



TWEED SHIRE COUNCIL

AGENDA

PLANNING COMMITTEE MEETING

Tuesday 11 March 2008

Chairman: Mr Max Boyd AM

**Administrators: Mr Max Boyd AM
Mr Garry Payne AM
Mr John Patterson
(Substitute Administrator for
item DA07/0529)**



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REPORTS THROUGH GENERAL MANAGER

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

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

MATTERS FOR CONSIDERATION

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



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REPORTS FROM DIRECTOR PLANNING & REGULATION

P1 [PR-PC] Review of Determination of Development Application DA06/1237 for the Erection of a Second Dwelling to Create a Detached Dual occupancy at Lot 13 Section 4 DP 8568, No. 39 Adelaide Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA06/1237 Pt1

SUMMARY OF REPORT:

This application seeks a S82A Review of Determination of DA06/1237 that was refused by the Development Assessment Panel in May 2007. The application was refused due to a lack of information that would have enabled a proper assessment of the application, and accordingly no merit assessment was undertaken at that time.

The S82A Review has now been submitted with all the necessary information to enable a proper assessment.

Having regard to the issues raised in the objection received and having regard to the applicable planning controls the proposed development is considered to warrant conditional approval as per the recommendation.

RECOMMENDATION:

That the Review of Determination of Development Application DA06/1237 for the erection of a second dwelling to create a detached dual occupancy at Lot 13 Section 4 DP 8568, No. 39 Adelaide Street Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos**
 - G2428 (Sheets 1-4) prepared by Gavin Duffie and dated 10/03/2006.****except where varied by the conditions of this consent.**
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0005]

[GEN0115]

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

[GEN0135]

4. The verandah to the new dwelling is to have a privacy screen (min height of 1.5m) attached to the southern elevation to protect the privacy of adjoining properties.

[GENNS01]

5. The landscaping of the site shall be finished to the satisfaction of Council's General Manager of his delegate.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Section 94 Contributions

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

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

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

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

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

(a) Tweed Road Contribution Plan:	\$3,874
S94 Plan No. 4 (Version 4.0)	
Sector1_4	
(b) Open Space (Structured):	\$240
S94 Plan No. 5	
(c) Open Space (Casual):	\$51
S94 Plan No. 5	
(d) Shirewide Library Facilities:	\$212
S94 Plan No. 11	
(e) Eviron Cemetery/Crematorium Facilities:	\$49
S94 Plan No. 13	

(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$62
(g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$614.22
(h) Cycleways S94 Plan No. 22	\$108
(i) Regional Open Space (Structured) S94 Plan No. 26	\$715
(j) Regional Open Space (Casual) S94 Plan No. 26	\$263

[PCC0215/PSC0175]

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

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

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

Water DSP4: 1 ET @ \$9997 \$9,997

Sewer Banora: 1 ET @ \$4804 \$4,804

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]

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

[PCC0585]

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

[PCC0885]

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

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

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

[PCC1145]

11. 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]

12. To eliminate the potential of any overland flow entering the adjoining property from the subject site, a minimum 300mm block edging is to be constructed along the driveway and concrete turnaround facility within No 39 Adelaide Street to ensure that all stormwater overland flow for No 39 is conveyed down the driveway of No 39 and not onto the adjoining property.

[PCCNS01]

13. The dwelling and associated works shall be designed by a Chartered Professional Structural Engineer of The Institution of Engineers Australia or the equivalent in accordance with the recommendations of the Geotechnical Engineers report by "Morrison Geotechnic" dated 16 July, 2007 and endorsed by the same. Details of such are to be submitted with the Construction Certificate application to and approved by the Principal Certifying Authority.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

14. 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]
15. 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]
16. 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]

17. 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]

18. 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]

19. 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]

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

[PCW0955]

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

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

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

[PCW0985]

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

[PCW1005]

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

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

25. The provision of 4 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

27. All 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]

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

[DUR0245]

29. 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]

30. 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]

31. 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]

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

[DUR0445]

33. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan, Part A5 - Subdivision Manual and Development Control Plan, Part A14 - Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[UR0835]

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

[DUR0905]

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

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

[DUR1005]

36. 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]

37. 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]
38. 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]
39. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
40. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
41. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
42. 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]
43. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

44. 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]
45. 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]
46. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.
- [POC0435]
47. 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]
48. A Structural Engineer's "Certificate of Adequacy" certifying that the dwelling and associated works have been erected in accordance with the approved details and recommendations of the Geotechnical Engineer is to be submitted to the Principal Certifying Authority.
- [POCNS01]
49. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, odours or the like.
- [USE0125]
50. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.
- [USE0435]



REPORT:

Applicant: Ms CJ Sullivan
Owner: Mrs CJ LE Breton
Location: Lot 13 Section 4 DP 8568, No. 39 Adelaide Street Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$200,000

BACKGROUND:

On 23 May 2007 the subject Development Application was reported to the Development Assessment Panel.

The Development Application was void of the required information as per Council's additional information requests (acceptable geotechnical reports) and accordingly, the application was recommended for refusal on the following grounds:

- "1. Pursuant to Section 79C(1)(a)(iv) the proposed development has not been supported by information pertinent to its assessment as requested by Council on 26 February 2007.
2. Pursuant to Section 79C(1)(b) the proposed development is not supported by information that permits a level of satisfactory assessment in relation to the impact on the built environment, as it relates to landslip and soil stability.
3. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed.
4. Pursuant to Section 5 - Objects, of the Environmental Planning and Assessment Act, 1979 the proposed development cannot be determined to satisfy subsection (a)(ii), the orderly and economic use and development of the land."

No merit assessment was undertaken at this time.

On 18 October 2007 Council received a request to review its earlier refusal (Section 82A Review in accordance with the EP&A Act 1979). This was supplemented with the additional geotechnical information required. This information has now allowed a proper assessment of the proposal.

The application seeks approval for the erection of a second dwelling to form a detached dual occupancy. The second dwelling is proposed to be erected at the rear of the lot, utilising an existing driveway on the southern property boundary.

The proposed house is two stories and features 3 bedrooms, double garage, treated pine boards on external walls and colour bond roof to match existing dwelling. Whilst the new dwelling will be two stories in height, from the rear it will appear as a single dwelling due to the slope of the land. The additional dwelling will have a total site cover of 280.1m² over a site area of 632.3m².

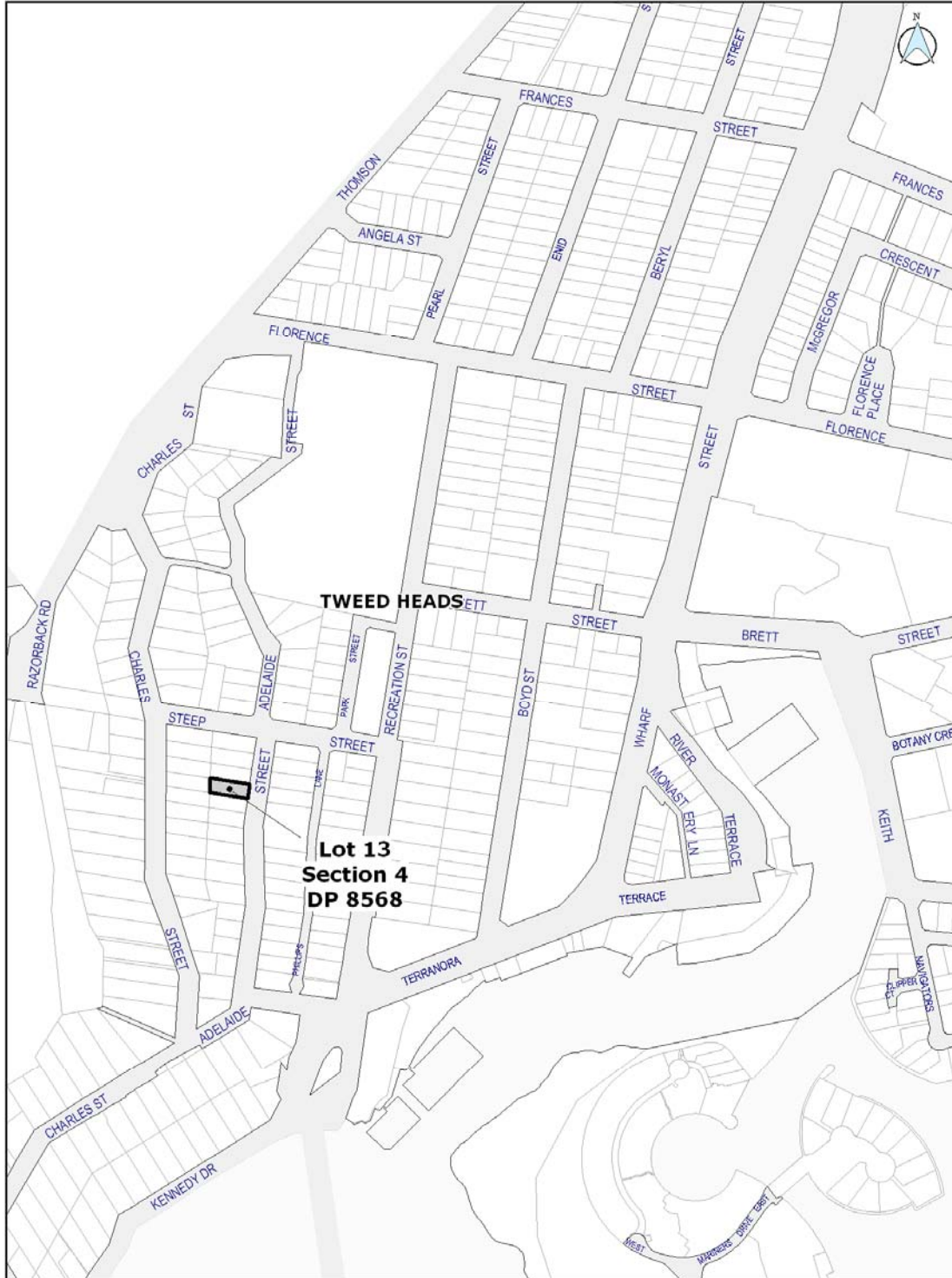
The subject site has a land area of 632.3 square metres and fronts on to Adelaide Street, Tweed Heads. A redevelopment of the existing dwelling has recently been undertaken and involved a rear carport & front deck additions with a fence height variation (the consent was modified to also include the addition of study with robe & decrease size of deck). The extension of services to the rear of the block was installed as part of existing dwelling works.

The site has steep terrain that slopes upwards from the street to the rear of the block (i.e. east to west) with an average gradient of about 24%. Subsequently, the site is identified as a possible slip site (in accordance with Tweed Consolidated DCP section B2 Tweed Heads and section A14 Cut & Fill). Land constraints include topography, and subsequent geotechnical issues and removal of storm water.

The application was notified to adjoining property owners and subsequently one objection was received. Council also received letters of support from other property owners in the area and a verbal acceptance of the proposal from the neighbour immediately to the north.

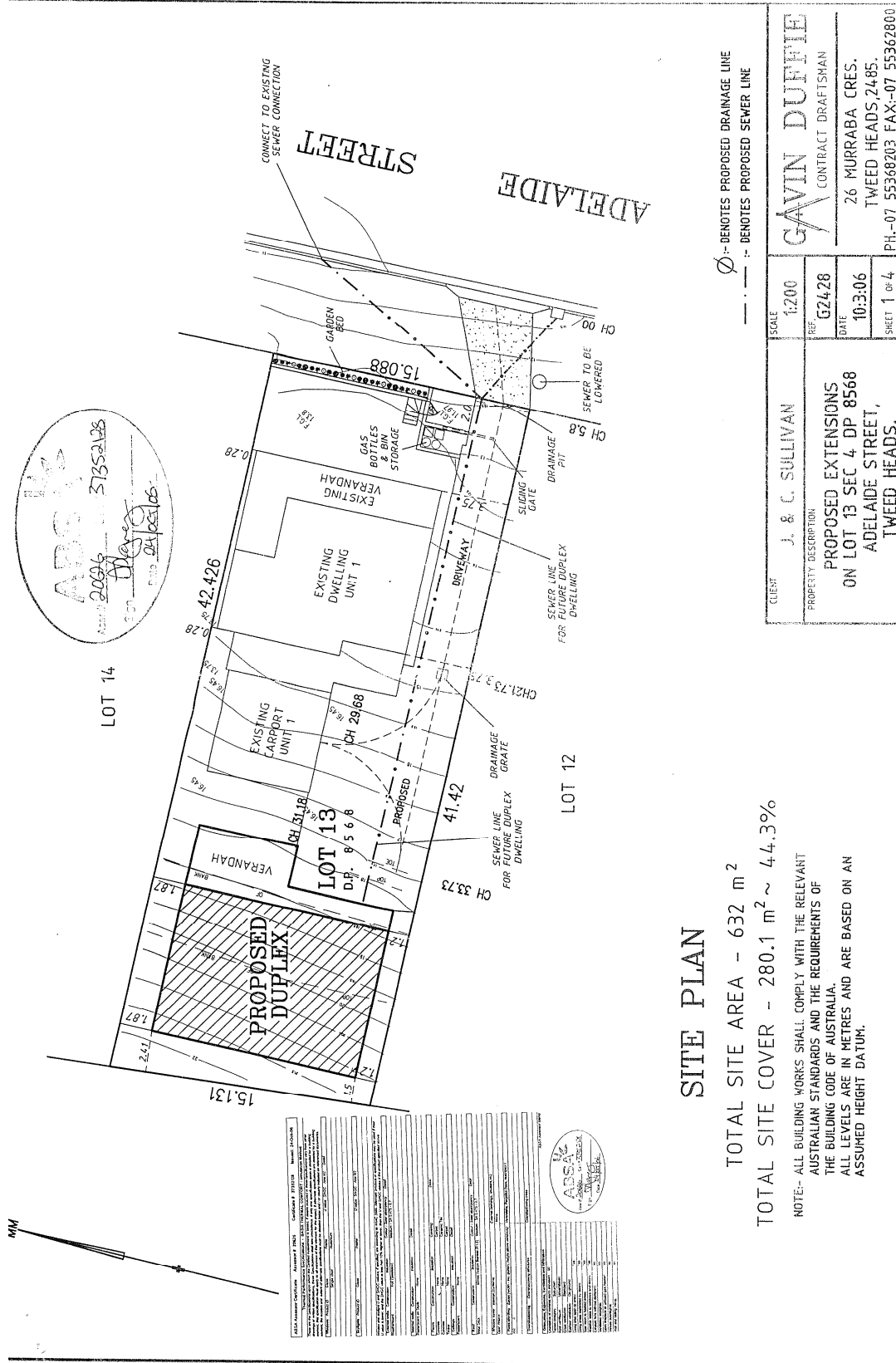
Having regard to the issues raised in the objection and having regard to the applicable planning controls the proposed development is considered to warrant conditional approval as per the recommendation.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2008 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2493</p>	<p style="text-align: center;"><i>Tweed Shire Council</i> Review of Determination of Development Application DA06/1237 for the Erection of a Second Dwelling to Create a Detached Dual occupancy at Lot 13 Section 4 DP 8568, No. 39 Adelaide Street, Tweed Heads</p>	<p>Site Plan   Sheet: 1 of 1</p>
<p>File: G:\GIS_Jobs\00037413\Adelaide Street Wor Author: J. Batchelor Date: 05/Mar/2008 Scale: 1:5,000</p>		

DEVELOPMENT PLANS:



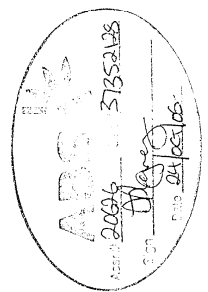
SITE PLAN

TOTAL SITE AREA - 632 m²
 TOTAL SITE COVER - 280.1 m² ~ 44.3%

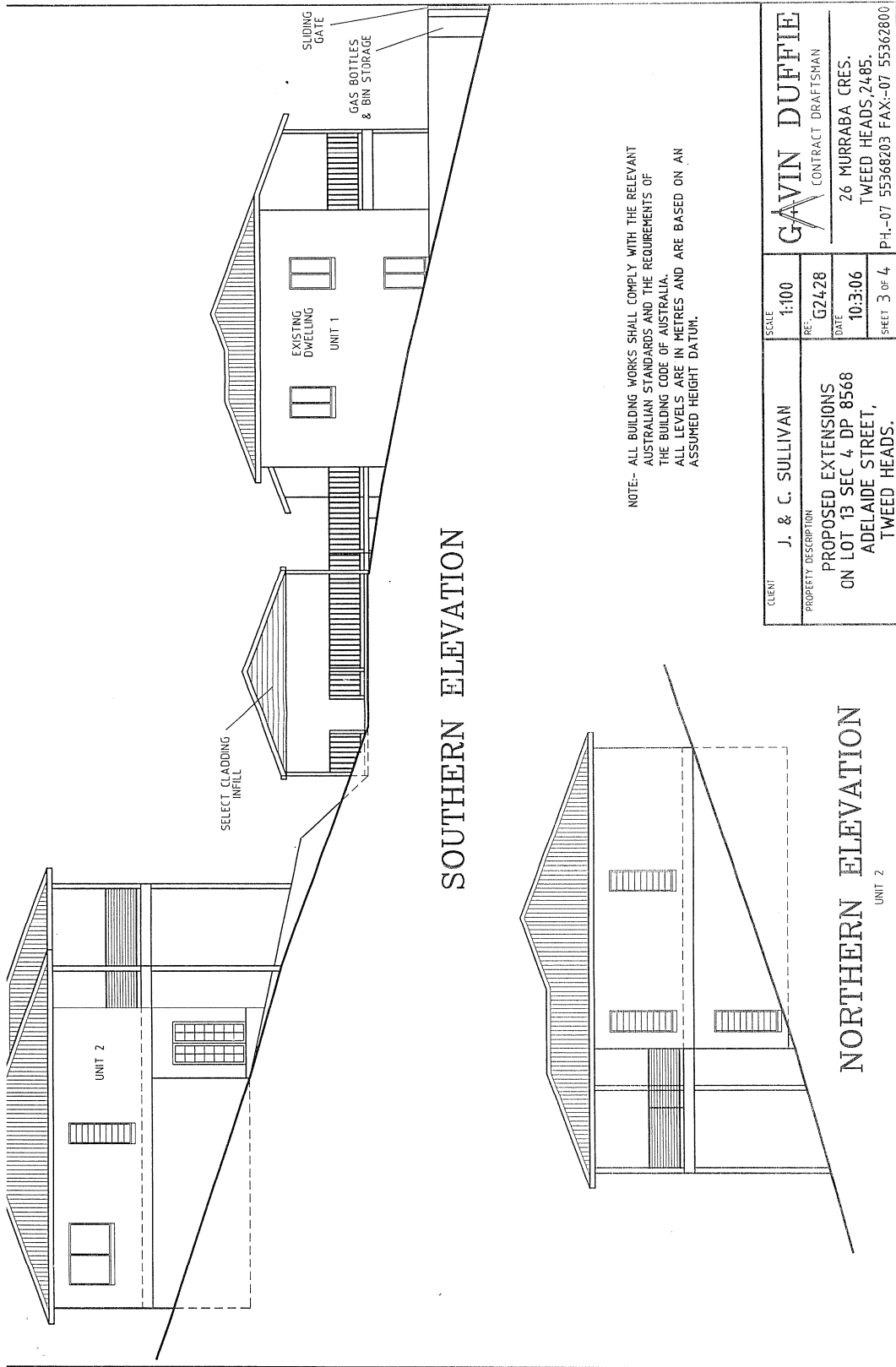
NOTE:- ALL BUILDING WORKS SHALL COMPLY WITH THE RELEVANT AUSTRALIAN STANDARDS AND THE REQUIREMENTS OF THE BUILDING CODE OF AUSTRALIA.
 ALL LEVELS ARE IN METRES AND ARE BASED ON AN ASSUMED HEIGHT DATUM.

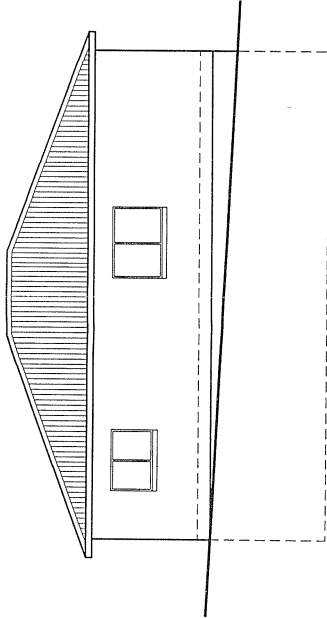
Ø - DENOTES PROPOSED DRAINAGE LINE
 - - - - DENOTES PROPOSED SEWER LINE

CLIENT	J. & C. SULLIVAN
SCALE	1:200
PROPERTY DESCRIPTION	PROPOSED EXTENSIONS ON LOT 13 SEC 4 DP 8568 ADELAIDE STREET, TWEED HEADS.
REF	G2428
DATE	10:3:06
SHEET	1 OF 4
DRAWN BY	GAVIN DUFFIE
CONTRACT DRAFTSMAN	26 MURRABA CRES. TWEED HEADS, 2485. PH.-07 55368203 FAX:-07 55362800



NO.	REVISION	DATE	BY	CHKD
1	ISSUED FOR PERMIT	10/03/06	G.D.	J.S.
2	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
3	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
4	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
5	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
6	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
7	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
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13	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
14	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
15	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
16	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
17	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
18	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
19	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.
20	REVISED PER PLAN NO. 2006/00000000	10/03/06	G.D.	J.S.

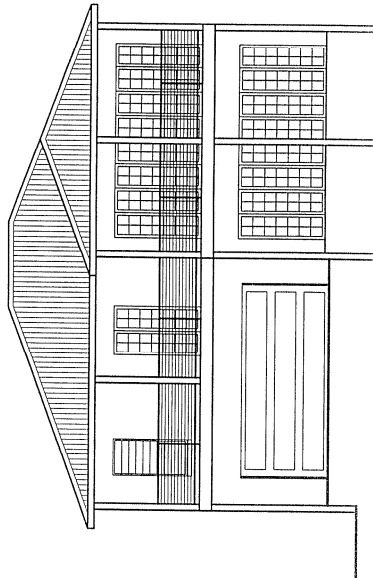




WESTERN ELEVATION

UNIT 2

NOTE-- ALL BUILDING WORKS SHALL COMPLY WITH THE RELEVANT AUSTRALIAN STANDARDS AND THE REQUIREMENTS OF THE BUILDING CODE OF AUSTRALIA.
ALL LEVELS ARE IN METRES AND ARE BASED ON AN ASSUMED HEIGHT DATUM.



EASTERN ELEVATION

UNIT 2

CLIENT	J. & C. SULLIVAN		
	SCALE	1:100	
PROPERTY DESCRIPTION	REF.	G2428	
	DATE	10:3:06	
PROPOSED EXTENSIONS ON LOT 13 SEC 4 DP 8568 ADELAIDE STREET, TWEED HEADS.			
DRAWN BY		GAVIN DUFFIE	
CHECKED BY		CONTRACT DRAFTSMAN	
PROJECT ADDRESS		26 MURRABA CRES, TWEED HEADS, 2485.	
CONTACT		PH: -07 55368203 FAX: -07 55362800	

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 Tweed LEP 2000 sets out the aims of the plan at Clause 4, the principals of Ecologically Sustainable Development at Clause 5 and the overarching consent considerations at Clause 8.

Clause 8(1) requires the consent authority to be satisfied that the proposal is consistent with the primary zone objectives, consistent with other aims and objectives of the plan and thirdly that the development would not have an unacceptable cumulative impact.

The subject land is zoned 2(b) Medium Density Residential.

Under the Tweed Local Environmental Plan 2000 - Multi Dwelling Housing is listed as an Item 2 matter in the 2(b) zone which enables this kind of provided development consent is sought and granted.

The objectives of the 2(b) zone are:

Primary objective

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

Secondary objectives

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

The proposed development is consistent with the primary objectives of the zone. The proposed additional dwelling will enable multi dwelling housing that achieves good urban design outcomes. The additional dwelling will not negatively impact the streetscape and will be sympathetic to the existing dwelling on site.

The secondary objective discourages the under utilisation of land for residential purposes in the Tweed Heads sub regional centre. Whilst the subject site is separated from the CBD by 1km the proposal to increase

density on this site is considered to be consistent with both the primary and secondary zone objectives.

The proposal is consistent with the aims and objectives of the TLEP 2000.

The following assessment demonstrates that the proposed development will not result in unacceptable cumulative impacts on the community, locality or catchment.

Therefore, given the assessment of the site constraints and the design of the second dwelling it is considered that the development in the proposed location can be considered having satisfied Clause 8(1) of the Tweed LEP 2000.

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

Clause 16 of the LEP requires development to be undertaken in accordance with a building height plan, which identifies the site as being limited to two storeys with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The application complies with this height limit and therefore satisfies Clause 16.

Clause 35 of the LEP refers to the management of acid sulfate soils. The subject site is identified as Class 5 land, which requires works within 500m of Class 1, 2, 3 or 4 that are likely to lower the water table below 1m AHD, to have an appropriate ASS Management Plan. The proposed works are not considered to lower the water table in any adjacent class 1, 2, 3 or 4 land, therefore a management plan is not required.

North Coast Regional Environmental Plan 1988

In accordance with Clause 32B of the NCREP, the proposal is considered to be generally consistent with the relevant provisions of the NSW Coast Government Policy and the Coastline Management Manual.

The proposal does not incorporate any physical restriction of access to a foreshore area or detrimental impacts upon the coastal character and amenity of the site. Nor does the development overshadow any area of beach or waterfront open space. Accordingly, the proposal fully complies with this clause of the REP.

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

The proposed density is considered to be a reasonable response to the existing land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths

are satisfactory for the proposal and a detailed sedimentation and erosion control plan will be applied in relation to the construction.

The proposal is considered to be consistent with the relevant provisions of Clause 43 of NCREP 1988.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

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

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

The draft planning instruments that have been advertised do not contain provisions which affect the proposed development. No further assessment is required.

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

Section A1 – Multi Dwelling Housing

The following table assesses the proposed development in relation to the provisions of Section A1:

Standard	Requirement	Proposal	Complies
<u>Floor Space Ratio</u> <i>Performance Criteria:</i> <i>The scale of new development is compatible with and sympathetic to the scale and bulk of existing developments in the locality.</i>	0.5:1	Gross Floor Area = 314.68m ² Ratio = 0.497:1	Complies
<u>Landscaped Area</u> <i>Performance Criteria</i> <i>Site design that minimises site disturbance and where possible preserve existing landscape, use appropriate vegetation and improve privacy and streetscape.</i>	30% of site area (632 x 30% = 189.6 m ²)	Approximate area available for landscaping = 153.6 m ² (This area includes front court yard area of existing dwelling)	No – See further assessment below.

Standard	Requirement	Proposal	Complies
<u>Setbacks</u> <i>Performance Criteria</i> <i>Buildings are sited and are of such length and height that there is no significant loss of amenity to adjacent dwellings and land.</i>	Primary frontage 6m Secondary frontage 3m Side Setbacks 900mm	Side and rear setbacks of proposed dwelling > 900mm.	Complies
<u>Streetscape</u> <i>Performance Criteria</i> <i>The scale of new development is compatible with and sympathetic to the scale and bulk of existing developments in the locality or development site has some heritage significance or distinctive character.</i>	The maximum width of the garages should be 50% of the frontage width and garage shall not dominate the street.	Neither Unit 1 (existing dwelling) or proposed new dwelling have their garages positioned at the front of the allotment.	Complies
<u>Building Envelope</u> <i>Performance Criteria</i> <i>Buildings that are sited and designed to provide adequate daylight to habitable rooms and winter sunlight to ground level open space.</i>	45° from 3.5m high at the side and rear boundary (excluding eaves and the like)	Generally 45° form 3.5m high excluding eaves.	No – See further assessment below
<u>Minimum Private Open Space</u> <i>Performance Criteria</i> <i>Open space areas are of dimensions to suit the projected requirements of the dwelling occupants, and to accommodate some outdoor recreational needs as well as providing space for service functions.</i>	20% of site area with minimum dimension of 3m One part min 25m2 with min dimension of 4m	> 20% of site area with minimum dimensions of 3m One part associated with existing dwelling has 50m2 with minimum dimension of 4m achieved	Complies Complies

Landscaped Area

The landscape area falls short of the 30% performance limit by approximately 36m². Converting the turnaround area to a semi-permeable or permeable surface would reduce the shortfall even further. The subject lot is zoned for medium density residential and considering the site constraints, the shortfall in the landscape area based on the performance measure is considered acceptable.

Building Envelope

There are minor encroachments upon the building envelope. The areas projecting through the envelope however, would have a minimal affect on the amenity of the area and would not raise any loss of view for any of the dwellings. Areas that exceed the building envelope are sections of top floor northern and southern rooms and eaves. The areas of non compliance are

not considered to create a significant impact to this development or surrounding developments.

Summary

In all other aspects, the proposed dual occupancy development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within this section of the DCP. Other elements such as car parking and floor space ratio are essential components of a dual occupancy development and are satisfied in this instance.

Section A2 – Parking

The following table assesses the proposed development in relation to the provisions of Section A2:

Standard	Requirement	Proposed	Complies
On site car parking	2 spaces per dwelling if > 125m ²	The proposed development provides 2 off-street car spaces per dwelling plus turn around area.	Complies

The application satisfies the requirements for car parking providing double garages to each dwelling for a total of 4, which fully complies.

Section A9 – Energy Smart Homes

The development required the need for a Basix Certificate as per the legislation that came into force from 1 July 2005. The application has been lodged with a Basix Certificate and therefore suitable conditions of consent have been recommended.

Section A11 – Notification

The development application and S82 A review was notified to surrounding properties and placed on public exhibition for a period of 14 days. During this period one written objection was received with numerous additional submissions from other neighbours supporting the proposal. The issues raised in the objection are addressed later in this report.

Section A14 – Cut & Fill on Residential Land

This plan applies to all residential development and associated ancillary development within Tweed Shire:

- on steeper sites where the slope of the land is 10% or greater; or
- where cut and/or fill earthworks exceeding 900mm in height/depth are proposed.

The slope of land for the proposed development site is estimated (from contours on plan) to be about 24 %. The dwelling design plans show a cut in

excess of 900mm at the rear of the ground floor. Following submission of the application, a geotechnical report for the site was required as further information. This report has since been provided and reviewed by Council's Building Surveyor and Development Engineer.

In consideration of the amount of cut required, the Building Services Unit did not consider the final landform to be significantly altered due to the construction method of using the building as a retaining wall structure.

The following two conditions have been recommended to ensure land stability is specifically addressed:

- *The dwelling and associated works shall be designed by a Chartered Professional Structural Engineer of the Institute of Engineers Australia or the equivalent in accordance with the recommendations of the Geotechnical Engineers report by "Morrison Geotechnic" dated 16 July 2007, and endorsed by the same. Details of such are to be submitted with the Construction Certificate application to and approved by the Principal Certifying Authority.*
- *A structural engineers "Certificate of Adequacy" certifying that the dwelling and associated works have been erected in accordance with the approved details and recommendations of the geotechnical Engineer is to be submitted to the Principal Certifying Authority*

Subject to the recommended conditions of consent the proposed development is considered suitable.

This Section also addresses water sensitive urban design on lands to which this plan applies. In relation to the development application, the maximum impermeable site area (outlined within the DCP) shall not exceed:

- 65 % of the allotment area for single dwellings and dual occupancies where the lot size is between 500m² and 750m² (inclusive) and 15% of the total allotment area shall be set aside for deep soil planting.

The total site cover (to have an impermeable factor of 1.0) outlined within the submitted plans is approximately 478.4m² or 75% of site. Therefore the proposal exceeds the site cover requirements by 10%. However, as detailed below due to the extent of available deep soil planting areas this variation is considered negligible.

Approximately 16% of the remaining area has been calculated as suitable for deep soil planting and therefore complies with the 15% deep soil planting area specified in this section.

Section B2 – Tweed Heads

The Aim of this DCP is to implement the relevant recommendations of the “Tweed Heads 2000+ Strategy”(and the subsequent Tweed Futures 04/24 Strategic Plan) , the “Tweed Heads Streetscape Master plan” and the “Tweed Heads Southern Boat Harbour Management Strategy”. The objectives of this section of the DCP are to:

- Provide a comprehensive design orientated approach to development in Tweed Heads through a single document;
- Encourage high quality urban design;
- Provide design guidelines for commercial and residential development;
- Provide incentives to encourage preferred development through bonus provisions;
- Inform applicants, developers, consultants, Council and the general public about Council’s planning intentions for Tweed Heads.

This DCP has a structure plan which aims to implement the Vision and Plan Objectives. The Structure Plan divides Tweed Heads into eight precincts. The proposed development being assessed here is located within one of these precincts, referred to as the Razorback Precinct.

Key strategic policies to be considered for development in the location of Adelaide Street include land stability, building form, and visual impact.

Land Stability – this section states that due to geotechnical difficulties identified in Razorback Precinct, careful consideration of proposals is required. The Development Application was referral to Council’s Building Services Unit and was approved subject to conditions. A geotechnical report was requested from the applicant and was subsequently reviewed by a Development Assessment Engineer.

Building Form - The building height compiles with the two-storey height limit. The land slopes steeply (about 24% slope). The design involves a significant amount of cut into the slope at the rear of the dwelling. This transfers to a 5 metre height distance between finished ground level to the first floor level at the street front of the building. To decrease this height would require a further increase in cut resulting in finished ground levels at the rear of the dwelling approaching or exceeding the first floor level. This would be considered an unacceptable outcome and therefore the proposed cut and fill in this instance is acceptable.

Visual Impact - The 5 metre frontage between the finished ground level to the first floor would not be entirely visible from the street or beyond as the lower floor would be obscured by the existing dwelling. Subsequently, only the upper floor would be visible and would suit the step down building design character of the area. Views are not considered to be interrupted from dwellings along Charles Street at the rear of the proposed dwelling as the land has such a significant slope that properties behind will still retain view lines.

In all other regards, the application is considered to generally comply with this section of the DCP.

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

NSW Coastal Policy

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

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

Compatibility with Adjoining Land Uses

The immediate locality surrounding the subject site is essentially residential in character, with a mixture of older one and two storey residential dwellings. The properties adjoining the northern and southern boundaries consist of elevated houses located towards the front of the allotments.

Construction of a second dwelling at the rear of this site will not have an unreasonable impact on any adjoining property. Due to the location of the driveway and the proposed verandah the property to the south and north will be afforded suitable setbacks to avoid direct overlooking. The dwelling design has attempted to maintain the consistent use of materials and colours to an existing dwelling on the allotment (Unit 1).

The streetscape is not altered significantly as a result of this proposal due to the location of the development at the rear of the site. Therefore, in general, the proposal is consistent with the present land use pattern of development in this area of Tweed Heads referred to as the Razorback Precinct.

Overshadowing

The applicant has lodged shadow diagrams for the proposed development. The diagrams indicate that the proposal will have minimal impact upon the adjoining residence to the south and no impact upon the residence to the north. The property to the south will be affected by some shadowing however, as the day progresses the shadow will move affording this residence sufficient solar access in accordance with Council's controls.

View Loss

The main views experienced by all adjoining properties are to the east. The proposed development has been designed to step into the slope so that from the rear the new dwelling will appear as a single storey structure. It is not anticipated that the proposed new structure will restrict any views for properties behind.

Privacy

The addition of one additional structure will increase the density of this site and thus impact on the privacy of adjoining properties; however the area is a nominated medium density precinct. The proposed development is entirely consistent with the future intended character of the area as depicted in the Tweed LEP 2000, and that section of the DCP applicable to Tweed Heads. The proposed separation between dwellings is considered sufficient to enable privacy retention. However, the provision of a privacy screen on the southern facing section of the top floor verandah will mitigate some overlooking issues to the southern side property.

This has been incorporated as a condition of consent.

No additional landscaping and /or privacy screens are considered specifically necessary in this case as there will be no direct lines of site at close range.

Traffic / Access

Concerned residents in the surrounding area have raised the issue of traffic and access into the subject site. These issues have been assessed and it is concluded that the local road network has the capacity for the additional vehicles involved with the proposal.

(c) Suitability of the site for the development

Storm water Drainage

Due to the topography, storm water management is required. Sediment and erosion control and storm water management plans and devices have been conditioned as part of the approval.

Topography

The proposed site has an extensive slope (estimated as 24%). The site elevates from east to west and requires earthworks in excess of 900mm cut. In consideration of the amount of cut required, the Building Services Unit did not consider the final landform to be significantly altered due to the construction method of using the building as a retaining wall structure. As mentioned, Council's Building Development Unit and Development Engineers have reviewed various aspects of the proposal and raise no further issues subject to conditions of consent.

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

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

The development application was originally notified and placed on public exhibition for a period of 14 days, finishing on December 6, 2006. One objection was received to the original DA.

The S82A Review was re-notified and placed on public exhibition for a period of 14 days, finishing on 13 February 2008. One objection was again received (as per the original submission). In addition Council received letters of support from other neighbours in the locality with a verbal approval provided by the immediate property owner to the north..

The key issues raised in the one objection received are outlined below and subsequently addressed.

Table 1 – Public Submission Issues

Issue	Assessment
<p>Noise and fumes from vehicles</p> <p><i>The submission argues that vehicles accessing an existing carport on the site via a newly constructed driveway has resulted in increased noise and fumes impacting on their amenity. The objection states that these impacts are considered to be exacerbated with the provision of two extra car parking spaces with the proposed new dwelling.</i></p>	<p>The driveway access and carport have been approved as part of an existing approval and as such, these impacts were considered acceptable at the time of that consent.</p> <p>The zoning objectives encourage multi dwelling housing and the proposal complies with the recommended number of car parking spaces. A previously approved increase in fence height between the two lots could help mitigate noise and fume impacts however this is also a dividing fence issue separate to this DA.</p> <p>This objection is not considered grounds for refusal of the DA.</p>
<p>Contradiction to Council planning goals</p> <p><i>The submission argues that the redevelopment does not meet the zone objectives as the multi dwelling development will increase traffic, due to the distance to services and is solely for financial interest. This development is an overdevelopment of the site</i></p>	<p>The subject site is approximately 120 m from Recreation Street (a nominated commercial zone under Schedule 8 of the TLEP 2000) and subsequently has been zoned as 2(b) medium density due to this close proximity to commercial areas. The development is entirely consistent with the future intended character of the area.</p> <p>Egress from the property will not be modified as a result of this proposal. Site distances are considered acceptable for entering and departing vehicles and pedestrians.</p> <p>This objection is not considered grounds for refusal of the DA.</p>
<p>Noise during construction</p> <p><i>The submission highlights noise impacts from the existing renovations and expects the same from the proposed development.</i></p>	<p>The noise experienced as part of the previous house alterations are beyond the scope of this assessment.</p> <p>Council has standard conditions of consent that mitigate construction noise. Unfortunately some construction noise is necessary and can not be completely mitigated, however the recommended conditions of consent are considered adequate to ensure a reasonable level; of residential amenity remains during construction.</p> <p>This objection is not considered grounds for refusal of the DA.</p>
<p>Storm water site coverage</p> <p><i>The submission raises concerns about the area of impermeable site cover and subsequent stormwater issues (see confidential attachment)</i></p>	<p>Surface water runoff is considered to be an issue in the area due to the topography of the land. Prior to commencement of building works a storm water drainage plan will be required and approved by a Principal Certifying Authority.</p> <p>However, the following specific comments have been</p>

Issue	Assessment
	<p>provided by Council's Development Engineer to respond to issues raised in the objection dated 13/02/2008:</p> <p>The owners of 39 Adelaide Street got approval for "carport and deck additions" under CC06/0382 (approved 28/04/2006). This also included a S138 approval (DWY05/0438 – approved 09/12/2005) for works within the road reserve = driveway crossover. The fact that the owners have constructed the driveway "several centimetres higher than the land" on the adjoining property boundary is allowed, provided the entire driveway complies with Council's access to property guidelines.</p> <p>Council would not allow a development to undertake works within a neighbouring property unless it was approved by the neighbour. If it was in fact undertaken, it should have been signed off prior to acceptance of the works under CC06/0382. This was undertaken by Private Certifiers.</p> <p>A retaining wall exists along the existing driveway between the 2 properties. This would prevent any runoff from No 39 entering the adjoining property to the south. The proposed dual occupancy development also proposed field inlets and a piped drainage system within No 39 to pick up and convey any storm water within this property to Adelaide Street. It is not considered that a significant amount of overland flow would enter the adjoining property from the subject property, especially after it is developed.</p> <p>The 3.5m retaining wall will be within the building envelope and is accepted by Council.</p> <p>In summary, it would appear that the adjoining property has sufficient space available within their property to construct an overland flow path to convey any storm water runoff that may enter their property. To eliminate the potential of any overland flow entering the adjoining property to the south from the subject site, it has been conditioned that a minimum 300mm block edging be constructed along the driveway and concrete turnaround facility within No 39 to ensure that all storm water overland flow for No 39 is conveyed down the driveway of No 39 and not onto the adjoining property.</p> <p>This has been incorporated as a condition of consent.</p> <p>This objection is not considered grounds for refusal of the DA or any further amendment.</p>
<p>Loss of privacy</p> <p><i>The submission explains that the verandah on the top floor of the proposed dwelling would overlook the back yard, and allow a view into the western and northern windows and rear door.</i></p>	<p>The primary view from the top floor verandah would be to the east over Tweed Heads and further to the coast. The provision of a privacy screen on southern facing section of the top floor verandah will mitigate some overlooking issues to the southern side property.</p> <p>This has been incorporated as a condition of consent.</p> <p>This objection is not considered grounds for refusal of the DA or any further amendment.</p>

Issue	Assessment
<p>Slip & Erosion</p> <p><i>The report is not independent and fails to recognise the high rainfall experienced in the area. This development will result in increased erosion on adjoining properties.</i></p>	<p>Following submission of the application, a geotechnical report for the site was required as further information. This report has since been provided and reviewed by Council's Building Surveyor and Development Engineer.</p> <p>In consideration of the amount of cut required, the Building Services Unit did not consider the final landform to be significantly altered due to the construction method of using the building as a retaining wall structure.</p> <p>The following two conditions have been recommended to ensure land stability is specifically addressed:</p> <ul style="list-style-type: none"> • <i>The dwelling and associated works shall be designed by a Chartered Professional Structural Engineer of the Institute of Engineers Australia or the equivalent in accordance with the recommendations of the Geotechnical Engineers report by "Morrison Geotechnic" dated 16 July 2007, and endorsed by the same. Details of such are to be submitted with the Construction Certificate application to and approved by the Principal Certifying Authority.</i> • <i>A structural engineers "Certificate of Adequacy" certifying that the dwelling and associated works have been erected in accordance with the approved details and recommendations of the geotechnical Engineer is to be submitted to the Principal Certifying Authority</i> <p>Subject to the recommended conditions of consent the proposed development is considered suitable.</p> <p>This objection is not considered grounds for refusal of the DA or any further amendment.</p>
<p><u>General Issues</u></p> <p>The submission raises a concern that such redevelopments should not be approved until contribution plans for augmentation of infrastructure are in place.</p>	<p>The consent requires the presently adopted S64 and S94 contributions to be paid prior to issue of a Construction Certificate.</p>

The applicant has provided the following response (abbreviated by Council staff) to the issues raised in the objection:

The Driveway

The driveway both in width and gradient has been approved and constructed in order to comply with the gradients and widths required by council for a multiple occupancy dwelling. In fact, council engineers were on site, together with private certifiers to ensure this compliance.

The congestion that was suggested will occur with cars coming up and down the driveway has been addressed with the remote gate opening system. Cars at the top will activate the gate remotely before proceeding down the driveway. If the gate is already open they will obviously wait before proceeding down the driveway. Similarly cars approaching the driveway will wait before proceeding up the driveway if they observe the gate is open. The existing carport at the rear of the property has been designed to take two cars with a normal turning circle. The carport presently has building material stored to one side as a result of this it does sometimes take more than one turn for the 2nd vehicle to enter and leave the carport. This is fixed easily by removing the material.

Fumes and the potential loss of privacy

When our first child started walking it was imperative that the old paling fence was replaced as several sections of the fence were lying on the ground. Our neighbour was adamant a see through, breezy timber picket fence was sufficient. Eventually she agreed to the colorbond dividing fence which was higher and gave more privacy although because she did not agree upon the need for the more expensive fence she was only willing to pay half costs for the cheaper one which was definitely less private.

Parking

The suggestion that any development should only have parking at the front is ridiculous. A rear car port is already approved and in use. This is not going to change whether the DA is approved for the second dwelling or not.

As the requirement for engineers reports testify the site is relatively steep. With 2 young children and a 3rd on the way, having to carry them and groceries from parking situated at the front of the property up numerous stairs or paths to the rear dwelling is impractical.

Noise

Noise from building work is part of progress but we are aware that there are times set for doing construction work. We have always kept noisy work to these times.

The Removal of Fill

Complaints about the unauthorised removal and subsequent placement of fill from our property onto our family's farm at South Tweed. While this fill was removed it was removed from the driveway and dwelling site for which we had a construction certificate. The majority of this fill went to the landfill site at Tugun (for which we have numerous receipts) A small amount of quality topsoil did go to our family's farm to dress the lawn surrounding the family home.

In fact a similar amount was placed onto the adjoining property. This was done after by subcontractors who are willing to sign statutory declarations testifying to the fact that they placed fill on the adjoining property at her direction. If this work was not to standard, drained correctly or not placed with appropriate authorisation we are not responsible.

Engineers Reports & Retaining Walls

Both engineers completing the soil survey and the slip report would carry professional indemnity insurance if their findings were incorrect.

Any retaining walls over 1 metre will be properly engineered in accordance with council regulations.

Planning Goals for Central Tweed

When we purchased our property we purchased it knowing it had potential to be used for multiple dwelling purposes. We also knew the existing building was one of the first dwelling constructed on the Razorback Hill. The original owner Comie Turner's family has provided us with photos of the house taken in the 1920's showing only one other building on the hill.

It would have been significantly cheaper to demolish the existing building and construct 2 totally new houses. Instead we chose to renovate and retain the existing building. We did this because we felt that the local planning process would welcome such a development in that it preserved a local building with character and it met the higher density that the master plan was trying to achieve for these new CBD properties. We understand that the Council has also recently established a system to help preserve some of these older buildings.

We were under the assumption the planning goals for central Tweed was one that encouraged higher density to reduce infrastructure requirements in the out lying areas of the Tweed. The design of the dwelling has conformed with the maximum site coverage rules and as such it can not be seen as an overdevelopment of the site as suggested.

There is concern about the devaluation of adjoining properties as a result of our proposed development being approved on the contrary we and several of our neighbours are concerned that if the D.A. is refused, adjoining properties will be devalued significantly. Several of these neighbours have made submissions supporting the D.A. and we will bring more to the review meeting.

If the submission is refused on the basis that a driveway to a rear dwelling is unacceptable, there are numerous heritage buildings in the CBD which will be grossly devalued as now that is the only way these

properties can be redeveloped and still achieve a higher density. Such a decision would have serious repercussions to the owners of these buildings.

Having considered all the issues raised in the objection and the response from the applicant the application as proposed is considered suitable and reasonable for the site subject to compliance with the conditions of consent.

(e) Public interest

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

OPTIONS:

1. Approve the proposed S82A Review and overturn the initial refusal in accordance with the recommended conditions.
2. Refuse the S82A Review with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

The development is in accordance with Council's Policies.

CONCLUSION:

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

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Confidential Floor Plans (DW 1774092)
 2. Confidential Objection to S82A Review (DW 1761163)
 3. Confidential Objection to DA (DW 1508282)
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P2 [PR-PC] Tweed LEP 2000 Review: Tweed LEP 2008**ORIGIN:****Planning Reforms****FILE NO: GT1/LEP/2006 Pt4****SUMMARY OF REPORT:**

In 2004 Council adopted Tweed Futures, its Strategic Vision for the Shire. This Plan is currently being implemented through various actions. From a town planning perspective the main tool by which to implement the Vision is by way of its Local Environmental Plan. Council has embarked on a significant review of its LEP and the purpose of this report is to provide an update on this Project.

Council has previously resolved, in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, to prepare a new Shirewide Local Environmental Plan. An extensive review of Tweed Local Environmental Plan 2000 has since been undertaken to produce a new shire wide planning framework, Tweed Local Environmental Plan 2008. The review is being undertaken in two stages. The first stage of the LEP review (Stage 1) is intended to rationalise existing LEP provisions into the format of the standard template provided by the Department of Planning (DoP), taking into consideration current State and Regional Planning Policy. Stage 1 is also intended to implement draft LEP Amendment No 21 (Vegetation Management Plan) as well as including current LEP Amendments. The Planning Reform Unit has completed a draft plan consistent with these objectives which is currently being considered by the DoP. A Section 65 Certificate allowing for the commencement of formal public consultation is expected to be issued in the near future.

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

- A review of Council's urban framework and zones;
- Zoning of additional urban land (residential, employment land) where possible;
- Implementation of objectives and recommendations provided in Locality Plans for certain localities in the Shire;
- Review of Heritage Items.

This report individually highlights studies undertaken, their intended purpose, current status and how the work will inform Stage 2 of draft Tweed LEP 2008. A Project timeframe outlining the timing of draft LEP 2008 (Stage 1 & 2), as well as the supporting strategic planning project, is provided in Attachment A.



A general indication of project timings, including public notification and consultation is included. However these are subject to the DoP completing the LEP review/preparation process in relation to Section 65 and Section 69 requirements under the Act.

Whilst Council is committed to delivery of TLEP 2008, the NSW Department of Planning and Parliamentary Counsel play a fundamental role in the progress towards, and gazettal of, the draft document.

RECOMMENDATION:

That Council:

- 1. Notes the status of its Planning Reform Unit's ongoing project schedule and continues with a commitment to completing Draft LEP 2008.**
- 2. Upon receipt of a Section 65 Certificate from the Department of Planning, formally publicly exhibits draft Tweed Local Environmental Plan 2008 (Stage 1).**
- 3. Resolves to exhibit draft Tweed Local Environmental Plan 2008 (Stage 1 and Stage 2) in accordance with the Department's Best Practice Guidelines - "LEPs and Council Land".**

REPORT:

Introduction:

In 2004, the Planning Minister announced a major overhaul of the NSW planning system. The reforms relevantly included a focus on strategic planning for growth areas, simplification of planning controls, improvements to development assessment processes and allowing flexibility in the use of developer levies for local facilities and services.

It was mandated that all Councils in NSW undertake a review of their individual Local Environmental Plans and produce new LEPs in the format prescribed by the Standard Instruments (Local Environmental Plans) Order 2006 (amended January 2008) (The Order). Council has commenced work on reviewing TLEP 2000 and intends to produce the new Tweed LEP 2008 in two stages: Stage 1 being a shift of TLEP 2000 into a format consistent with the Order; Stage 2 being a more comprehensive review of the document, with the introduction of some strategic landuse changes shire wide.

Given Council's adoption of Tweed Futures in 2004 this also provided Council an excellent opportunity to implement some of the town planning objectives recommended by this strategic planning document.

This report provides a brief summary of the Tweed LEP 2008 process including explanation of all work being undertaken by the Planning Reform Unit which informs the development of Tweed LEP 2008, particularly Stage 2.

Stage 1 – Local Environmental Plan

Council's Planning Reforms Unit has completed draft LEP 2008 (Stage 1). It should be noted that, whilst it was the intention of Council that Stage 1 be a direct transfer of Tweed LEP 2000 into the new standard template, the DoP has required Council to remove a number of local controls in its effort to produce consistent planning frameworks across the State. In some instances, new State Government Legislation (such as newly gazetted SEPPs) will encapsulate previous local planning provisions, however at the time of writing this report Council continues to negotiate with DoP on other local matters.

Land use zones have been transferred over to the format prescribed by the standard template. Tweed LEP 2008 (Stage 1) does not include any strategic landuse changes, with the exception of areas previously zoned urban release that have been developed in accordance with development consents. These are zoned to reflect development that now exists on the ground. Further, an audit of the Shire's environmental land has been undertaken as part of the Tweed Vegetation Management Strategy. The findings of this have been incorporated into the Agricultural and Environmental Zones as part of Stage 1.

A copy of the draft Tweed LEP 2008 (Stage 1) has been with DoP since September 2007. It is envisaged that a section 65 Certificate will be issued in late March allowing for public exhibition of the document in April.

Stage 2 – Local Environmental Plan

Stage 2 of draft Tweed LEP 2008 is the more comprehensive review of the existing LEP and forms the major element of strategic land use planning across the Shire. As stated, this report provides a description of all work being undertaken to guide the development of Stage 2. The relevant studies and their status are as follows:

Vegetation Management Plan

The Tweed Vegetation Management Strategy has been an ongoing Study which audited, quantified and qualified the vegetation areas including an analysis of slope and topography within the Shire. The findings of this report have been used to inform most zoning of environmental land in Stage 1 of TLEP 2008.

The document provides data for further amendments as part of Stage 2 of Tweed LEP 2008 by classifying environmental and agricultural land into further categories/zones (consistent with the Standard Instrument Order) depending on the lands quality or significance.

The Vegetation Management Plan has been formally publically exhibited, however will be re-exhibited as part of Stage 1 and Stage 2 consultation processes.

Heritage Study

The Tweed Shire Heritage Study will increase the number items formally recognised as significant to the heritage of the Tweed Shire from 24 to 134 based upon a community lead research project undertaken in 2004.

The range of items covered includes significant features of the Shire's built and natural environment and will reflect prominent people, industry and events from the area's past.

The Heritage Study has already been exhibited once, as an amendment to Tweed LEP 2000, but will be re-exhibited as part of the draft Tweed LEP Stage 2 consultation process.

A copy of the draft list and associated mapping is presently with the Department of Planning awaiting approval in accordance with Section 65 of the Act to enable it to be formally re-exhibited.

Minor editing of the Heritage Study will be undertaken leading up to the exhibition of Stage 2 of the LEP to ensure that the Study conveys accurate and more clearly defined information in relation to each of the nominated items.

Urban Release / Employment Lands Strategies

Council resolved on 29 May 2007 to engage GHD Pty Ltd to undertake both of these projects and they have since been run concurrently. The main advantage of this approach arises out of both projects utilising the same data sets and mapping technique, thus reducing time and cost and improving the connection between urban land supply and employment land demand.

From the outset it was necessary to formulate a vision statement from which the project objectives could be designed. This was to assist in guiding the project team and to ensure that the deliverables could be weighed with a sense of certainty against those objectives. The draft vision statement is:

To guide and fashion future population growth settlements within the Tweed, with certainty and coordination, that provide for sustainable urban development density and housing diversity that capitalise on the areas natural and built attributes for present and future generations.

The key project objectives are:

- I. To identify greenfield sites of suitable environmental characteristic, size, and proximity to existing urban areas that warrant further detailed investigation for use as urban purposes;*
- II. To provide sufficient land and its coordinated release to accommodate the projected population growth of the Tweed over a period of at least 25 years;*
- III. To provide diversity in housing and lifestyle choice for the present and future population through the identification and release of greenfield development sites located in a variety of urban and rural environments;*
- IV. To encourage best use of available land resources by requiring all future urban communities within the greenfield sites identified in this Strategy to be properly master-planned.*
- V. To reduce the under utilisation of urban land through piecemeal and ad hoc development by requiring that each investigation area is the subject of a single master-plan for the entire site.*

The concurrent public consultation on the projects has been undertaken in two stages to-date. The first comprised of individual meetings with those landowners / consultancies and other interested parties who responded to a public notice that was designed to attract interested parties early in the process. The second stage, during 27-29 November 2007, comprised of landowners of the properties identified in the preliminary investigation mapping areas. The investigation areas were derived from an extensive mapping exercise that uses all available constraint data, e.g. flooding, slope, bushfire, in a sieving process that ultimately identifies the least constrained land. Other factors such as sewer, water and road capacity were then factored in along with the information gathered from the workshops to produce the final draft investigation areas. These areas, if adopted, will form the basis of an overlay map for the Tweed LEP 2008 (Stage 2), which will guide the future rezoning of release areas in a timely and responsive way. These strategies will not by themselves rezone land; rezoning will require comprehensive assessment to be undertaken by the proponent, not the Council, in accordance with the timing schedule of the strategies.

Both strategies are due to be completed, in draft form, in early March.

Murwillumbah Locality Plan / DCP and Scoping Study

The plans will establish a comprehensive planning framework through the implementation of planning and design objectives (locality plan) backed-up with an appropriate degree of regulatory controls (DCP) that will guide the future development of the study area. An integrated approach combining analysis of present land-use patterns, population, retail, economic, social, cultural and traffic elements will be undertaken by the project consultant in combination with public focus group meetings to ensure that best practice and informed decision making are embodied in the design of the plans.

It is intended to report the Murwillumbah Locality Plan / DCP to Council in March seeking adoption of those documents. A list of potential amendments to the reports will be included for Council's consideration should they require amendment to the adopted plan.

The scoping study covers a 5km radius from the Murwillumbah town centre. The study will identify areas that may have the capability to support a change in present land-use through rezoning. An analysis of constraint mapping, that is, identifying areas that are subject to natural or human constraints (flooding, steep land, highways, infrastructure etc) has been undertaken by the project consultant in order to identify areas that have positive attributes that may warrant further investigation at a future time. The level of generality in the scoping study is sufficiently detailed to permit estimates of possible future residential densities and commercial / industrial floor area within the scoping area, but which will be subject to and require further detailed investigation. This body of work has been undertaken in combination with public focus group meetings. The scoping study by itself will not result in a level of detail that will enable land rezoning.

The Murwillumbah project has already undergone considerable community consultation including a public meeting, two days of one on one meetings/workshops, meetings with some community organisations, as well as a formal public exhibition period in accordance with the Act.

Pottsville DCP and Locality Plan

The Pottsville Locality Plan will establish the long-term planning vision for Pottsville. The subject study area includes the future development site of Dunloe Park and the existing residential neighbourhoods of Koala Beach, Black Rocks, and the Seabreeze Estate.

The Locality Plan, in addition to identifying the desired future character of the area, will establish a range of planning mechanisms to ensure that the area develops in accordance with the community's needs.

Should Council resolve to exhibit the draft it will be publicly exhibited in conjunction with draft LEP 2008 (Stage 2) for a period of no less than 28 days.

The draft Plan identifies a number of sites that are to be considered for rezoning in the future and proposes to amend the identified building heights for specific locations within the study area. It is intended that as part of the review of Tweed LEP 2000 (Stage 2) to only amend the identified building heights.

Those sites where it is considered a rezoning process to amend the identified land uses is undertaken are to be pursued independent of the current review at the expense of the land owner.

Cabarita Beach / Bogangar Locality Plan

A locality plan for Cabarita Beach/Bogangar was adopted by Council on 13 November 2007. The purpose of the Plan is to establish the long-term planning vision for the Cabarita Beach/Bogangar area. To implement the identified vision the adopted Plan recommends that a number of key zone changes be pursued in the future, some of which are recommended to undertaken as part of the review of Tweed LEP 2000 (Stage 1).

The identified changes to the LEP, which are to be pursued as part of the review (Stage 1), include the correction of specific zoning anomalies and the adoption of specific building height controls for the whole of the subject area.

Hastings Point

Council has engaged the services of Noni Ruker, a qualified Urban Designer to undertake a specific review of a number of LEP development controls that affect development in the Hastings Point area. Any recommended changes stemming from that review, particularly relating to height controls and floor space ratio provisions would need to be adopted into Stage 2 of the draft Tweed LEP 2008. Other recommended changes, for example building line setbacks, landscaping and the like would be embodied in the Tweed Development Control Plan.

Initial community consultation was held on Sunday 02 December 2007 and a second round of consultation is scheduled for Sunday March 16 2008.

Tweed Heads/Tweed Heads South

Work being undertaken includes the preparation of a Locality Plan for the Tweed Heads Centre, including both Tweed Heads and Tweed Heads South. The purpose of the plan is to provide a full suite of planning documents incorporating the following:

- The long-term vision
- Local Environmental Plan - Containing zonings, building height and area/site specific controls
- Development Control Plan - Providing design guidelines to specific areas and development forms
- Civic Improvement Plan - Detailing public domain projects, their expected costs and method of delivery

This project is being undertaken in conjunction with the Cities and Centres Taskforce Division of NSW Department of Planning who have undertaken similar projects in the State including Liverpool, Wollongong, Penrith, Gosford etc. To prepare the Plan and to facilitate the project, Council has engaged the services of JBA Urban Planning Consultants.



It is anticipated that draft versions of the four (4) planning documents being produced will be placed on public exhibition in conjunction with Stage 2 of the Tweed LEP 2008, at which time appropriate community consultation sessions to explain the documents will be undertaken.

Community Profile

A draft Community Profile based on 2006 Census findings is being undertaken by *The Demographers Workshop*. This work updates and expands upon the Tweed Community Profile 2004. Using the findings of the 2006 Census and other resources, the Community Profile provides a socio-economic picture of the Shire and provides robust demographic and population forecasting for the use of the community. The report assists development of (amongst other things) strategic land use planning policy such as Stage 2 of Tweed LEP 2008.

The document is due for completion mid March.

Community Forums

Given the volume of work due for release for public consultation and comment, Council has arranged for formalised community forums to be undertaken to assist the community in understanding Council's strategic aspirations for the Shire, as well as the step change between the strategic documents (such as locality plans and strategies) and implementation documents, significantly Tweed LEP Stage 2.

Towards the middle of 2008 (final dates TBA), a professional facilitator, Graham Samson will host a series of Council organised community forums aimed to encourage open and effective public feedback to ensure the appropriateness of both strategic and implementation documents. Graham has worked extensively within the Tweed area and was part of the Tweed Futures work. His local knowledge and experience in facilitation will assist in providing the public with the necessary step to change strategic document to implementation document.

Public Exhibition

Attached is a project timeframe illustrating the projects currently being undertaken by the Planning Reform Unit. In relation to draft TLEP 2008 (Stage 1) Council is envisaging to formally publicly exhibit the draft Plan during the month of April 2008 in accordance with the Act. This, of course, is subject to the Department of Planning issuing a Section 65 Certificate in a timely manner to enable this to occur. Stage 2 is expected to be formally exhibited in June 2008, provided the Department of Planning are able to issue a Section 65 Certificate expediently. The majority of the background studies that will support draft LEP 2008 (Stage 2) are envisaged to be completed or reported to Council as a draft in April 2008, and will be publicly exhibited in conjunction with draft LEP 2008 (Stage 2) to ensure a complete holistic planning perspective of the Shire is provided to the community. It must be highlighted that many of these projects have already been subject of considerable community consultation.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Timeline LEP 2008 (DW 1773803)
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P3 [PR-PC] Development Application DA07/0529 for Multi-Dwelling Housing Comprising 20 Units in a Three (3) Storey Configuration at Lot 1 DP 717669, No. 79-83 Tweed Coast Road, Hastings Point

ORIGIN:

Development Assessment

FILE NO: DA07/0529 Pt1

SUMMARY OF REPORT:

Council at its meeting of 12 February 2008 resolved as follows: -

"Administrator Boyd declared a non-pecuniary interest in this item because he has relatives living close to this development.

In accordance with the Proclamation dated 25 May 2005, because of the lack of a quorum to discuss this matter, due to the declaration of a non-pecuniary interest by Administrator Boyd, Council must request the Minister for Local Government to appoint a substitute Administrator for the determination of this specific matter and therefore this matter could not be considered."

The report is reproduced in full for Council's consideration.

Council is in receipt of a development application for a three storey multi dwelling housing development, comprising of 20 units with basement car parking at 79-83 Tweed Coast Road, Hastings Point.

A deemed refusal appeal has been lodged with the Land and Environment Court. The call over is on 18 February 2008.

The subject area is undergoing transition as infill development occurs, from relatively low density featuring a variety of housing stock, to more dense multi-storey residential flat development.

Fourteen (14) submissions were received during the advertising period. The objectors raised concerns with height, bulk, scale, parking, shadows, amenity, environmental and social impacts, character of locality and stormwater concerns. These issues are addressed in the report.

On 21 August 2007 Council resolved to defer the assessment and determination of development applications at Hastings Point and to engage Ruker and Associates Urban Design to assess the height and density provisions of the current Local Environmental Plan for this locality.

The Consultants have not completed the review and as this application is now being considered by the Land and Environment Court Council needs to determine its position in relation to the application.

On the basis of Council's current Local Environment Plan provisions and Development Control Plans the development is recommended for approval subject to conditions.

RECOMMENDATION:

That: -

- A. State Environmental Planning Policy No. 1 objection to Clause 32B(4)(b) of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.**
- B. Development Application DA07/0529 for multi-dwelling housing comprising 20 units in a three (3) storey configuration at Lot 1 DP 717669, No. 79-83 Tweed Coast Road Hastings Point be approved subject to the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plans;**
 - **TP01 Rev C dated 24 November 2007 -Site Plan & Level 1 Plan**
 - **TP02 Rev C dated 24 November 2007 - Basement Plan**
 - **TP03 Rev A dated 23 April 2007 - Level 2 Plan**
 - **TP04 Rev A dated 23 April 2007 - Level 3 Plan**
 - **TP05 Rev A dated 23 April 2007 - Rooftop Plan**
 - **TP06 Rev A dated 23 April 2007 - Elevations**

prepared by R.H. Frankland & Associates, except where varied by the conditions of this consent.

[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]
- 4. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.**

[GEN0265]

5. The front fence is to have a total maximum height of 1.5m, the solid wall height can be up to 1.2m. Above the solid wall the fence is to have a minimum openness ratio of 60%.

[GENNS01]
6. No shade structures or roofing is to be erected on the rooftop terrace.

[GENNS02]
7. Frosted glass balustrading is to be utilised on the balconies facing the northern boundary and one metre wide planter boxes along these balcony edges are also to be incorporated to minimise privacy impacts onto the adjoining property.

[GENNS03]
8. The colours and materials utilised in this development are to be sympathetic with its natural surrounds.

[GENNS04]
9. Demolition of the existing structures requires the submission and approval of a separate development application.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. The developer shall provide the following parking facilities including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.
 - A minimum of 32 car parking spaces for residents,
 - A minimum of 5 visitor car spaces with unrestricted access,
 - A minimum of 2 car wash bays,
 - Storage for a minimum of 40 bicycles.

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

Full design detail of the proposed parking and maneuvering areas shall be submitted to and approved by Council's General Manager or his delegate prior to the issue of a Construction Certificate.

The access and basement car park must be designed accordingly to provide sufficient height clearance to allow appropriate vehicles to access the basement stormwater treatment device.

[PCC0065]

11. Section 94 Contributions

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

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has

sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

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

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

(a) Tweed Road Contribution Plan:	\$51,815
S94 Plan No. 4 (Version 4.0)	
Sector8a_4	
(b) Open Space (Structured):	\$6,630
S94 Plan No. 5	
(c) Open Space (Casual):	\$1,417
S94 Plan No. 5	
(d) Shirewide Library Facilities:	\$5,850
S94 Plan No. 11	
(e) Bus Shelters:	\$208
S94 Plan No. 12	
(f) Eviron Cemetery/Crematorium Facilities:	\$1,170
S94 Plan No. 13	
(g) Community Facilities (Tweed Coast - South)	\$7,592
S94 Plan No. 15	
South Coast	
(h) Emergency Facilities (Surf Lifesaving)	\$1,703
S94 Plan No. 16	
(i) Extensions to Council Administration Offices & Technical Support Facilities	\$16,971.60
S94 Plan No. 18	
(j) Cycleways	\$2,990
S94 Plan No. 22	
(k) Regional Open Space (Structured)	\$19,772
S94 Plan No. 26	

(I) Regional Open Space (Casual) \$7,267
S94 Plan No. 26

[PCC0215]

12. Section 94 Contributions

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

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

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.

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

[PCC0225]

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

sewerage to the development have been made with the Tweed Shire Council.

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

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

Water DSP6:	9.8 ET @ \$9997	\$97,971
Sewer Hastings Point:	12.25ET @ \$4804	\$49,241

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]

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

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

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

[PCC0275]

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

[PCC0285]

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

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

[PCC0485]

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

[PCC0585]

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

[PCC0865]

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

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

The access shall provide the required 2m x 2m "sight triangle" envelope.

- (b) Construction of vertical face kerb and gutter along the full frontage of the site to Tweed Coast Road on an alignment approved by Council. The works shall also incorporate an indented bus bay at the existing shelter location. Detailed engineering drawings for these works including any shoulder widening required shall be submitted for approval by the Director Engineering & Operations prior to issue of a Construction Certificate.

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

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

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

[PCC0895]

20. Council will not permit ground anchors (to retain sacrificial sheet piling for basement excavations) within Council or private property, without prior consent from the property owner being obtained. If the land owner is Council, approval is required from the General Manager or his delegate, and the anchors are required to be removed upon completion of the works, unless a compensation amount is negotiated with Council.

[PCC0955]

21. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area shall be installed prior to any earthworks being undertaken.
 - (ii) The basement oil/grit arrestor shall be sized in accordance with Section D7.12 of Councils Development Design Specification D7 - Stormwater Quality.
 - (iii) The exposed car wash bays shall be constructed of permeable material.

[PCC1105]

22. 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:
 - * 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 other than roof water 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]

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

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed*

Shire Council Development Design Specification D7 - Stormwater Quality and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

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

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

[PCC1185]

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

[PCC1195]

26. Prior to issue of a construction certificate the applicant is required to prepare and submit a Remediation Action Plan to manage the contaminants as identified by the Pre-Demolition Underslab Soil Contamination Investigation prepared by HMC Environmental PTY LTD Report No. 2007.048A dated September 2007.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0005]

28. 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]

29. 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]

30. 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]

- 31. 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]

- 32. 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]

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

[PCW0745]

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

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

[PCW0765]

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

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

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

[PCW0775]

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

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

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

[PCW0985]

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

[PCW1065]

DURING CONSTRUCTION

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

[DUR0005]

39. 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]

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

[DUR0375]

41. 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]

42. 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]

43. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

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

[DUR0675]

45. All works shall comply with the Pre-Demolition Soil Contamination Investigation and Remediation Management Plan. Sub-slab contaminated material shall not be placed in or below the groundwater table. Upon completion of sub-slab remediation (placement) works on site, Council shall be provided with a post remediation validation report to the satisfaction of the General Manager or his delegate. Construction works shall not commence until this report is reviewed and approved by the General Manager or his delegate.

[DUR0685]

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

[DUR0795]

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

[DUR0815]

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

[DUR0905]

49. Provision to be made for the designation 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]

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

[DUR0985]

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

[DUR0995]

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

- Noise, water or air pollution

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

[DUR1005]

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

[DUR1745]

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

[DUR1795]

55. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

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

[DUR1875]

57. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR1925]

58. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation Certificate.

[DUR1955]

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

[DUR1965]

60. 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]

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

[DUR2085]

62. 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]

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

[DUR2195]

64. 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]

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

[DUR2405]

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

[DUR2425]

67. During construction, a “satisfactory inspection report” is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.
- [DUR2445]
68. 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]
69. 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]
70. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR2505]
71. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
72. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.
- [DUR2525]
73. 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]
74. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]

75. 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:-

- * 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * 50°C in all other classes of buildings.**

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

[DUR2555]

76. 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]

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

[DUR2625]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

78. 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]

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

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

[POC0165]

80. 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]

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

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

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

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

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

[POC0265]

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

[POC0435]

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

[POC0745]

84. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining works in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

85. 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]

86. 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]

USE

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

[USE0225]

88. All externally mounted air conditioning units, swimming pool pumps, water tank pumps and any other mechanical plant and

equipment shall be acoustically treated so as to avoid the creation of offensive, or intrusive noise to any occupant of neighbouring or adjacent premises.

[USE0235]

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

[USE0875]

NSW RURAL FIRE SERVICE CONDITIONS

1. At the commencement of building works and in perpetuity the entire property shall be managed as an 'Inner Protection Area' as outlined within Planning for Bush Fire Management Protection 2006 and the Service's document 'Standards for asset protection zones'
2. Water, electricity and gas are to comply with Section (4.1.3 and 4.2.3 of Planning for Bush Fire Protection 2006.
3. Where the rear of the structure is greater than 70m from the nearest hydrant, a new hydrant/s is required to be installed as per AS2419.1 – 2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.
4. Construction shall comply with AS3959-1999 'Construction of buildings in Bush Fire Prone Areas' Level 1.
5. Roofing shall be gutter less or have leafless guttering and valley to prevent the building up of flammable material. Any materials used shall have a Flammability Index no greater than 5.
6. All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the habitable building shall comply with AS3959-1999 'Construction of buildings in Bush Fire Prone Areas' Level 1.
7. All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the eastern side of the habitable building shall comply with AS3959-1999 'Construction of buildings in Bush Fire Prone Areas' Level 2.
8. No brushwood or treated pine fencing shall be used.
9. Roller doors tilt a doors and the like shall be sealed to prevent the entry of embers into the structure.
10. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.
11. As the units have been assessed under 79BA for residential purposes and not 100B for Special Protection Development 9(tourist facility) the building/s shall not be used as a tourist facility.



REPORT:

Applicant: Salan Pty Ltd
Owner: Mr AP McIntosh and Mrs SM McIntosh
Location: Lot 1 DP 717669 No. 79-83 Tweed Coast Road, Hastings Point
Zoning: 2(b) Medium Density Residential
Cost: \$4,000,000

BACKGROUND:

The Subject Site

The site is described as Lot 1 in DP 717669, being No. 79-83 Tweed Coast Road, Hastings Point. The site incorporates an area of 2379sqm and has a frontage to Tweed Coast Road of 49.815m. The site is generally level with heights varying across the property, with a maximum RL of 6m AHD. There are six (6) 2 bedroom units and one (1) 3 bedroom unit in two buildings on the site.

The site is situated at the southern most end of Hastings Point Village and is adjoined by residentially zoned land and by Crown Reserves, which backs onto the Cudgera Creek Estuary.

Surrounding development consists of a mixture of residential development, comprising single dwellings, residential flat buildings and holiday units. Land to the south consists of an existing caravan park and camping ground, with a marine research facility, yet it is to be noted that this site has approval for a Seniors Living Development.

The Proposed Development

Council is in receipt of a Development Application seeking consent for the construction of a three (3) storey residential flat building comprising twenty (20) dwellings, with a basement level car park. The proposal consists of 1 x one bed unit, 15 x two bed units and 4 x three bed units, with a total 39 car parking spaces. A separate development application will be lodged by the applicant for demolition of existing structures.

History

- Development Application (DA07/0529) was lodged with Council on 25 May 2007.
- On 21 August 2007 a report was put up to Council to advise that the Draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan) has been reviewed and amendments made in light of the submissions received. In regards to this development application clauses 3 and 4 are applicable. The Council resolved:

"1. Council resolves to publicly exhibit the draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan) for a period of 60 days.

2. *Where a public submission received raises an issue that would result in a major change in the draft Plan that a public workshop be convened to address the issue prior to the reporting of the Plan to Council.*
3. *Council engages Ruker & Associates Urban Design to assess the height and density provisions in the current Local Environmental Plan for Hastings Point to provide a report to inform the consultants GHD who are undertaking the overall review of the urban land release strategy for the new Tweed Local Environmental Plan.*
4. *Council defers the assessment and determination of development applications for Hastings Point which have already been submitted but not determined or are submitted for determination after this date until the report from Ruker & Associates Urban Design is finalised for Council's consideration."*

The applicant was advised on this resolution on 28 August 2007.

In accordance with Part 3 of the 21 August, 2007, resolution Ruker and Associates were engaged to carry out the review of the land south of the Hastings Point bridge (area covered by the previous resolution in relation to Amendment No. 81 to Tweed Local Environmental Plan 2000). The first design workshop was undertaken on 2 December, 2007 between the Consultants, Council staff, landowners and representatives of the Hastings Point Residents Group and Progress Association.

It was agreed at that meeting to hold a further workshop in the new year to discuss the draft proposal prepared by the Consultants.

The estimated timeframe for the completion of the review is as follows: -

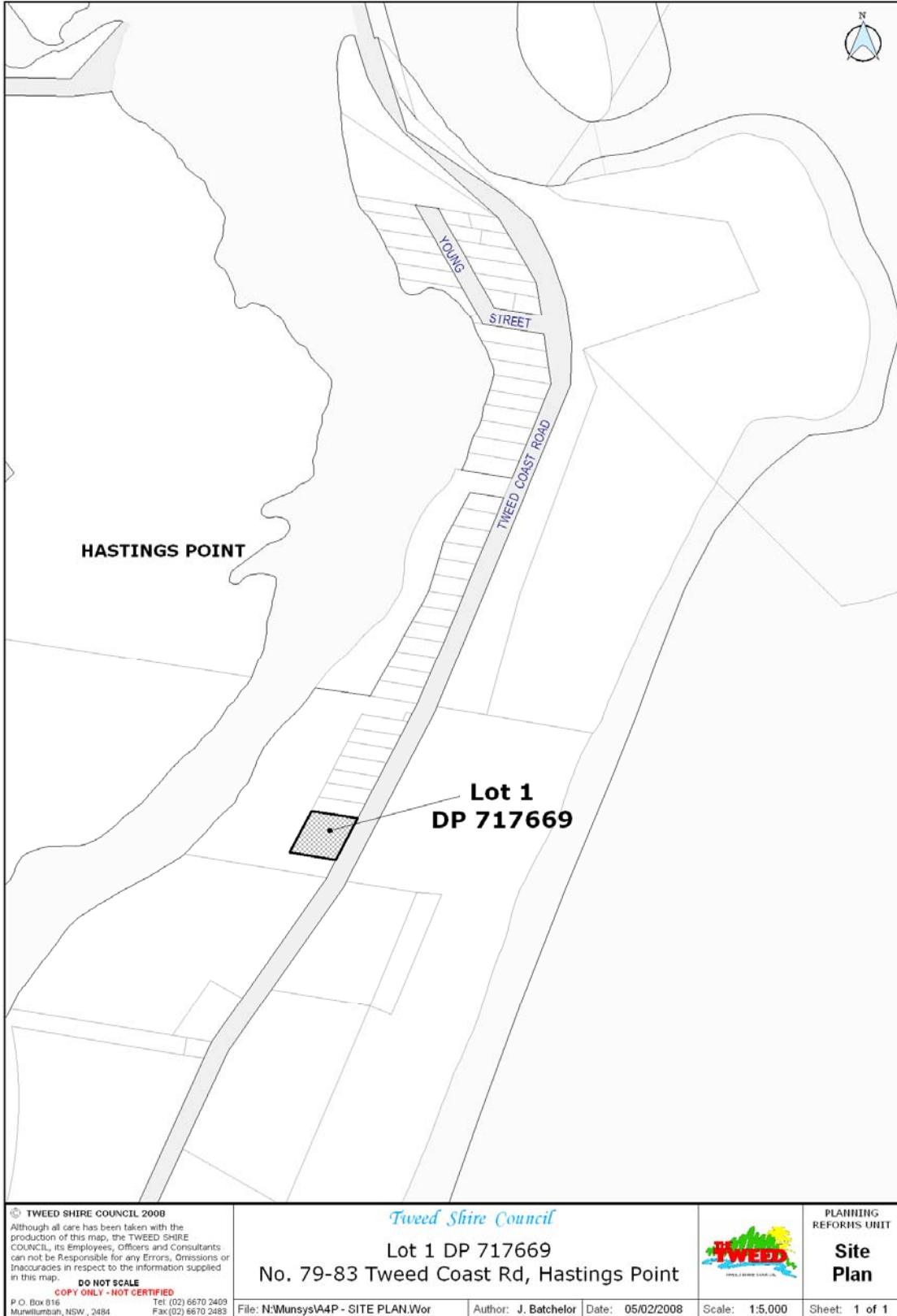
- Second stakeholder meeting in mid-late February;
- Draft strategy completed by Consultants Mid March;
- Report to Council and public exhibition during the month of April;
- Review of submissions and report to Council by the end of May.

On 19 December 2007, a deemed refusal appeal was lodged in the Land and Environment Court in relation to this development application.

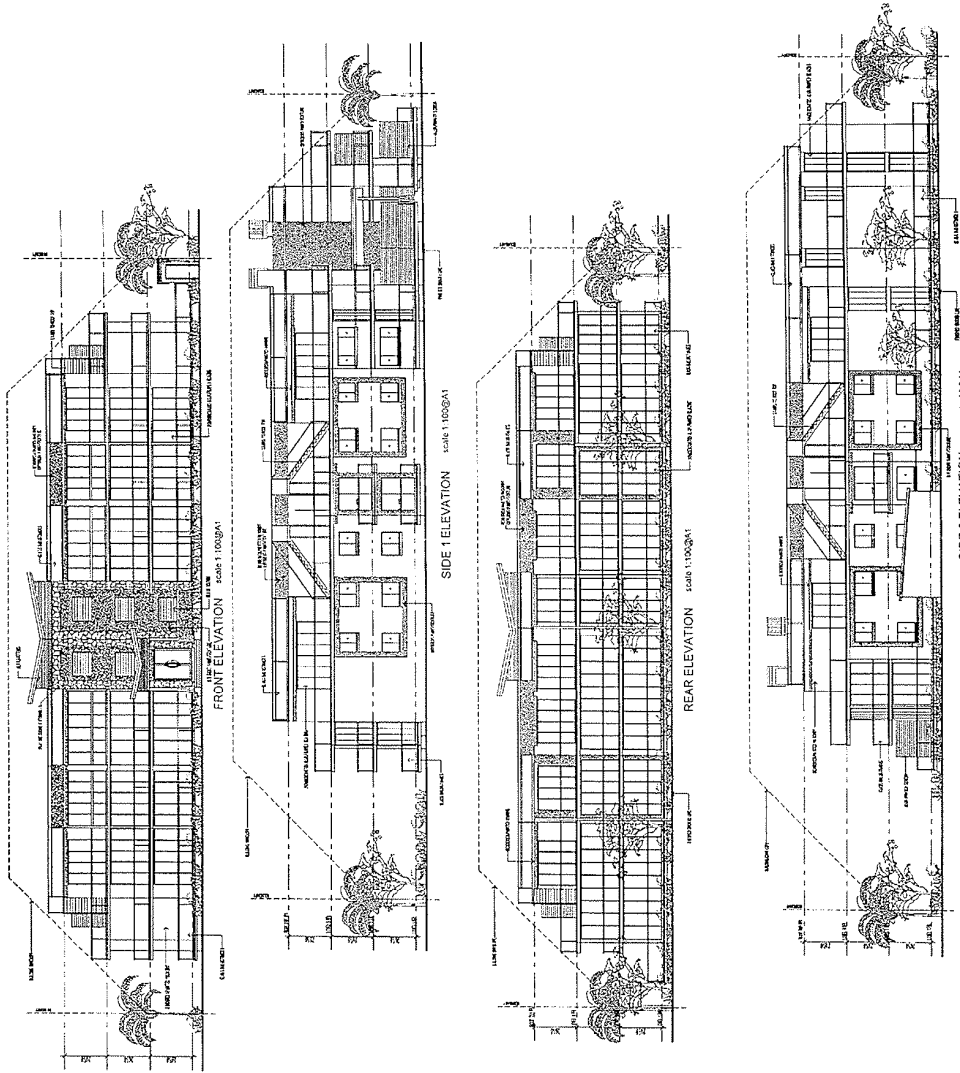
Given the above timeframe for the above review Council's legal representatives for the appeal in the Land and Environment Court were instructed to seek an adjournment of the matter until at least the end of April 2008. This submission was considered by the Court in a telephone call over on 21 January 2008. The applicant opposed the lengthy adjournment but did not oppose a 2 week adjournment to allow Council to file a Statement of Facts and Contentions.

The Court did not grant Council's request but adjourned the matter for a call over on 18 February 2008. Council is required to lodge a Statement of Facts and Contentions by 14 February 2008 and as such Council's position in relation to this application will need to be resolved at this meeting.

SITE DIAGRAM:



DEVELOPMENT PLANS:



<p>TP06 A 0772</p>	<p>PROPOSED PRELIMINARY DEVELOPMENT 79-97 TWEED CONST RD, HASTINGS POINT SALAHYAL ELEVATIONS</p>	<p>DATE: 11/03/08 SCALE: 1:100 DRAWN BY: [Signature] CHECKED BY: [Signature]</p>	<p>FRANKLAND & ASSOCIATES ARCHITECTS 10/11-13/15 WILSON ST, HASTINGS POINT NSW 2486 PH: 08 9372 1111 FAX: 08 9372 1112</p>	<p>DATE: 11/03/08 SCALE: 1:100 DRAWN BY: [Signature] CHECKED BY: [Signature]</p>
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the plan

It is considered that the aims of the plan have been satisfied and that the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan and the Tweed Futures, Tweed 04/24 Plan have been considered in this application.

Clause 5 - Ecological Sustainable Development

It is considered that the proposed development meets the objectives of this clause, in that the proposal is considered to be consistent with the four principles of ecological sustainable development as set out in the LEP.

Clause 8(1) - Consent Considerations

- a) The consent authority may not grant consent to development (other than development specified in Item 3 of the table to Clause 11) only if:
- b) It is satisfied that the development is consistent with the primary objective of the zone within which it is located, and
- c) It has considered those other aims and objectives of this plan that are relevant to the development, and
- d) It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of the Tweed as a whole.

The TLEP 2000 defines 'multi dwelling housing' as:

“more than one dwelling on an allotment, but does not include a rural worker’s dwelling”

It is considered that the proposed multi dwelling housing development satisfies Clause 8 of TLEP 2000, in that the proposal satisfies the objectives of the zone (as discussed in Clause 11), that the proposal has taken into consideration the other aims and objectives of this plan and that it is considered that this development would not have an unacceptable cumulative impact on the community, locality or catchment of the Tweed.

Clause 11 – Zone Objectives

The subject land is zoned 2(b) medium density residential under the provisions of the Tweed Local Environmental Plan (TLEP) 2000.

A multi dwelling housing development is permissible with Council's consent in the 2(b) zone.

The objectives of the 2(b) Medium Density Residential zone are:

Primary objective:

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

Secondary objectives:

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

It is considered that the development incorporates a level of design detail and consideration to adjacent allotments that will ensure that a quality urban design outcome will be achieved. In this regard, the proposed multi dwelling housing development satisfies the objective of this zone.

Clause 15 – Availability of Essential Services

The subject site is adequately serviced by way of existing storm water, electricity, sewer and water connections. Therefore the proposal is considered to be consistent with this clause.

Clause 16 – Building Heights

The subject site possesses a statutory height limit of three stories, the proposed development complies with this restriction.

Clause 17 - Social Impact Assessment

The proposal is unlikely to create any adverse social or economic impacts and as such a social impact assessment is not considered necessary.

Clause 22 - Development near Designated Roads

The subject site has direct frontage to Tweed Coast Road. The road currently does not contain kerb and gutter.

Council's Traffic Engineer has provided comment and advises that the "proposed plans are generally acceptable, however frontage works will be required such as road widening and kerb and channelling".

Kerb and gutter should be extended to cover the full frontage of the site to Tweed Coast Road incorporating an indented bus bay at the existing shelter location. Detailed engineering drawings for these works including any shoulder widening required shall be submitted for approval by the Director Engineering & Operations prior to issue of a Construction Certificate. It shall be conditioned that the Applicant has the option to undertake these works or pay a contribution.

The site will generate additional traffic, however Tweed Coast Road can support the additional traffic loading that will be imposed on it.

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 34 – Flood Liable Lands

This Clause provides objectives to minimise future potential flood damage by ensuring only appropriate compatible development occurs on flood liable land. A minimum design floor level of 2.7m AHD had been adopted under TDCP-A3 for the Hastings Point area. A minimum floor level in excess of 6.0m AHD has been adopted for the proposed development and complies with the requirements. As such it is considered that the proposal complies with the objectives of this clause.

Clause 35 – Acid Sulphate Soils

This clause provides for the management of acid sulphate soils. The subject land is identified as being in a Class 3 area. A Preliminary Acid Sulphate Soil Investigation prepared by HMC Environmental Consulting P/L (June 2007) has been submitted.

The report was referred to Council's Environmental Health Unit for comments.

"Fifteen samples were collected at a maximum depth of 3.75m. No soil samples recorded any actual or potential acidity exceeding guideline

values for sandy soils. Therefore the investigation is considered adequate. The ground water was not intercepted. Excavations are proposed down to 2.5m and therefore no dewatering will be required. Standard conditions of consent have been will be imposed regarding this.”

It is therefore considered that this proposal meets the objectives of this clause.

Clause 39 – Remediation of Contaminated Land

The Cudgen Topographical maps indicate that the subject site is ‘built up’. Aerial photography dated 1976 and 1993 reveal residential structures on site. Therefore it is considered unlikely that potentially contaminating activities have been undertaken on the site.

Clause 39A - Bushfire

This Clause 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 Rural Fire Service provided the following conditions: -

1. *At the commencement of building works and in perpetuity the entire property shall be managed as an ‘Inner Protection Area’ as outlined within Planning for Bush Fire Management Protection 2006 and the Service’s document ‘Standards for asset protection zones’*
2. *Water, electricity and gas are to comply with Section (4.1.3 and 4.2.3 of Planning for Bush Fire Protection 2006.*
3. *Where the rear of the structure is greater than 70m from the nearest hydrant, a new hydrant/s is required to be installed as per AS2419.1 – 2005 ‘Fire Hydrant Installations’. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.*
4. *Construction shall comply with AS3959-1999 ‘Construction of buildings in Bush Fire Prone Areas’ Level 1.*
5. *Roofing shall be gutter less or have leafless guttering and valley to prevent the building up of flammable material. Any materials used shall have a Flammability Index no greater than 5.*
6. *All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the habitable building shall*

comply with AS3959-1999 'Construction of buildings in Bush Fire Prone Areas' Level 1.

7. *All Class 10 structures as defined per the Building Code of Australia 2006 attached to or within 10 metres of the eastern side of the habitable building shall comply with AS3959-1999 'Construction of buildings in Bush Fire Prone Areas' Level 2.*
8. *No brushwood or treated pine fencing shall be used.*
9. *Roller doors tilt a doors and the like shall be sealed to prevent the entry of embers into the structure.*
10. *Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.*
11. *As the units have been assessed under 79BA for residential purposes and not 100B for Special Protection Development (tourist facility) the building/s shall not be used as a tourist facility.*

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 TLEP2000.

North Coast Regional Environmental Plan 1988

32B Development control—coastal lands

- (1) This clause applies to land within the region to which the NSW Coastal Policy 1997 applies.
- (2) In determining an application for consent to carry out development on such land, the council must take into account:
 - (a) the NSW Coastal Policy 1997,
 - (b) the Coastline Management Manual, and
 - (c) the North Coast: Design Guidelines.
- (3) The council must not consent to the carrying out of development which would impede public access to the foreshore.
- (4) The council must not consent to the carrying out of development:
 - (a) on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time), or

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

Clause 32 B(2) is applicable to this application, in that the NSW Coastal Policy 1997, the Coastline Management Manual and the North Coast: Design Guidelines must be taken into account in the assessment phase.

32B (2)(a) - NSW Coastal Policy 1997:

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. The policy statement essentially seeks *to provide for population growth and economic development without putting the natural, cultural and heritage values of the coastal environment at risk, with its central focus being the ecological sustainable development of the NSW coastline.*

It is acknowledged that the density of the subject sites will be increased, however, the presumption that increased density equals increased damage to the environment, is considered not necessarily justified. It is not considered that such a marginal increase in density (resulting from this 20 unit development) will inevitably cause major detriment to the environment.

It is considered that this development has been designed taking into account the principles of ESD and as a result has resulted in a development which is in harmony with the environment and ecological processes of the coast.

It is not considered that the proposed multi dwelling housing development contradicts the objectives of the Government Coastal Policy.

32B (2)(b) - The Coastline Management Manual

Given the site is not situated directly adjacent to the coastal foreshore, the proposal will have no impact on coastal processes and coastal hazards including erosion (ie sand dunes systems, waves (etc), in accordance with the NSW Coastline Management Manual.

However, given the proximity to the coast, the policy requires that other planning factors, such as social, economic, recreational, aesthetic and ecological issues, be weighed along with hazard considerations and beach amenity requirements when making decisions regarding coastal developments. A review of these factors in accordance with this manual has been carried out against the proposal and is considered to be an appropriate form of development within this coastal area.

32B (2)(c) - The North Coast: Design Guidelines:

It is considered that the Hastings Point locality would fit within the settlement type of a 'coastal hamlet' under these guidelines. The desired future character of these areas is one where *the natural environment dominates individual buildings and the settlement as a whole and that new development is within the settlement boundaries and the scale and architectural character of new buildings allows the setting to predominate.*

In this regard, it is considered that the proposal, meets the design principles and objectives for this coastal settlement.

Although these guidelines refer that height of up to two storeys are maintained throughout the hamlet settlements, it also mentions that "*Heights are subject to place-specific urban design studies and that new development is appropriate to the predominant form and scale of surrounding development.*" In regards to this statement, considering the neighbouring property has consent for a three storey seniors living development and that numerous other developments in the coastal strip have been approved with a three storey height limit, this proposal is considered appropriate.

In summation it is considered that this proposal is sensitive in scale and height to existing and proposed buildings within the area, whilst respecting its natural surrounds and relationship to the environment.

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 3pm midwinter or 7pm midsummer. The submitted overshadowing diagrams are satisfactory in midsummer, however a marginal breach 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 foreshore reserve to the west in the morning period. The property adjoining the site is zoned 6(a) public open space and is considered to be waterfront open space pursuant to this clause. 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:

- *Whilst the proposed development is generally consistent with the intent of this clause, it is evident the development does not strictly comply with the overshadowing provisions. In this regard the proposal will result in a shadow which will extend a maximum of 7 metres into the adjacent foreshore reserve, with the following areas being calculated:*
 - *9am Midwinter = 254m²*
 - *12 noon Midwinter = 95m²*
 - *3pm Midwinter = 162m² and*

- *9am Midsummer = 21m² (No overshadowing at midday or in the evening)*

The overshadowing created by this development will never fall upon the beach or open space areas to the east of the site on the opposite side of Tweed Coast Road, whilst the overshadowing generated falls adjacent to the property boundaries and generally on the access handle of the foreshore reserve adjacent to the southern boundary.

- *The objective of the standard contained within Clause 32b is related to the protection of the recreational integrity of foreshore open space areas and the need to restrict adverse impacts upon same by the erection of buildings in close proximity.*
- *It is contended that the proposal is consistent with the above-mentioned objectives and that the integrity of the Clause 32 b would not be impacted upon via the approval of this structure. In this regard, the following matters are considered relevant to assessing the merits of the proposed departure from the development standard:*
 - *The extent of overshadowing at the prescribed time is considered to be minor in scale, relative to the overall size of the foreshore reserve.*
 - *That area subject to overshadowing is vegetated and the overshadowing will not extend into active recreational areas such as the beach.*
 - *The proposed overshadowing in no way precludes the future use or reclassification of the adjacent reserve.*
 - *The proposal does not overshadow the beach*
 - *The proposed development is designed to comply with Council's height requirements for the area.*
 - *The proposal will not be visible from the beach or from the water edge.*
- *In light of the foregoing analysis it is concluded that compliance with the development standard is both unreasonable and unnecessary. Furthermore, as the proposed development demonstrates consistency with the intent and object of the development standard, the granting of a variance in this instance would not prejudice the future integrity of that standard, not impact upon the amenity of the locality.*

The above points are supported and 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 in this instance.

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

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

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

State Environmental Planning Policies

SEPP 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 65 – Design Quality of Residential Flat Development

This Policy applies to development including the erection of a new residential flat building. In accordance with a residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops).

The proposal is consistent with the definition of a residential flat building as it is three storeys in height and contains twenty (20) self contained dwellings.

The design quality principles are not design solutions, they are a guide to achieving good design and the means of evaluating the merit of proposed solutions. The following need to be addressed:

Design principles 1 – Context

The proposed development has been designed with regard to the geographical context in which it is located. As such the design has been justified based on a review of the features in the area, with regard to both natural and built. The context for the development is based on its location in relation to the Hastings Point and its general beachside location. Given the above location elements the design has been orientated towards presenting the highest quality design and finish to provide a feature building in the locality.

It is also evident, having regard to other recently approved developments within the immediate area, that the proposed development demonstrates consistency with the existing trends and desired future character of the Hastings Point locality. The overall design concept takes on a modern, sub-tropical, beach-side response with extensive variation of high quality heavy and light weight materials and general façade articulation. Having regard to the above, the proposed development is considered to be in context with the desired 'future' character of the area and the general coastal locality.

Design Principle 2 – Scale

The proposal is generally in accordance with the scale of the local building stock and planning regulations. The area is undergoing a period of transition and it is to be noted that numerous three storey medium density developments have been approved in the locality,

The scale of the proposal, whilst not insignificant, has been articulated and minimised via the provision of a number of differing elements, each of which possess an independent design and scale. The scale is consistent with future development in the precinct.

Design Principle 3 – Built Form

The proposal is considered to achieve an appropriate built form for the site. Given the increased setback to the street frontage the building is not considered to dominate the streetscape or detrimentally impact upon the public domain. The developments level of articulation and the suitable use of materials results in an appropriate form, scale and mass, one which compliments the amenity of the area.

Design Principle 4 – Density

The proposed development encourages and assists in the revitalisation of Hastings Point. In this regard, the density demonstrated incorporates desired

uses, clear compliance with the current three (3) storey height limit and in no way corresponds to an overdevelopment of the site. The proposed density is generally consistent with the parameters contained within TDCP – A1

Design Principle 5 – Environmental Issues

The proposal has evolved through a recognition and commitment to sustainability and the need to minimise environmental impacts. The credentials of the proposal in this regard, are demonstrated within the attached NatHERS and BASIX documentation and the simple design basics exhibited within the attached plans.

Design Principle 6 – Landscaping

Given the front setback landscape treatment, particularly given the significant setback (approximately 12m) from the street, the treatment is considered satisfactory. Although the basement limits deep soil planting zones, the level provided at the front and rear is acceptable. It is noted that the proposed landscaping recognises an integrated approach within the development, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.

Design Principle 7 – Amenity

Each of the apartments has been designed so as to maximise available sunlight, space and ventilation. In this regard, each dwelling opens out onto sufficient open space balcony areas. All apartments have been designed and positioned to ensure visual and acoustic privacy for the residents. Public areas are landscaped and open with access to sunlight and shade as required.

Design Principle 8 – Safety and Security

The building and landscape has been design to accord with the CPTED (Crime Prevention Through Environmental Design) principles to provide passive overlooking of all areas due to the orientation of the residential building; to provide casual surveillance of the street and internal spaces and provide secure parking and lock-up storage facilities within the development with the provision of appropriate lighting facilities.

Design Principle 9 – Social Dimensions

The proposal will provide for units of varying size and provide an alternative form to existing apartment buildings in the area. The proposed development satisfactorily considers and promotes the social dimensions of the locality and the proposal specifically.

Design Principle 10 – Aesthetics

The proposed building has been designed and sited so as to address the streetscape. In this regard, the proposed structure has been designed such

that it promotes a high level of visual interest and appeal. The proposed building incorporates differing facade treatments through the use of various materials, textures and colours and demonstrates high quality finishes through out.

The proposal is considered to be consistent with the design principles and objectives of the SEPP.

SEPP 71 Coastal Protection

The subject site is mapped within a sensitive coastal location. Whilst the Department of Planning 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 multi dwelling housing development is considered to be consistent with the aims of the policy. The proposal does not impede public access or result in any significant or unwarranted overshadowing of coastal foreshore areas. In regards to visual impact, given the scale of the building and the increased setback from the road, the development will not be visible from the beach.

The development is consistent with the zone objectives of TLEP2000, the requirements of relevant Council DCPs, and consistent with ESD principles and objectives. It is considered that the proposed development neither offends nor

compromises the intent or specific provisions of the SEPP. It is therefore considered that the proposal satisfies the matters for consideration under SEPP 71.

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

Draft SEPP 1

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. It is noted 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 A1 – Multi Dwelling Housing

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

Provision	Requirement	Provides	Compliance
Site Density	0.5:1 FSR	0.94:1	* See below
Landscaping	30% of the site (713m ²) or sum of number of dwellings multiplied by ratio in table 2 (1580m ²)	850m ²	* See below
Front Setback	Street (Tweed Coast Rd) = 6m	12.8m to wall	Yes
	Sides = 3m	3.9m to wall	Yes
	Rear = 3m	4.9m to wall	Yes
Building Envelope	Height = 12m Envelope/3.5m @ 45degrees	Compliance	Yes
Private Open Space	20% of site area, one part 25m ² , with a minimum dimension of 4m = 476m ²	1735m ² (yet not all have minimum dimension of 4m)	* See below
Car parking	Conform with TDCP A2	Compliance – see later in this report	See later in this report

Provision	Requirement	Provides	Compliance
Landscape Design	Integration of building and landscape, to blend new development within the streetscape, enhance development for visual and acoustic privacy and enhance the appearance of the development	Achieved	Yes
Energy Conservation	To provide dwellings with adequate daylight and natural ventilation and to avoid the potential for significant overshadowing.	Achieved	Yes
Stormwater Management	To provide an effective stormwater management system which is sustainable and requires minimal maintenance.	Achieved	Yes
Car Wash Areas	1 space every 10 dwellings = total 2 car wash areas	2 car wash areas	Yes
Security, Site Facilities and Services	adequate personal and property security for residents.	Provided	Yes

* See below

The proposal generally meets the specified performance criteria within TDCP A1, with minor variations which are detailed below:

(1) Site Density

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

The objectives of the site density clause in the control are to *ensure that the building bulk of new development is compatible with the existing or desired future character of the locality*. In relation to the performance criteria, the design of multi-dwelling housing may achieve the site density objective where:-

P1. The scale of new development is compatible with and sympathetic to the scale and bulk of existing development in the locality, particularly on the perimeter of the development site, or where that locality or development site has some heritage significance or distinctive character.

P2. In areas subject to redevelopment, new development is compatible with the desired future character of the locality.

It is considered that the proposal is compatible with the existing and recently approved development within the area, in terms of bulk, scale and height, thereby considering that the variance to site density is warranted.

(2) Landscaping

The Plan states that landscaping should be 30% of the site area (which equates to 713m²) or, the sum of the number of small and large size dwellings multiplied by the respective landscaped area required (which equates 1580m²) to whichever is the greater. The application proposes a landscaped area of 850m².

An assessment against the performance criteria is as follows:

P1. The scale of new development is compatible with and sympathetic to the scale and bulk of existing development in the locality, particularly on the perimeter of the development site, or where that locality or development site has some heritage significance or distinctive character.

It is pertinent to note that the proposal when viewed from adjacent areas is not imposing and that the proposal provides for a greater level of landscaped and genuine 'green/deep soil' planted areas than that of many existing medium density developments within the locality, and other parts of the Shire. Extensive areas have been set aside for deep soil planting within the front and rear and a mixture of trees and shrubs have been selected to invoke a subtropical and native feel to the development.

In terms of built form and character of Hastings Point, the development has adopted the design criteria as specified under TDCP A1, and is of a bulk, scale and height synonymous with the current desired built form for the locality. The proposal has architectural merit and does not, impose itself upon the built environment. It is therefore considered that the proposal satisfies the first performance criteria. It is also worthy to note that the subject allotment is bounded at the south by an open space access handle and to the west by open space and the Cudgera creek. Land to the east (across the road) is the coastal beachfront reserve, thereby clearly indicating that the allotment is virtually surrounded by a mixture of useable, naturally landscaped open space. Therefore although the shortfall numerically exists, the objectives and performance criteria behind the clause are considered to be achieved.

P2. In areas subject to redevelopment, new development is compatible with the desired future character of the locality.

The proposed development, with particular reference to the provisions of TDCP A1, the North Coast Design Guideline is predominately consistent with the desired future character of the locality which is zoned 2(b) Medium Density Residential.

Reference is also made to the suitable provision of efficient useable balcony areas and private open space areas to all units, the articulation afforded to the building in terms of its presentation to the street and adjoining properties, and the close proximity of active natural open space areas. It is considered that the proposed residential flat building suitably responds to the medium density zoning of the site and is compatible with the desired future character of the locality.

It is concluded the proposed development in terms of landscaping is a satisfactory response to the performance criteria underpinning this design element. The landscaping proposed is therefore considered appropriate and acceptable for the site.

(3) Private Open Space

The proposal provides well in excess of the required private open space area, however in some of the units the minimum dimension of 4m in the width is not achieved. The application however is considered to meet the objective of the Useable Open Space Clause, in that the private open space for each unit is useable and meets user requirements for privacy, safety, access and landscaping. The proposal also meets the performance criteria for private open space areas, in that:

- the spaces are clearly defined to distinguish between communal and private open space.
- The areas are of dimensions to suit the projected requirements of the dwelling occupants, and to accommodate some outdoor recreational needs as well as providing space for service functions.
- Part of the private open space is capable of serving as an extension of the function of the dwelling for dining and entertainment.

It is therefore considered that the variance to the width requirements of the private open space provisions is acceptable.

Section A2 Site Access & Parking Code

Council's development engineer provided the following comments in relation to access and parking:

"The proposed development is broken up as follows.

Unit 1 = 1 bedroom

Units 2 – 16 = 2 bedrooms

Units 17 – 20 = 3 bedrooms

Under Council's DCP Section A2, the following parks are required:

Proposal	Parking rate	Required Spaces	Spaces Provided	Compliance
1 x 1 bedroom	1 park per 1 bd unit	1 space		
15 x 2 bedroom	1.5 parks per 2 bd unit	22.5 spaces		
4 x 3 bedroom	2 parks per 3 bd unit	8 spaces		
	Total for residence	32 spaces		
Visitors	1 per 4 units	5 spaces		
	Total (incl visitors)	37 spaces		
	Total Provided	39	39	YES
Car wash bays	1 per 10 units	2 car wash bay spaces		
	Total Provided	2	1	*See Below

Section A2.3.7 (6) states that “Stacked parking for customer/public and multi dwelling housing will not be supported”, however Council of late have accepted stacked parking provide each stacked pair are nominated to a single unit. Units 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20 are proposed to have stacked parking. This occupies all of the 3 bedroom units which are required to have 2 car parks. This therefore leaves the following 2 bedroom units with single car spaces. Units 2-7, 12 & 13 (= 8 units). Therefore to satisfy DCP parking requirements, 1.5 spaces are required for these units = 8 x 1.5 = 12. 11 spaces are proposed. A shortfall of 1 car space will be accepted.

Standard car parking and aisle widths have been sporadically dimensioned and will be enforced. As such, appropriate manoeuvring will be available.

PROVISION FOR ONE CAR WASHING BAY HAS BEEN MADE AT THE FRONT OF THE PROPERTY. COUNCIL’S DCP FOR MULTI DWELLING HOUSING REQUIRES ONE CARWASH BAY PER 10 DWELLINGS. THE APPLICANT HAS REQUESTED FOR A VARIATION TO THIS POLICY BASED ON THE FACT THAT A MAJORITY OF THE DWELLINGS ARE ONLY TWO BEDROOMS. THIS IS NOT SUPPORTED AND A CONDITION WILL BE IMPOSED ON THE CONSENT REQUIRING A MINIMUM OF TWO CAR WASHING BAYS.

Having regard to the above comment it is noted that with the acceptance of the stacked parking 2 additional car parking spaces have been provided over the required number in the DCP. The five (5) visitor spaces have been provided outside the secure basement car park and are acceptable.

On this basis it is considered that the proposed development is satisfactory with regards TDCP – A2, subject to appropriate conditions of consent.

Section A3 Development of Flood Liabile Land

The proposed development is considered suitable for the site with appropriate conditions of consent being recommended to ensure compliance with the relevant section of the DCP. The majority of the site is in excess of the design flood level for this locality.

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 later in this report. The application received 14 submissions, which have been considered as part of this assessment.

Section A14 Cut & Fill on Residential Land

The proposed development is considered to generally comply with this policy. Generally, all cut to accommodate the basement car parks occurs below the footprint of the buildings.

Section B9 Tweed Coast Strategy

The Tweed Coast Strategy contains a number of principles and planning objectives relating to the development of land in the Hastings Point locality. The proposed development is generally in accordance with the strategies and objectives identified in this plan.

Section B18 Tweed Coast Building Heights

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

Provision	Acceptable Solution	Compliance
Building Height	A1 – 3 storey residential development = 9m to the uppermost ceiling A2 – 3 storey residential development = 11m to the highest point on the ridge	8.6m to uppermost ceiling 11m highest point on the ridge YES
Building Setback	Minimum of 6m for the front setback Minimum of 3m side and rear setbacks	12.8m to Tweed Coast Road Minimum 3.985m to side and 4.950m to rear YES

Provision	Acceptable Solution	Compliance
Roof Design	<p>A1 – Articulate roof structures</p> <p>A2 – Appropriate materials with minimal visual impact</p>	<p>The roof form is generally flat allowing for utilisation for open space purposes and as such will not be viewed by the surrounding parapet, thereby minimising visual impact. In regards to the materials, the applicant submitted a perspective drawing which indicated colours and materials. However a condition will be imposed on the consent to ensure the colours and materials are compatible with its surrounds.</p> <p>YES</p>
Building Envelope	Height = 12m Envelope/3.5m @ 45degrees	<p>Compliance</p> <p>YES</p>

The Plan specifies that the proposed development complies with this acceptable solutions and guidelines set out in the Tweed Coast Building Heights Plan and is considered to be suitable for the site given the changing character of Hastings Point.

Fencing Policy

Council’s fencing policy states that:

“All fences or structures located on or near the front property boundary are to be constructed so as to provide a clear pedestrian sight line from driveways, carports, garages etc., comprising of a triangular area of not less than 2 metres by 2 metres measured from the front boundary and the edge of the driveway. Council may permit the erection of archways over gates and other features, if these are considered not to significantly affect the intent of this policy. The maximum fence height permitted in front of the building line without Council approval shall be 1200mm.”

The perspective drawing and landscape plan submitted with the application indicate a front fence, however dimensions were not supplied. Therefore an appropriate condition will be imposed on the consent to slightly modify the proposal and to control the height of the structure, as indicated below:

The front fence is to have a total maximum height of 1.5m, the solid wall height can be up to 1.2m. Above the solid wall the fence is to have a minimum openness ratio of 60%.

The imposition of this condition will contribute to the streetscape, whilst still enhancing the usability of the private open space.

Council's Resolution of 21 August 2007

It is to be noted that, Council at its meeting of 21 August 2007, resolved the following:

1. *Council resolves to publicly exhibit the draft Residential and Tourist Code (Section A1 of the Tweed Development Control Plan) for a period of 60 days.*
2. *Where a public submission received raises an issue that would result in a major change in the draft Plan that a public workshop be convened to address the issue prior to the reporting of the Plan to Council.*
3. *Council engages Ruker & Associates Urban Design to assess the height and density provisions in the current Local Environmental Plan for Hastings Point to provide a report to inform the consultants GHD who are undertaking the overall review of the urban land release strategy for the new Tweed Local Environmental Plan.*
4. *Council defers the assessment and determination of development applications for Hastings Point which have already been submitted but not determined or are submitted for determination after this date until the report from Ruker & Associates Urban Design is finalised for Council's consideration.*

As a result of this decision, the applicant was advised of this resolution and that Clauses 3 & 4 was applicable to their application and that this DA will be held in abeyance until the Ruker & Associates Report is finalised for Council's consideration.

Although this Council resolution (Cl.4) deferred the assessment and determination of the development applications in Hastings Point until the report from Ruker & Associates has been finalised for Council's consideration, given that an appeal has been lodged with the Land & Environment Court, Council is now required to make a decision on this application.

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

It is to be noted that all applicable Regulations have been discussed elsewhere in this report and that 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

Character and Amenity

The bulk, scale and likely impacts on the streetscape character and amenity are discussed in greater detail earlier in this report (SEPP No. 65). It is acknowledged that the character of the area is undergoing transition.

Amenity, Overshadowing & Visual Impacts

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

Demolition

A separate application is to be made to demolish the existing structures on site. Council will impose appropriate conditions of consent regarding this.

Traffic

Council's Engineer has identified that the proposal will generate increased traffic, however it is considered that Tweed Coast Road can support the additional traffic loading that will be imposed on it.

Waste

Provision for the storage of wheelie bins have been made in the basement car park. Council's Waste Management Officer, stated that Solo Waste provide a waste collection service along Tweed Coast Road. A letter from Solo Waste has also been provided with the application, stating that they have viewed the proposed plans are that they appear adequate for Solo Waste to carry out a collection service of the proposed refuse area.

Stormwater Management

The applicant submitted a Stormwater Management Plan which has been assessed by Council's Development Engineer and Council's Infrastructure Engineer, whereby it is considered to be satisfactory, subject to appropriate conditions of consent.

Threatened Species

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

Creek Access/Impacts

The proposed development is approximately 100m from Cudgera Creek. No creek access is proposed as part of the development. Council's Co-ordinator of Natural Resources Management Unit, advised that the creek is very shallow and is not used for recreational purposes. The development is not anticipated to have any significant impacts upon Cudgera Creek.

It is considered that the proposal is unlikely to result in any adverse impacts on the existing natural or built environment on the subject sites or on the adjoining sites. The proposal is generally consistent with the current desired future character of the Hasting Point region.

(c) Suitability of the site for the development

The subject site provides for a multi dwelling house development within an existing established, yet evolving residential area and it is considered that the development is commensurate with the zone intent. The application was referred to Council's Building and Environment Unit and Engineering and Operations Division for assessment. The application was reviewed by all abovementioned departments with no concerns being raised, subject to appropriate conditions being imposed on the consent.

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

The proposed development was advertised in the Tweed Link with additional notification letters going out to all residents within close proximity of the site for two weeks (27 June 2007 – 11 July 2007). During this period Council received 14 letters of objection.

It should be noted that a number of the submissions raised concerns and made statements about the development occurring in Hastings Point in general and also commented on a number of other specific development applications that have already received consent from Council. This report assesses the specific comments relevant to this application.

The issues raised are summarised below with responses following each one.

- 1. Objectors Concern:** *That the size and scale of this overdevelopment will increase the population of the area, which will in turn have a cumulative impact on the estuary/creek/beach, the localities infrastructure (including water, roads and sewerage) and the associated social impacts as well*

Comment:

It is acknowledged that the development of 20 units will increase the density/population over the site. However the 2(b) zoning of the site 'encourages development for the purpose of medium density housing', thereby actually promoting a population growth over those sites. Nevertheless,

it can not be automatically assumed that increased density equals increased environmental damage. It is considered that any potential impacts on the creek/beachfront and localities infrastructure would be addressed in a proactive manner through proper management practices.

2. **Objectors Concern:** *It is not reasonable that opportunistic developers are allowed to determine the future character of the village and council is obliged to contain this type of strip development*

Comment:

It is not considered that developers determine the future character of an area, rather it is the regulations and controls set by both Council and the State Government that guide the future desired character of an area. The developers response to these regulations and controls are subject to merit assessment by Council.

3. **Objectors Concern:** *This application (and all in Hastings Point) should be based on a comprehensive plan for Hastings Point itself, not a generic document, which does not address the uniqueness of this community. And that Council should work to protect the existing coastal villages' identity and preserve the sensitive environmental areas.*

Comment:

As noted earlier in this report, a report is currently being prepared by Ruker & Associates to study the Hastings Point area south of the bridge. However as the applicant has lodged an appeal, the application must now be processed under the current planning controls and legislation.

4. **Objectors Concern:** *That the bulk, scale and three storey height of this development is not in keeping with local and state government planning, or the desires of the local community (to have a two storey height limit), the village atmosphere or the unique character of Hastings Point. It appears to be a deliberate misunderstanding of these instruments.*

Comment:

As noted earlier in this report, the bulk, scale and proposed height of this proposal is considered to be in keeping with the current local and state government planning controls. Given an appeal has been lodged on this application, the application assessment must be made. As noted above the Ruker & Associates report and the associated community consultation is considering the local communities views as to future development in Hastings Point.

5. **Objectors Concern:** *It is the understanding of local residents that the subject sites are in fact 79-81 Tweed Coast Rd, not 79-83 Tweed Coast Road, as stated on the DA. This is a clear grab on the part of the*

developer which will impact resident and ratepayer access to the estuary and is clearly unacceptable.

Comment:

Lot 1 on DP717669 is known as 79-83 Tweed Coast Road, Hastings Point and as such the description on the application is correct. The adjoining 6(a) Open Space zoned land is Lot 7013 on DP1068894 and is known as 85 Tweed Coast Road, Hastings Point

- 6. Objectors Concern:** *The proposal has not provided for sustainable development practices (ie water harvesting, solar panels etc)*

Comment:

Under the current legislation the application has to comply with the Basix Standards. A Basix Statement has been submitted with the application that addresses water and energy issues as well as thermal comfort and is satisfactory.

- 7. Objectors Concern:** *Concerns is raised that residents are forced to foot the bill for upgrades and improvements to local infrastructure as developer contributions in no way cover these costs. We also demand that all infrastructure costs pertaining to any development be met by the developer by an increase in developer contributions to at least 5-10% of the final sale costs of the development*

Comment:

Council's contribution plans are based on the current legislation and recover costs directly attributable to the development. The contributions cannot be varied unless the plans are formally changed.

- 8. Objectors Concern:** *The DA documentation state that the value of this development to be \$4 million, this appears, this seems unrealistic, this is simply another method of circumventing their developer contributions.*

Comment:

The building cost estimate for the proposed development has been reviewed under the 'Building Cost Guide' published by the Australian Institute of Building Surveyors, and based on the building configuration to cost estimate is realistic.

- 9. Objectors Concern:** *Demand that the LEP Amendment 81 be reinstated and that this DA be referred to the Minister and Department of Planning for consideration.*

Comment:

As mentioned earlier in this report the Draft LEP Amendment No. 81 has not been reinstated and therefore the current application has been considered against the current applicable controls. The application is not a State significant development and as such the Minister is not the consent authority. As mentioned earlier the matter is now before the Land and Environment Court.

10. Objectors Concern: *This development goes against the North Coast Strategic Plan and NSW Coastal Policy to retain village character*

Comment:

This report details an assessments of the proposal against all current relevant legislation required under the Act, including the North Coast Regional Environmental Plan, the NSW Coastal Policy 1997, the Coastline Management Manual, and the North Coast: Design Guidelines.

11. Objectors Concern: *No roofing or shade structures should ever be permitted on the rooftop terrace*

Comment:

A condition will be imposed on the consent regarding this.

12. Objectors Concern: *There will be increased vehicular movement due to parking one behind the other instead of side by side.*

Comment:

The car parking layout has been reviewed by Council's Development Engineer and Traffic Engineer who supported stacked parking in this instance provided each stacked pair are nominated to a single unit. A condition has been imposed on the consent, in this regard. Any additional vehicle movement will be internal to the building.

13. Objectors Concern: *That there is a lack of sufficient visitor parking*

Comment:

The development requires 1 visitor car parking space per 4 units, thereby required 5 spaces. The proposal provides 5 visitor spaces that are accessible outside the secure parking area and therefore complies with the requirements of the relevant DCP.

14. Objectors Concern: *That this development will impact on our privacy and we request that the same terms and conditions (from DA04/0517 – 75 Tweed Coast Rd) as to orientation and screening be imposed on this development.*

Comment:

A review of the plans in regards to privacy and overlooking indicates that as the number of storeys increases, so do the side setbacks. Thereby minimising direct overlooking into the adjoining property. For example:

Storeys	Side Setback to Balconies	Side Setback to Building Wall
Ground Floor	1.5m	4m
2 nd Floor	4m	4m
3 rd Floor	4m	7.5m - 11.5m
Roof Top Terrace	7.4m – 11.5m	N/A

Further to this, given the sites surrounds, the open space reserve and creek to the west and the coastal beach foreshore to the east, it is considered that the views and vistas are directly to the east and west and not the northern adjoining allotment. In addition, the balconies have been located off living/entertaining areas (to the east and west) to take advantage of these primary views (i.e. the creek and beachfront). It is to be noted that a review of the consent for DA04/0517 revealed no specific conditions relating to privacy or overlooking, as such, in order to minimise these privacy concerns, a number of conditions will be imposed on the consent, relating to frosted glass balustrade on the balconies facing the northern boundary and including one metre wide planter boxes along these balcony edges.

15. Objectors Concern: There are a number of concerns regarding stormwater, which have been detailed below:

Where will the Stormwater go?

- The applicant proposes to install an infiltration system within the front yard of the site, to cater for and dispose of all runoff from the roof and driveway catchments in storms up to the ARI 3 month storm. Surcharge from this system in larger events would be directed to the road reserve as dispersed surface flow. Given the lack of alternative drainage options, this stormwater management proposal is generally acceptable. The arrangement of the proposed Atlantis Cell infiltration system will be checked with the s68 application to confirm sufficient infiltration area and volume is provided.

Will perimeter drainage be installed?

- Perimeter drainage will be required to be installed to ensure that no additional runoff or ponding occurs on neighbouring property – as per consent condition PCC0485 - *“All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding*

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

- Raising of ground level will impact on adjoining properties, Condition 16 addresses this issue and *will be enforced at the Construction phase of the development.*

(e) Public interest

Far North Coast Regional Strategy

The Far North Coast Regional Strategy applies to the Tweed local government area. The purpose of the strategy to manage the region's expected high growth rate in a sustainable manner.

A review of this application against the strategy revealed that the proposal is situated on a residentially zoned site which is within the village's growth boundary, thereby not spreading development along the coastal areas. It is considered that the existing and future desired character of the Hastings Point area will not be compromised by this development, nor is it considered that the proposal will detrimentally impact upon the environmental assets, landscape, cultural values and natural resources of the area. It is considered that the proposal meets the vision and aims of the strategy.

Given the circumstances outlined in this report, subject to conditions the application is considered reasonable and appropriate for the locality and its approval would not be contrary to the public interest.

OPTION:

1. Approve the application subject to conditions
2. Refuse the application with reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

CONCLUSION:

Given that the application is now before the Land and Environment Court, the proposal has been assessed against the current planning legislation and planning instruments and is considered to be suitable to the site, unlikely to cause any significant long term negative impacts to the surrounding built and natural environment and generally meets all of Council's applicable standards. The application has been assessed by Council's technical officers with no objections being raised subject to appropriate conditions of consent. On this basis the proposed multi-dwelling housing development is therefore recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.
