access and usability

Clause 40-50 provides a range of standards concerning access and usability for Hostels. Whilst Clauses 51- 73, provide a range of standards concerning access and usability for Self Contained Dwellings.

These standards primarily relate to AS1428 and AS4299 and the BCA. These matters have been assessed by Council's Building Services Unit, who have provided appropriate conditions of consent to ensure there compliance with the Australian Standards and with the BCA.

Part 5 - Development on land adjoining land zoned primarily for urban purposes

Clause 76 Availability of facilities and services

A consent authority must be satisfied that any facility or service provided as a part of a proposed development to be carried out on land that adjoins land zoned primarily for urban purposes will be available to residents when the housing is ready for occupation. In the case of a staged development, the facilities or services may be provided proportionately according to the number of residents in each stage.

The site currently accommodates a caravan park, which will continue operating under a diminished caravan park licence.

In addition the staged nature of the proposed development will enable each stage to have all the necessary facilities and services.

Part 7 – Development standards that cannot be used as grounds to refuse consent

Division 2 – Residential care facilities

Clause 79 – Standards that cannot be used to refuse development consent for residential care facilities

(a) Building Height: *if all proposed buildings are 8 metres or less in height.*

This clause stipulates that Council cannot refuse a residential care facility on the grounds of height, if the building height is less than 8m.

The proposed development proposes a height of 10.8m (Building F). The proposal complies with the Tweed LEP 2000 – three (3) storey height limit and is considered satisfactory having regard to the setbacks, streetscape, landscaping, overshadowing and overall size of the site.

- (b) *Density and Scale:*** *if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less.*

The proposed development proposes a FSR of 0.84:1, which complies with the requirements.

- (c) *Landscaped area:*** *if a minimum of 25m² of landscaped area per residential care facility bed is provided.*

The residential care facilities component of the application proposes 67 beds this equates for the need of landscaped area in the order of 1675m². The application proposes a grand total of 22,000m², which exceeds the requirement and considered satisfactory.

- (d) *Parking for residents and visitors:*** *if certain requirements can be meet regarding number of car spaces for visitors and employees and ambulance.*

Parking demand for the proposed development is tabled within SEPP (Seniors Living) 2004 – No 143.

The following table identifies the minimum parking facilities to be provided onsite.

DEVELOPMENT	PARKING RATE	PROPOSAL	TOTAL
Residential Care	1 / 10 dwellings 1 / staff 1 ambulance	67 residential care beds 15 staff	22 1 ambulance
Hostel	1 / 5 dwellings 0.5 / staff 1 ambulance	94 units 7 staff	23 1 ambulance
Independent living	0.5 / bedroom	84 units (173 beds)	87
TOTAL PARKING REQUIRED			132 2 ambulance

The applicant has identified a total of 178 spaces are to be provided as follows:

Resident spaces in basement carpark	104 spaces
Staff spaces in basement carpark	8 spaces
Staff spaces at ground level	23 spaces
Visitor spaces at ground level	37 spaces
Ambulance parking	4 spaces
Carwash bays	2 spaces
TOTAL	178 SPACES

This exceeds the required 132 spaces thus complying with the requirements for residential care facilities.

Division 3 – Hostels

Clause 80 Standards that cannot be used to refuse development consent for hostels

(a) *building height: if all proposed buildings are 8 metres or less in height, or*

This clause stipulates that Council cannot refuse a hostel facility on the grounds of height, if the building height is less than 8m.

The proposed development proposes a height of 10.45m (building D), 10.4m (building E) and 10.2m (building G). The proposal complies with the Tweed LEP 2000 – three (3) storey height limit and is considered satisfactory having regard to the setbacks, streetscape, landscaping, overshadowing and overall size of the site.

(b) *density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less,*

The proposed development proposes a FSR of 0.84:1, which complies with the requirements.

(c) *landscaped area: if a minimum of 25 square metres of landscaped area per hostel bed is provided,*

The hostel component of the application proposes 94 beds this equates to 2350m² (25m² x 94) of landscaped area. The application proposes a grand total of 22,000m² which is in excess of the requirement and considered satisfactory.

(d) *parking: if at least the following is provided:*

- (i) *1 parking space for each 5 dwellings in the hostel, and*
- (ii) *1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and*
- (iii) *1 parking space suitable for an ambulance.*

The site provides for 178 spaces this exceeds the required 145 spaces thus complying with the requirements for hostels.

Division 4 – Self Contained Dwellings

Clause 81 Standards that cannot be used to refuse development consent for self-contained dwellings

(a) *building height: if all proposed buildings are 8 metres or less in height,*

This clause stipulates that Council cannot refuse a self-contained dwelling on the grounds of height, if the building height is less than 8m.

The proposed development proposes a height of 10.65m (building A), 10.9m (building B) and 10.75m (building C). The proposal complies with the Tweed LEP 2000 – three (3) storey height limit and is considered satisfactory having regard to the setbacks, streetscape, landscaping, overshadowing and overall size of the site.

- (b) *density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*

The proposed development proposes a FSR of 0.45:1, which complies with the requirements.

- (c) *landscaped area: if:*

- (i) *N/A*
 (ii) *in any other case—a minimum of 30% of the area of the site is to be landscaped,*

The application proposes a total of 22,000m², which is in excess of the requirement and considered satisfactory.

- (d) *Deep soil zones: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an area of not less than 15% of the area of the site (the deep soil zone). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*

An area in excess of 15% of the site is proposed to accommodate deep soil planting zones

- (e) *solar access: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*

Site solar access has been optimized in the design.

- (f) *private open space for in-fill self-care housing: N/A*
 (g) *visitor parking: N/A*
 (h) *parking: if at least the following is provided:*

- (i) *0.5 car spaces for each bedroom where the development application is made by a person other than the Department of Housing or a local government or community housing provider, or*

The site provides for a total of 178 spaces thus exceeding with the requirements for self-contained dwellings.

Therefore having considered all of the abovementioned criteria the proposed development is considered to meet the aims and requirements of the SEPP (Senior Living) 2004.

Section 5A Environmental Planning & Assessment Act 1979 - Flora & Fauna

The original application provided a flora and fauna report for Council's consideration. Council's Environmental Scientist reviewed the submitted documentation and provided the following comments:

The flora and fauna assessment is considered inadequate and confused for the following reasons:

- *It is not clear whether clearing is proposed for the site or not. The site is subject to the 1990 TPO (as amended) and this issue has not been addressed. I would like a plan showing surveyed trees showing their canopy extent in relation to the proposed development and a clear statement of number and species to be removed, if any.*
- *The applicant has made the statement that there are no threatened flora species, yet attaches a list in the Marine F&F assessment of terrestrial flora species from the site, which contains threatened species. They also make the statement that any threatened flora will be marked with flagging tape on site. It needs to be made clear where this list relates to and whether any threatened flora will be affected?*
- *The applicant claims to have done a Wildlife Atlas search for fauna species resulting in 42 species, yet only 20 are considered and only a few in any detail. I believe this has resulted in a number of local species likely to exist in the area not being considered, e.g. the Mangrove Honeyeater, Collared Kingfisher, Oystercatchers and Flying-Foxes. A total list of species needs to be provided with definite reasons as to why they were not considered further. The 7-part test should ideally be done individually for each species or at least related groups of fauna species, and sufficient information considered as to impacts. In this regard, if existing mature trees are to be cleared from the site, then the impacts of this action needs to be considered. Similarly, potential habitat value of environmental weeds should still be considered before removal. In addition, a number of points within the marine F&F 7part test refers to 'mid-north coast' or 'Karuah' or other regions. The tests need to refer specifically to the local immediate area and not be cut and pasted from other reports.*
- *The Marine F&F report also refers to "critical habitat" occurring within the creek. Critical habitat has a defined meaning under the TSC Act and Fisheries Management Act. I believe that the writer means "important habitat" but not critical habitat. This issue needs clarification.*

Based on this advice the applicant was requested to amend their flora and fauna report. Revised documents were received in February 2007 and forwarded to Council's Environmental Scientist for comments which are now duplicated below:

I have read the revised documents provided by Bushfire Safe Pty Ltd for the proposed Hastings Point Aged Care development at Lot 1 DP 786570, Tweed Coast Road, Hastings Point. Documents included the Flora and Fauna Assessment, Environmental Monitoring Program and Regeneration Plan. I have previously read the Marine Flora and Fauna report and make comment and conditions relating to all. It should be noted that all revised reports still have the original date of December 2005, making it difficult to distinguish between the originally submitted and revised reports within conditions.

Whilst the reports are largely adequate enough to enable conditioned consent, it is disappointing that they largely lack effective recommendations that would enable them to be tied in to the consent conditions. In addition, the regeneration report provides no effective plan to enable visual analysis of the proposed outcomes of the planting regime, no detail of planting density, planting technique, total number of plants proposed or details of weed removal proposed. In addition, the plan proposes collection and propagation of seed for all plant stock. Whilst this would be the ideal, it is expected to significantly delay any planting on-site and is likely to be impractical unless commenced immediately and continued for a relatively extensive time period.

As I have not been involved in all discussions with the applicant, three issues require clarification and should be addressed by the Planner, being:

- *Whether public access is to be allowed to Cudgera Creek and if so how and where this is to occur. It is preferable for any access to the creek to be via a single defined and hardened access point.*
- *Whether there is any expectation that the riparian zone will be dedicated to Council once restoration and maintenance is complete.*
- *Whether a boardwalk is to be provided (as stated in the regeneration plan) and if so, its location in relation to the refined and agreed SEPP 14 boundary.*

The main issue arising from the proposed development from an ecological perspective is protection of the integrity of Cudgera Creek and protection and enhancement of the riparian zone. Because the creek contains mangroves, seagrass and saltmarsh immediately adjacent to the development site, it is imperative that potential for pollution events are controlled and monitored and the creek area protected from direct construction impacts. In this regard, implementation of Best Management Practice is expected with respect to erosion and sediment control. This includes aspects of:

- *work scheduling (eg installation of protective measures before earthworks commence, suspension of works during rain etc),*
- *deployment of protective measures (eg site drainage, separation of “clean” and “dirty” water, silt stop fencing, hay bales, sediment traps etc) and;*

- *constant maintenance of those measures (eg replacing torn silt-stop fencing, replacing silt-stop fencing which has fallen down or been knocked over, removing accumulated sediment etc) including overnight and weekends where necessary.*

Conditions relating to erosion and sediment control should be imposed by the Planner.

The Environmental Monitoring Program recommends water sampling monthly at two sites, 200m north of the northern and 200m south of the southern property boundaries, for a period of five years from April 2006 to April 2011. I consider that the bi-monthly and event monitoring currently undertaken by Tweed Shire Council upstream and downstream of the development site will be sufficient to determine impacts over the longer term and that greater benefit can be gained by intensive monitoring during earthworks and construction. Annual monitoring and reporting on seagrass distribution in the adjacent creek (as proposed within the Environmental Monitoring Program) will also show potential problems readily.

The following conditions are recommended:

1. *In accordance with the Tweed Coast Estuaries Management Plan 2004-2008 a buffer of 50 metres between the development and Cudgera Creek shall be provided. The footprint of all major Seniors Living Facility buildings will be outside of this 50-metre buffer. The 50-metre buffer will comprise a 20 metre core buffer of dense local native vegetation, rehabilitated or replanted as necessary, and ranging from the surveyed top of bank to a line 20 metres to the east; and a 30 metre outer buffer of planted native vegetation of lesser density which has limited potential for compatible land uses, such as parkland and other recreational uses, and can include asset protection zone and stormwater capture and infiltration functions.*
2. *Prior to issue of the Construction Certificate for Stage 1 a detailed Restoration and Planting Plan for the 50-metre buffer from Cudgera Creek shall be submitted to the satisfaction of Council. The Restoration and Planting Plan shall incorporate the information supplied within the revised Regeneration Plan by Bushfiresafe (December 2005), shall adhere to the species lists contained within Appendix 1: Work Unit Planting Key of that plan, and shall provide the following additional information:*
 - a. *A site plan or plans at a scale of 1:1000 or greater for the whole site clearly indicating:*
 - i. *the 20 metre core buffer and 30 metre outer buffer for the whole site and proposed treatment (restoration or planting) and native plant schedules applying to each;*
 - ii. *final building design and locations;*
 - iii. *mapped extent of existing vegetation communities;*

- iv. *proposed location, botanical name, mature height and spread of planted shrubs, trees and ground covers;*
 - v. *overall density to be achieved, in stems per hectare, for the 20 metre core buffer and 30 metre outer buffer;*
 - vi. *density of each life form (tree, shrub and ground cover) proposed for the 20 metre core buffer;*
 - vii. *the location of any trees identified for retention in the development application plans;*
 - viii. *location of grassed areas, boardwalk (if any), paved areas (if any) and stormwater infrastructure including swales and infiltration basins.*
- b. *Planting techniques, maintenance details and timing including all of the following or statements of alternate approaches:*
- i. *site preparation;*
 - ii. *planting methods;*
 - iii. *spacing;*
 - iv. *staking, tying and tree guards;*
 - v. *mulching, watering and irrigation systems;*
 - vi. *maintenance, including fertilising and inspections.*
- c. *A program of works to remove invasive weed species including treatment methods for each species;*
- a. *A schedule of timing of proposed works and a maintenance schedule for a period not less than 5 years;*
 - b. *Performance indicators and adaptive management techniques to deal with failure;*
 - c. *Monitoring and reporting details.*
- d. *Council approved restoration and planting of available sections of the 50-metre buffer zone shall be completed prior to the issue of occupation certificates for each approved stage. Landscaping and restoration areas shall be maintained at all times to the satisfaction of Council and for a minimum five-year period following planting and/or weed removal works. Trees identified for retention in the development application plans shall not be removed without separate Council approval.*
- e. *Prior to the commencement of works a highly visible and durable traffic barrier shall be erected parallel with the surveyed top of creek bank and located at the eastern extent of the dripline of riparian vegetation for the full length of the development site. An exception can be made for the area notated as "existing residential accommodation abutting riparian margin" on the Bushfiresafe plan contained in Appendix 5 of the Marine Flora and Fauna Report (December 2005), until such time as these residences are removed. No*

machinery shall enter beyond the traffic barrier and no stockpiling or storage of materials, plant or equipment shall occur within this zone, or in any case within 10 metres of the creek top of bank. The traffic barrier is to remain at all times during earthworks and construction activities but may be removed between development stages.

- f. This consent does not authorise any clearing of native vegetation, filling or draining of any land within the revised and accepted SEPP 14 boundary as delineated on Plan No 05170 Sheet Number TP16 Revision B dated 18/10/2006 and prepared by RH Franklin & Associates.*
- g. A water quality monitoring program is to be undertaken weekly during any earthworks and construction activity for any runoff from the site, and is to continue until stabilisation of any exposed areas. Parameters to be measured include pH, suspended solids (mg/L), salinity (ppt), Total N and Total P. Any runoff to the creek that breaches ANZECC guidelines for receiving waters shall be reported to Council and will include adaptive management measures proposed to rectify the breach.*
- h. A marine vegetation monitoring program is to be undertaken annually during October-November for a five-year period from the commencement of construction, using methodology sufficient to determine any significant changes in distribution compared to the baseline plan provided by Bushfiresafe as Appendix 5 of the Marine Flora and Fauna report. An annual report shall be provided to Council by December 31 of each of the five years detailing current distribution. Should loss of seagrass, saltmarsh or mangroves greater than 20% of the baseline distribution occur due to impacts other than stochastic events (major floods etc) and attributable to the development, the applicant will be required to make a payment commensurate with the extent of damage as agreed by DPI Fisheries to be placed into DPI's Fish Conservation Trust Fund where it will be used on projects that are supported by both DPI's Aquatic Ecosystems Unit and Tweed Shire Council to rehabilitate fish habitat in Tweed local government area.*

Further to the above comments upon clarification of the riparian setback variation request Council's Environmental Scientist clarified that:

As discussed, I was under the impression that the redesign had meant buildings were outside the full 50m buffer, it seems this is not the case All I definitely want to see is a densely vegetated riparian area of 20m width. I am concerned that encroachment into the 30m outer buffer beyond this will compromise the 20m zone as RFS will not be satisfied

Based on these comments the recommended conditions of consent regarding the treatment of the riparian edge are considered satisfactory.

In response to Council's Environmental Scientists concerns regarding access Council's Recreational Services Manager recommends the following conditions:

- *Upon the creek front home sites being vacated the current owners and/or any subsequent land owners are to dedicate (at no cost to Council) 30m of Creek front land to Council (or that part of the setback to the Creek not comprising an APZ) to ensure public access to the Creek is available. In addition a formal right of carriageway is to be formed from Tweed Coast Road through the site to enable access to the Creek.*
- *Prior to commencement of Stage 3 the applicant and current owners are to fund a formalised viewing and/or access point to the Creek. The final design and development approval shall be co-ordinated through liaising with Tweed Shire Council's Recreational Services Unit and Council's Waterways and Coast Co-Ordinator.*
- *Prior to commencement of Stage 3 the applicant and current owners are to fund an upgrade of beach access opposite the subject site. The final design and development approval shall be co-ordinated through liaising with Tweed Shire Council's Recreational Services Unit and Council's Waterways and Coast Co-Ordinator.*

Based on the comments and the recommended conditions of consent the proposed development is considered to satisfy the provisions of Section 5A of the Environmental Planning & Assessment Act 1979. Furthermore, the proposed development is not considered to warrant the need for a Species Impact Statement.

Tweed Coast Estuaries Management Plan 2004 –2008

The Development Application as originally submitted and as amended seeks a variation to the required 50m setback to Cudgera Creek. The proposed variation is for a link road (which would have a minimum setback of 35m) and portions of the structures within buildings E, F & G to a minimum setback of 40m.

The proposed variation is considered an improvement to the original situation onsite. The existing 12 mobile home sites with creek frontage are within 10m of the creek and have hardstand structures adjoining the Creek. In addition the existing roads form a distinct barrier that is only practical to maintain.

The applicant has provided justification for the proposed variations as follows (please note justifications have been summarised for the purposes of this report):

- The existing use of the site during peak periods can result in up to 250 people accessing the creek from unformed access points. The

proposed development would ultimately provide restricted access points and better protection provisions for the creek;

- The new development will have no negative environmental impacts;
- Previous advice from Council states that the 50m criteria is an advisory standard to protect the Creek without restricting the development potential under the current zoning;
- Under the current zoning (2c Urban Expansion and a three storey height limit) alternative developments (townhouses) would have a similar buffer area and this development should be treated the same due to compliance with the intent of the setback provisions.

This matter has been considered by the Tweed Coastal Committee, Council's Environmental Scientist and Council's Senior Planner.

The Tweed Coastal Committee has provided the following:

Whilst the Council be advised by the Tweed Coastal Committee that the minimum 50m buffer zone as prescribed by the Tweed Coast Estuaries Management Plan be adhered to; that a suitable restoration and revegetation plan be required, and that the development proponents be requested to redesign the proposal to accommodate the submission.

Council's Environmental Scientist has provided the following comments:

"All I definitely want to see is a densely vegetated riparian area of 20m width. I am concerned that encroachment into the 30m outer buffer beyond this will compromise the 20m zone as RFS will not be satisfied

In order to provide a solid basis for the treatment of this 50m zone, I have used the "Guidelines on Integrated Development and the Rivers & Foreshores Improvement Act 1948 for obtaining approvals for works in or near water bodies (2000). This document also makes reference to the NSW State Rivers and Estuaries Policy and the NSW Wetlands Management Policy as providing general guidelines for DAs. With regard to riparian area treatment, it states the following:

A riparian area of local native vegetation (comprising tree, shrub and groundcover species) should be maintained and enhanced wherever possible adjacent to rivers, estuaries and lakes. This riparian area will provide a natural filter for runoff, will stabilise stream banks and will provide habitat and corridor functions for flora and fauna. Generally, a minimum riparian area of 40 metres wide measured from the top of each bank is recommended for major watercourses and 20 metres for minor watercourses.

I have also referred to Council's DCP No 51 Tweed Coast Strategy which, although referring to Cudgen Creek, discusses and is fairly prescriptive about the form of the 50m buffer to the creek, namely that it be comprised of a 20m core buffer of native vegetation, rehabilitated or replanted as necessary; and a 30m outer buffer which has limited

potential for compatible land uses, such as parkland and other recreational uses.

Thus, there seems to be consistency in the requirement for a minimum of 20m from the mean high water mark of the creek to be densely revegetated/restored with local native vegetation, with the outer 30m to also contain native trees, but able to serve a dual use for restoration/parkland/limited recreational facilities. I concur with this approach.

The difficulty in this location is that whilst riparian vegetation can be provided, it will not be wetland above the bank of the creek, as it does not become inundated. My opinion is that use of littoral rainforest/riparian local native species and some wetland plants able to withstand terrestrial conditions (Paperbarks and Swamp Oaks etc.) will serve all the purposes proposed for the core buffer, and that the actual wetland area in this locality is reasonably extensive. Thus I would not advocate excavation or level changes in this area, but am keen to see the removal of existing retaining walls."

Based on the improvement to the existing situation, the above comments and the applicant's attempts (via amended plans) to reduce the extent of the variation, the proposed setback variation to the Creek is considered reasonable. Therefore the application as proposed is recommended for conditional approval.

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

Draft SEPP 1 was exhibited in July 2001 and has not been adopted to date. The proposed change would make developers and Councils more accountable. When applicants use SEPP 1, they must provide sufficient evidence that the proposed development meets the objectives of the local plan.

The proposed development is considered to have achieved this and thus the SEPP 1 was recommended for approval.

The proposed development does not require further assessment in relation to any Draft Planning Instrument.

Draft Tweed LEP 2000 No. 81 – Heights of Buildings, Hastings Point.

At its meeting of 6 July 2005 Council resolved, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, to amend the Tweed Local Environmental Plan 2000 to restrict the height of buildings south of Cudgera Creek at Hastings Point to 2 storeys (currently 3 storeys).

However, as part of Council's upcoming Local Environmental Plan 2007, all building height controls within the Shire are to be reviewed. Having regard to a response from the Department of Planning (which did not support the LEP Amendment without a more strategic approach) and the current Planning Reform agenda it was considered that to actively pursue an individual LEP

Amendment to specific sites is not an option in this instance when a wider strategic assessment is to be undertaken almost simultaneously.

Therefore at its meeting of 19 December 2006, Council resolved to abandon the pursuance of Tweed Local Environmental Plan 2000, Amendment No. 81 - Height of Buildings, Hastings Point.

A review of the Hastings Point building heights will be undertaken within a Shire-wide review as part of Council's Tweed Local Environmental Plan 2007. Please note that on 20 March 2007 Council received a second letter from the Department of Planning that states in part:

"I refer to your letter of 22 December 2006, where you indicate that Council had decided not to proceed with the above amendment.

Having further considered this matter, I wish to advise that, in view of the locality's sensitive coastal location, a reduction in building heights would appear to better reflect the aims and objectives of the NSW Coastal Policy. In this regard, Council can continue with the proposed amendment to building heights at Hastings Point.

The strategic review of building heights along the Tweed Coast, which is foreshadowed in my earlier letter, can now be undertaken as part of the comprehensive LEP.

Please find attached an Authorisation in respect of the proposed draft LEP. This Authorisation means that Council is able to exercise the following function with respect to the draft LEP, subject to the terms and conditions contained in the Authorisation:

Since the date of the above letter from the Department of Planning Council has not reinstated Draft LEP 81 and therefore the current application has been considered against the current applicable height limit of three storeys.

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

Tweed Development Control Plan

Section A2 Site Access & Parking Code

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

Section A3 Development of Flood Liable Land

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

Section A4 Advertising Signs

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

Section A9 Energy Smart Homes

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

Section A11 Public Notification of Development Proposal

The development has been advertised and notified in accordance with the Policy as detailed below the application received 20 submissions, which have been considered as part of this assessment.

Section A13 Socio – Economic Assessment

The proposed development will meet an urgent need for aged care facilities in the Shire, and contributes to relieving some of the load on human service providers.

The applicant has provided a socio-economic impact comment statement supporting the proposed development.

Council's Social Planner, and Council's Senior Town Planner assessed this report and provide the following comments.

The proposed development will result in the capacity for up to approximately 400 people to live at the facility. The proposed development provides three levels of care varying from independent living options to a high care element with 24 hour medical assistance.

The proposed development is considered likely to result in an increase of older people living in the area.

Social interaction can be accommodated onsite by way of organised activities in the recreation areas.

The site has the benefit of being in close proximity to a beautiful beach for recreational purposes and is on a bus route taking people to facilities in Tweed Heads South including, shops, hospitals, medical centres, chemists, schools. These facilities will provide connectivity for the people living in the development with the wider community.

The proposed development has assessed all access requirements in relation to Australian Standards in terms of design and access to bus services. The proposed development is considered to be suitable based on social grounds as it provides additional housing for the older population group.

It will result in direct employment and may also result in economic multiplier effects. There are also the wider benefits to the community in having an aged care facility in the location.

As detailed within the above report the loss of up to thirteen mobile home sites could disrupt the living arrangements for some people. However, the applicant has indicated that this may not affect anyone currently within the park because when Stage 3 is ready of commencement those 13 permanent home sites that are proposed for re-development may be vacant as people may choose to voluntarily vacate the premises or sell the premises to the owner prior to Stage 3.

It appears that the current owner and applicant are making a genuine and valid attempt to provide housing options for the elderly. As the site will continue operating under a diminished caravan park licence the applicant and owner will be bound by the requirements of that licence and the applicable legislation relating to residential tenancy agreements.

Based on all the available information the applicant has sought to provide the existing permanent residents with fair and equitable housing options. Socially this is considered a reasonable outcome.

Section A14 Cut & Fill on Residential Land

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

Section B18 Tweed Coast Building Heights

The applicant has indicated that whilst the proposal is lodged under SEPP Senior Living the nominated heights within the DCP have been adopted as a guide for this development.

The Plan specifies that three storey residential development shall have a height of 9 metres, with a further 2 metres allowed for additional roof height.

The proposed development complies with this limit and is considered to be suitable for the site given the changing character of Hastings Point and the identified need for aged care accommodation in this Local Government Area.

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

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

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

All likely impacts of the development have been addressed elsewhere in this report. The proposed development represents a modern design where the buildings are set back from Tweed Coast Road by at least 15m with good

articulation and appropriate roofline changes providing a finer grain to the façade. Overall the proposed development is considered suitable for the site

(c) Suitability of the site for the development

Erosion & Sediment Control

Council's Infrastructure & planning Engineer has provided that

Topography and soil type indicates that the risk of erosion is high, however the risk of sediment being transported to from the site is low. The proponent has submitted an ESCP that conforms to "D7 Stormwater Quality".

Appropriate conditions of consent have been recommended.

In all other regards the site is considered suitable for the proposed use.

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

The proposed development was originally advertised in the Tweed Link with additional notification letters going out to all residents within close proximity of the site. People were given two weeks (17 May 2006 – 31 May 2006) to view the application and provide a written submission to the DA.

During this period Council received 6 letters of objection.

Following the lodgement of additional information pertaining to the impact on the existing residents in September 2006 Council sent an information letter to all residents within the park itself and provided existing residents with an opportunity to review the original DA and the amended DA within the comfort of their own park by leaving a copy of the application with the president of the liaison committee.

Residents were given 21 days from 3 October 2006 to provide written comments on the application.

Council received a further 14 letters after this information letter was sent out.

Please note that some of these objections were received as late as March 2007.

These objections also incorporate representations from the Pottsville Community Association, The Hastings Point Progress Association and the Sustainable Coastal Villages Alliance.

The issues raised are duplicated below with responses attached.

ISSUE - Height

Comments within submissions

“Once we have three storey development on the south side of Hastings Point others will follow, as has been the case elsewhere. The two storey limit should be maintained and this should include the proposed development.”

The issue of height has been discussed in the above report.

“The 3 storey height limit proposed is out of character with the village atmosphere and should be maintained at 2 storeys, particularly south of the bridge”

“The proposal for a 3-storey high density development such as this should at least be reduced and the zonings maintained to a maximum 2 storey limit”

“We ask you to withhold all decisions on development on the southern side of Hastings Point until the decision is made to change back to 2 storeys. The only people opposed to a 2 storey height limit are the developers. Sadly these developers are happy to change this unique little village for their own gain, but it is very interesting to note, none of them choose to live here.”

“Tweed Council is continuing to pursue a two storey height limit for our area south of the creek bridge...we strongly support this initiative shown by Council. As a consequence of these objections, surely the immense size of the proposed development must weigh heavily against its approval in this location.”

“I have lived at 61 Tweed Coast Road for 60 years and it was always my understanding that this area of Hastings Point was zoned 2 storey only”

“HPPA has long held and voiced objections to 3 storey buildings in the Hastings environs as this is the smallest and most vulnerable of the Tweed Coast villages. Three-storey development will change the village to a town, which is unacceptable to residents. We do not have an inherent problem with the concept of a retirement complex, we object vigorously to the impacts of the height limits, scope and bulk of the complex. We request Council move immediately to rezone the whole of Hastings Point to 3 storey development and postpone a decision until the Ombudsman’s investigation is complete.”

“The SCVA is committed to maintaining a 2 storey height limit throughout the village and fully supports the call by local residents for Council to spot rezone the area in question until such time that an LEP is completed.”

“The proposed three storey height is of concern as it will impact adversely on the current village type amenity of Hasting Point.”

Assessment of Submissions

The application complies with both the Tweed LEP 2000 three-storey height limit and the maximum heights as contained within Tweed DCP B18 Tweed Coast Building Heights.

The SEPP Senior Living 2004 stipulates that development with a building height of less than 8m cannot be refused on the grounds of height. Whilst the

proposed development is greater than 8m in height, it is recommended to approve the development based on the merits of the overall concept.

Draft LEP No. 81 has been abandoned and therefore the review of Hastings Point building heights will be undertaken within a Shire-wide review as part of Council's Tweed Local Environmental Plan 2007.

These objections based on height are not considered to warrant refusal of the application given the development's general compliance with all applicable planning instruments.

ISSUE - Density

Comments within submissions

"The proposal is for high density development. While I am in favour of free enterprise I do not think it should be at the cost of aesthetics, nor against the will of the people. There is just not enough room between the creek and the road for such high density development....there are residential developments going in at Cabarita and Pottsville....so there is no real need for one here."

The proposed development complies with the floor space ratio controls contained within SEPP Seniors Livings and meets Council's controls for height.

"The proposal is for high density development which is unsuitable at Hastings Point because of the lack of space between the creek and the beach"

Assessment of Submissions

At the completion of Stage 3 the development would occupy 10,817m² of the site, which equates to 28.1% of the total site area.

This is considered to be a reasonable density for such a large site.

These objections based on density are not considered to warrant refusal of the application.

ISSUE - Visual Impact

Comments within Submissions

"I was shocked to see the size of it – will ruin the village atmosphere of Hastings Point...Who will want to visit Hastings when it looks like Salt or the Gold Coast?"

"In all, the visual impact of the development will not only be detrimental to Hastings Point character but also encourage the 3 storey development along the sensitive Cudgera Creek adding a number of detrimental impacts along this very sensitive environment."

"The artist's impression shows the visual impact of the development on Hastings Point if such a development was allowed to proceed."

“..the size and scope of the current plan is too overpowering in such a prominent position at the entrance to the village. It does not ‘blend in’ as claimed in the developer’s advertising material.”

“The size and bulk of this development does not seem appropriate on this site. It will dominate surrounding homes and encourage further developments of a similar height within Hastings Point.”

Assessment of Submissions

The proposed development will represent a change to the existing streetscape, as it is one of the first developments seeking utilisation of the three-storey height limit under Tweed LEP 2000.

The proposed development represents a modern design where the buildings are set back from Tweed Coast Road by at least 15m with good articulation and appropriate roofline changes providing a finer grain to the façade. Overall the proposed development is considered suitable given the size of the site.

These objections based on visual impact are not considered to warrant refusal of the application.

ISSUE - Overdevelopment of the site

Comments within Submissions

“It is considered an overdevelopment of the site which will impact adversely on the current village type amenity of Hastings Point.”

Assessment of Submissions

The subject site is distinct from other land within Hastings Point due to its size (approximately 37,970m² or 3.797ha) and different zoning 2(c) Urban Expansion compared to other land zoned 2(b) Medium Density. The site is also separated from the other residential land by Crown Reserve and is therefore a stand-alone site with no impact to adjoining properties in regard to overshadowing or privacy.

At completion of the project the proposed development would occupy 10,817m² of the site, which equates to 28.1% of the total site area. This type of density is considered suitable given the size of the site.

This objection based on density is not considered to warrant refusal of the application.

ISSUE - Emergency evacuation procedures

Comments within Submissions

“I am deeply concerned for the safety of residents of multi-storey buildings who are in some way infirm or disabled. As one who has only recently recovered from a debilitating illness, a 5 metre distance to a lift is too far to negotiate in the case of a fire, let alone 50 metres.”

“Residents have expressed concern regarding minimum 50 metre access to lifts as this would be impossible for disabled tenants to negotiate in the event of fire or other disaster.”

Assessment of Submissions

Appropriate conditions of consent have been recommended to ensure evacuation plans are in place.

This objection based on safety is not considered to warrant refusal of the application.

ISSUE - Buffer Zone

Comments within Submissions

“The buffer zone is 50 metres and there should be no exceptions to it. This regulation is designed to protect the unique and fragile environment in the area. On what possible grounds could this development be exempt?”

“The applicant is seeking a 30 metre buffer zone. Tweed Shire Council’s Estuary Plan requires a 50 metre buffer zone from the creek. There should be no exceptions to the 30 metre buffer zone”

“The Cudgera Creek is an essential part of the economics of this town and therefore should be properly maintained and all relevant buffer zones implemented to the required 50 metres.”

“The proposal has a recommended setback of 30 metres from Cudgera Creek which the author considers is as good as the 50 metre setback recommended in the Tweed Coast Estuaries Management Plan. TSC should ensure that all new proposals adhere to the recommended 50 metre setback.”

“The proposed development is located on a sensitive area that is very close to the estuary.”

Assessment of Submissions

The Development Application as originally submitted and as amended seeks a variation to the required 50m setback to Cudgera Creek. The proposed variation is for a link road (which would have a minimum setback of 35m) and portions of the structures within buildings E, F & G to a minimum setback of 40m.

The proposed variation is considered an improvement to the original situation onsite. The existing 12 mobile home sites with creek frontage are within 10m of the creek and have hardstand structures adjoining the Creek. In addition the existing roads form a distinct barrier that is only practical to maintain.

The applicant has provided justification for the proposed variations which is concurred with. Appropriate conditions have been imposed to ensure a dense

20m riparian buffer with the remaining area (up to 30m) providing a dual purpose buffer for APZ areas and more native plants.

These objections based on the Creek Buffer is not considered to warrant refusal of the application.

ISSUE - Character of Hastings Point

Comments within Submissions

“In view of the fact that Tweed is already undergoing rapid changes with large scale developments such as SALT and Casuarina and others of the drawing board, it is even more important to maintain the character of the few remaining coastal villages and reduce the size of any future developments.”

“I maintain that development of the caravan park would spoil the character of Hastings Point and set a precedent for further ribbon development along the coast road currently designated as a tourist road.”

“This project will destroy the ambience of Hastings Point without delivering the current community any lasting benefits. Community support was no doubt there because many saw the development being a possible option in old age. However the pricing structure of the units would preclude up to 85% of the current residents in the area.”

“..the size and scale is too large for a tiny village like Hastings Point and it will overwhelm the village and set a dangerous precedent for other large development along the Tweed Coast Road”

“Having 3 storey development with underground car parks is out of context with our local environment. I believe we should leave these last few villages as untouched and unique as possible and I appreciate the fact that we are getting your support in this matter.”

“The development definitely does not blend in with the present environment, as expressed in the developer’s brochure. Rather, it dominates the neighbourhood and beach. IT IS FAR TOO BIG”

“The size and scope of the buildings in no reflect a development befitting a ‘village’ and Hastings Point is the smallest and most vulnerable of the villages. The development does not blend in and provides a major blight on the landscape at a very prominent position in the village.”

Assessment of Submissions

The bulk and scale of the development is a controversial component of the development as a whole. Whilst the Tweed LEP stipulates that the subject site is affected by a three-storey height limit, Council has previously considered reducing the height limit to two storey’s in this location. Draft LEP 81 has since been deferred for consideration in the new LEP and therefore the three-storey height limit remains in force. The proposed development complies with this height limit but would not be consistent with the existing one to two-storey

character of the area. Given the applicable three-storey height limit it can be argued that this development is one of the first to contribute to a changed character for Hastings Point. This is topical, however, given the three-storey height limit for the purposes of this Clause the proposed development is considered satisfactory based on a changing character for Hastings Point.

The proposal will add and enhance the character and amenity of the area, through the introduction of modern architecturally designed buildings. The proposal does not involve the clearing of any native vegetation and has the benefit of being relatively cleared, enabling the proposal to be designed with substantial setbacks to Cudgera Creek and its environs. The proposal has also adopted a building form and siting that relates to the site's landform, through 15 metre front setbacks to the street and adopted building heights in Building B that provide for transitional scale.

Based on the size of the site and the overall site coverage of less than 30% the proposed development is recommended for approval.

These objections based on Character are not considered to warrant refusal of the application.

ISSUE - Existing caravan park

Comments within Submissions

"The elderly residents of the caravan park have been told they will be provided for in the future but at what cost and who of them will be able to afford it?"

"It is my understanding now that we are unable to sell our homes unless to the developers or the present owners. Hopefully they will be prepared to purchase at the current value for the area and at a time that suits us, not them."

"It appears we are being encouraged to relocate to one of the new proposed units using the value of our homes towards the entry bond in the new development. My concerns are that being the age we are all at there will be no way for us to recoup our financial losses. I would eventually like to return to live nearby family in Queensland and should I not get the full values of me home I would definitely not be able to purchase another comparable unit."

"I understand the laws pertaining to relocatable homes states that we are entitled to be moved within 500km of the present position. What I need to know is are the developers bound to be financially responsible for this move? Also, would it be at a time to suit me/us or when it suits them? I cannot find any assurance in the present proposal that this will happen."

"We were not informed clearly of future requirements. In particular that homes on the southern boundary and creek frontage would be relocated to these boundaries as development progressed"

"We have not been informed of the legal situation. This home is our only valuable asset and it has been willed to our children"

“Why would we wish to complete an agreement at this late stage”

“We are elderly people and do not understand a lot of things in the paperwork. I am 88 years old and my wife Vera 81. Our daughter Judy lives across the road from us at site 39. She is our carer and we rely on her every day. If she is to remain in her home she will have to leave the park. Who is going to look after us? We cannot survive without her help. What is going to happen to us if we die before we can move into the nursing home? We are not rich people. The only thing we have to leave our two children is this house. We are afraid the developers are going to take our house and our children end up with nothing. Please don't let them do that to us.

How much is it going to cost to live in the home? Everyone is asking us what we are going to do but we don't have anything to go on. It would be nice if they could let us know what is going to be available to us and how much it is going to cost.

We just don't know.”

“To date PDK developments has put nothing in writing to the permanent residents. We as the permanent residents feel we have the right to be provided with all relevant information in writing from PDK Developments prior to the DA being approved so we can make the correct decisions for our future and that the Council will in turn be able to assess the impacts of these decisions prior to approving the DA.

Alan McIntosh said in his letter dated 11th October 2006 to us that the development was like a jig saw puzzle. As we go down the track the pieces will begin to fall into place. I urge you, the Council being the governing body of this development not to treat our futures like a jig saw puzzle. We need all the pieces to be in place prior to the DA being approved.”

“We ask that PDK's intentions, as stated in their letter (, be incorporated as a condition to the development proceeding. The developers have no objection to this happening...”

Assessment of Submissions

It appears that the current owner and applicant are making a genuine and valid attempt to provide housing options for the elderly. As the site will continue operating under a diminished caravan park licence the applicant and owner will be bound by the requirements of that licence and the applicable legislation relating to residential tenancy agreements.

It is unlikely Council can force the applicant to provide for higher compensation for existing tenants than that detailed in the Residential Tenancy Act. Based on the effort the applicant has made to ensure existing residences are protected within the scope of this development application and the written communication provided to date about the options being presented to the permanent residences, it is recommended that this development be given support. This is despite the fact that up to thirteen permanent home sites will ultimately be lost.

The applicant has indicated that this may not affect anyone currently within the park because when Stage 3 is ready of commencement those 13 permanent home sites that are proposed for re-development may be vacant as people may choose to voluntarily vacate the premises or sell the premises to the owner prior to Stage 3.

However, if by the time that the applicant is ready to commence Stage 3 and there are still residents within the 13 sites those people would need to consider taking up one of the options being presented to them by the applicant (as detailed above).

The following condition of consent is recommended:

The owner of the land and the applicant for this Development Application are to have consideration for those permanent residents currently living on the premises. All efforts are to be made to ensure a variety of housing options remain open to existing residents to ensure the permanent residents maintain their quality of life.

Based on all the available information the applicant has sought to provide the existing permanent residents with fair and equitable housing options. These objections based on the impacts of the existing residents are not considered to warrant refusal of the application.

ISSUE - Quality of Vegetation Assessment

Comments within Submissions

“Given there is accurate documentation available classifying the mentioned vegetation areas (SEPP 26 rainforest plan 1995 by Joseph Pottsville to Hastings Point vegetation plan 2002 James/Willson), it is clear the applicant did inadequate research on this topic.”

Assessment of Submissions

Notwithstanding the applicants application, Council’s Environmental Scientist has reviewed the application having regard to Section 5A of the Environmental Planning & Assessment Act 1979 and recommended appropriate conditions of consent.

This objections based on the quality of the assessment are not considered to warrant refusal of the application.

ISSUE - Vegetation Rehabilitation Plan

Comments within Submissions

“There is no work method statement for rehabilitation. There is no weeds list and control method; the proposed planting is inconsistent with the existing indigenous species particularly to the south of the property”

“The plan is lacking in both content and expertise; the selection of species is inappropriate to the location and are not local to the Tweed coast; the plan does not include details of existing vegetation and the use of natural regeneration, weeds present on the site and how they will be controlled, managements zones, details of planting such as spacing, expected survival rates, plant requirements and maintenance, flow on weed control, monitoring and recording of works”

Assessment of Submissions

Notwithstanding the applicants application, Council’s Environmental Scientist has reviewed the application having regard to Section 5A of the Environmental Planning & Assessment Act 1979 and recommended appropriate conditions of consent.

These objections based on the quality of the assessment are not considered to warrant refusal of the application.

ISSUE - Removal of Mangroves

Comments within Submissions

“There is an application to remove mangroves, presumably for the boardwalk; this should also be shown within the restoration plan. I object to the removal of mangroves in this location.”

Assessment of Submissions

The boardwalk no longer forms part of this application.

This objection is not considered to warrant refusal of the application.

ISSUE - Traffic

Comments within Submissions

“Increased level of traffic on Tweed Coast Road”

Assessment of Submissions

Council’s Development Engineer has reviewed the application and raised no objection in regards to traffic, subsequently appropriate conditions of consent were recommended.

This objection based on traffic is not considered to warrant refusal of the application.

ISSUE - Impact on Water Table

Comments within Submissions

“What also concerns us is the inclusion of underground car parks. These days with the problem of water shortage, it is of great importance that no risk should be taken that could be detrimental in losing the table of water which we all have along this stretch of the Tweed Coast Road.”

“Having the use of a table of water which is available to those of us long the Tweed Coast Road, it concerns me greatly that these underground car parks could cause the water to dry up. With the water shortages in so many areas these days, it would be a tragedy if we lost the use of this valuable commodity.”

Assessment of Submissions

The application does not require dewatering and therefore will have no impact on the water table.

This objection is not considered to warrant refusal of the application.

ISSUE - Sewer Connection

Comments within Submissions

“The placement of the sewer connection point and the lifting pump near the property boundary and our boundary. We would like assurance there will be no odour or noise from the facility.”

Assessment of Submissions

Appropriate standard conditions of consent are recommended to monitor noise and impact.

ISSUE - Garbage Bins Placement

Comments within Submissions

“The plan shows the placement of garbage bins near the northern boundary of the proposed development. Bins were previously placed near this boundary and were very smelly and noisy. We would like assurance that the bins will be placed further west towards the creek and away from our residences. This would alleviate the impact of smell and noise on residences.”

“to overcome our concerns (re: bins and sewer lines) we would like to suggest the erection of a noise wall along part of the northern boundary near the garbage bins. This would not only serve to reduce noise but also allow us to retain our privacy from such a large development.”

Assessment of Submissions

Existing residents will be relocated within the park to the Creek frontage sites and the southern boundary; therefore the bin location will have limited impact on existing residents.

Appropriate standard conditions of consent are recommended to monitor noise and impact.

ISSUE - Retention of Marine Field Study Resource Centre

Comments within Submissions

"I am in favour of this as long as the...centre...is included. This centre is so good for educating our young people. It is crucial for our schools and colleges to learn more about our environment and marine life."

Assessment of Submissions

The existing centre is considering relocation to an adjoining site subject to all the necessary approvals.

This objection is not considered to warrant refusal of the application.

ISSUE - Hastings Point Resident's Association Vision Plan

Comments within Submissions

"We have a vision plan for Hastings Point lodged with Tweed Shire Council awaiting further review. in the plan we put forward various ideas to retain Hastings Point identity as a traditional family beach camping holiday destination."

The overwhelming majority of residents accepted this plan as ac clear standard to aspire to.

A large scale development such as the proposed would have a detrimental impact on the plan which include clear outlines to halt development."

"The proposed development is not in keeping with the Hastings Point Village Plan. Its size, bulk and height is way in excess of what should be allowed in our small coastal village."

Assessment of Submissions

The subject application was lodged with Council in April 2006. Council has a statutory obligation to assess the application against the current applicable planning instruments.

This development application primarily complies with these controls and represents an urgent community need for aged accommodation.

Therefore the application is recommended for approval.

These objections are not considered to warrant refusal of the application.

ISSUE - Advertising/Exhibition of proposal

Comments within Submissions

“We were very disturbed to be advised of the number of letters that were sent out (and subsequently found out to be not received) and also the Tweed Link in which this was advertised was not received by residents. We request that Tweed Shire Council re-advertise the application”

“Having knowledge that many people were not aware of this DA, I would like to ask you to re-advertise this DA so as to give people the opportunity for their comment.”

“the community consultation process has taken the form of community information sessions. The developers have indicated their unwillingness to negotiate on any aspects of the development raised by residents which have been outlined in our previous correspondence”

“The community consultation process has been a community information process, where anyone trying to disagree with the developers has been subject to significant abuse and intimidation by Mr McIntosh.”

Assessment of Submissions

The proposed development was originally advertised in the Tweed Link with additional notification letters going out to all residents within close proximity of the site. People were given two weeks (17 May 2006 – 31 May 2006) to view the application and provide a written submission to the DA.

During this period Council received 6 letters of objection.

Following the lodgement of additional information pertaining to the impact on the existing residents in September 2006 Council sent an information letter to all residents within the park itself and provided existing residents with an opportunity to review the original DA and the amended DA within the comfort of their own park by leaving a copy of the application with the president of the liaison committee.

Residents were given 21 days from 3 October 2006 to provide written comments on the application.

Council received a further 14 letters after this information letter was sent out.

Please note that some of these objections were received as late as March 2007.

These objections also incorporate representations from the Pottsville Community Association, The Hastings Point Progress Association and the Sustainable Coastal Villages Alliance.

It is considered that the application was appropriately advertised and notified in accordance with the applicable legislation.

These objections are not considered to warrant refusal of the application.

CONCLUSION

Having reviewed all the submissions the application is considered to warrant conditional approval.

In addition to the above public submissions the application was referred to the National Parks & Wildlife Service as an adjoining landowner on 9 May 2006.

The Department of Environment & Conservation responded by giving broad guidelines for the assessment process which included the need for consideration of the Protection Of The Environment Operations Act 1997, EPA Act 1979, SEPP 44, SEPP 71 etc.

The appropriate assessment has been undertaken in accordance with S79C of the EPA Act 1979.

The application has also been reviewed by Council's Coastal Committee who provided the following comments:

Council be advised by the Tweed Coastal Committee that the minimum 50m buffer zone as prescribed by the tweed Coast estuaries management Plan be adhered to; that a suitable restoration and revegetation plan be required, and that the development proponents be requested to redesign the proposal to accommodate the submission.

The applicant and Council Officers have reviewed these comments and considered the ramifications of a re-design. Based on these comments as detailed earlier in this report the proposed setback variation to the Creek is considered reasonable. Therefore the application as proposed is recommended for conditional approval.

Fisheries Management Act 1994

Council sought comments from the NSW Department of Primary Industries (Fisheries NSW) on 11 May 2006.

On 3 July 2006 Council received advice from the NSW Department of Primary Industries (Fisheries) in relation to buffer zones to aquatic habitats, a boardwalk, a jetty and waterway access and stormwater impacts on seagrasses.

All the comments have been considered and upon final assessment the application is considered to warrant conditional approval specifically including General Terms Of Approval under the Fisheries Management Act 1994.

Water Management Act 2000 (Rivers & Foreshores Improvements Act 1948)

Council sought comments from the NSW Department of Natural Resources (for a 3A permit) on 11 May 2006.

On 15 June 2006 Council received advice from the Department of Natural Resources in relation to SEPP 14, Flooding Considerations, Rivers and Foreshore Improvement Act 1948, The Tweed Coast Estuaries Management Plan 2004 – 2008, Cudgen Creek Boardwalk, and the Asset Protection Buffer.

All the comments have been considered and upon final assessment the application is considered to warrant conditional approval specifically including General Terms Of Approval for a 3A Permit.

Rural Fires Act 1997

Council sought comments from the NSW Rural fire Service (for a s.100B general approval) on 11 May 2006.

On 25 June 2006 Council received a request for additional information from the NSW RFS specifically regarding the Asset Protection Zones.

The applicant responded to this request in February 2007 and subsequently this information was forwarded to the RFS.

In April 2007 Council received final comments from the RFS that recommended approval subject to the recommended General Terms of Approval.

(e) Public interest

The provision of aged care facilities within the local community is an important need. The proposed development will upon completion contain 245 units (or potentially 394 beds). The development has been designed to provide amenity to the future residents and spaces that are pleasant to afford leisure and recreation. The proposed development is considered to be of a high standard and would cater for a need within the community.

The subject land has been identified for urban expansion purposes under the Tweed local Environmental Plan 2000. The proposed development is a permissible use within the zone and has been designed in accordance with the State Environmental Planning Policy Senior Living 2004.

The subject land is in a locality that will be undergoing changes as development pressures increase. The development has responded to the restrictions on the land.

Despite the public objection from 20 people/groups the proposal is not considered to be in conflict with the general public interest.

Infrastructure Charges

The contributions that have been calculated for the proposed development have been charged at the bed rate (where applicable) or the medium density rate with the only components that are applicable to aged care facilities being levied. The subject land has the benefit of existing credits from the existing facilities on site that will be removed.

Applicable land **credits are**

Contribution No:	Plan	Stage 1	Stage 2	Stage 3
		8 Motel Units 33 Permanent Home Sites 40 Short Term Sites 20 Tent Sites	Any credit carried over from Stage 2	15 permanent sites from southern boundary
Water DSP 6		40.6ET	Nil	6ET
Sewer Hastings Point		52.1ET	Nil	7.5ET
TRCP Sector 8a		275 TRIPS	65 TRIPS	45 TRIPS
Local Casual Open Space		38.784ET	Nil	5.76ET
Local Structured Open Space		21.5769ET	Nil	9.807ET
Library Facilities		21.5853	Nil	9.8115ET
Bus Shelters		62.1554	10.4618ET	9.231ET
Eviron Cemetery		22.671ET	Nil	10.305ET
Community Facilities		33.6666ET	Nil	5ET
Emergency Facilities		38.885ET	Nil	5.775ET
Council Administration		60.8046ET	5.8854ET	9.807ET
Cycleways		47.8674ET	Nil	9.801ET
Regional Casual Open Space		47.7418ET	Nil	9.807ET
Regional Structured Open Space		Not applicable to Senior Living Development		

The facility will cater for 394 beds over 245 units.

The current **chargeable rates** are detailed below.

Contribution Plan No:	Stage 1	Stage 2	Stage 3
	84 Independent Living Units (76 x 2 beds & 8 x 3 beds)	53 Hostel Units (50 x 2 beds & 3 x 1 beds)	67 Residential Care Beds 41 Hostel Units (7 x 2 beds & 34 x 1 beds)
Water DSP 6	11.4 ET = <u>\$52,417</u>	31.2 ET = <u>\$143,458</u>	45.3 ET = <u>\$208,289</u>
Sewer Hastings Point	12.9ET = <u>\$36,933</u>	39 ET = <u>\$111,657</u>	65 ET = <u>\$186,095</u>
TRCP Sector 8a	Nil due to credit	67.5 daily trips = <u>\$34,996</u>	191.5 daily trips = <u>\$99,285</u>
Local Casual Open Space	28.8ET = <u>\$4810</u>	39.552 ET = <u>\$6605</u>	38.4 ET = <u>\$6413</u>
Local Structured Open Space	33.3423ET = <u>\$26,007</u>	34.6514ET = <u>\$27,028</u>	16.9988ET = <u>\$13,259</u>
Library Facilities	33.3591ET = <u>\$22,951</u>	34.6673 ET = <u>\$23,851</u>	60.8313 ET = <u>\$41,852</u>

Contribution Plan No:	Stage 1	Stage 2	Stage 3
	84 Independent Living Units (76 x 2 beds & 8 x 3 beds)	53 Hostel Units (50 x 2 beds & 3 x 1 beds)	67 Residential Care Beds 41 Hostel Units (7 x 2 beds & 34 x 1 beds)
Bus Shelters	Nil due to credit	22.1544 ET = <u>\$576</u>	57.2322 ET = <u>\$1488</u>
Eviron Cemetery	35.037ET = <u>\$4590</u>	36.411 ET = <u>\$4770</u>	63.891 ET = <u>\$8370</u>
Community Facilities	25ET = <u>\$14,600</u>	34.3333 ET = <u>\$20,051</u>	33.3333 ET = <u>\$19467</u>
Emergency Facilities	16.135ET = <u>\$3227</u>	34.715 ET = <u>\$6,943</u>	21.08 ET = <u>\$4216</u>
Council Administration	Nil due to credit	28.766 ET = <u>\$57,439.95</u>	55.6511 ET = <u>\$111,124.12</u>
Cycleways	7.0482ET = <u>\$2481</u>	34.6302ET = <u>\$12,190</u>	16.9884ET = <u>\$5,980</u>
Regional Casual Open Space	7.1774 ET = <u>\$6137</u>	34.6514 ET = <u>\$29,627</u>	42.7804 ET = <u>\$36577</u>
Regional Structured Open Space	Not applicable to Senior Living Development		
TOTALS	\$172,721	\$479,191.95	\$742,415.12
GRAND TOTAL	<u>\$1,394,328.07</u>		

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

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

CONCLUSION:

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

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.
