

TITLE: [PR-PC] Environmental Assessment Major Project 07-0179, Mixed Use Development, Lots 184 – 187 and 191 – 194 in DP 259164 and Lots 20-23 DP 31208, Tweed Coast Road and Hastings Road, Cabarita

ORIGIN:

Development Assessment

FILE NO: DA2380/690 Pt5

SUMMARY OF REPORT:

The Department of Planning have invited Council to provide a submission on an Environmental Assessment (EA) for a mixed use development at Tweed Coast Road and Hastings Road, Cabarita. The purpose of this report is to seek endorsement from Council to forward a submission to the Department of Planning. The assessment of the EA indicates there are multiple issues which require further information to be provided and that further investigation is required by the Department of Planning.

The subject site is situated within the business centre of Cabarita adjoining commercial and residential development. The site fronts both Tweed Coast Road and Hasting Road.

The proposed development involves a four storey mixed use development comprising of:

- 40 residential units (16 x 2 bedroom units and 24 x 1 bedroom units)
- A supermarket (2375m²), retail shops (1060m²) and kiosk (90m²)
- Public forecourt
- Basement car parking

In terms of broader strategic planning, the subject proposal is consistent with Council's adopted Retail Policy (resolved at Council's meeting of 16 November 2005), and responds to the need for a new major supermarket facility in this part of the Tweed Coast. However, there are a number of concerns with the details of the current plans of this proposal for which Council officers have been seeking to resolve with the proponent.

One of the main concerns is the proposal is inconsistent with the Tweed Local Environmental Plan 2000 (TLEP), in that the service laneway (as identified within Clause 38 of the TLEP) is not satisfactorily incorporated into the proposal. The development's footprint essentially fragments the laneway restricting the intended servicing function. Subsequently vehicular access to surrounding allotments will inevitably be restricted to Hastings Road. Vehicular access to the site is proposed directly from Hastings Road. The Tweed Development Control Plan (DCP) does not permit this as access is required via the service laneway.

Several other issues require further information and consultation relating to the sewer relocation, car parking shortfall and on-site vehicular manoeuvrability, stormwater management, streetscape works and landscaping, number of storeys proposed and waste management.

It is recommended through this report that a submission detailing these considerations should be forwarded to the Department of Planning prior to any determination being made.

RECOMMENDATION:

That the matters discussed in this report relating to the Environmental Assessment of Major Project 07-0179 relating to Lots 184-187 and 191-194 in DP 259164 and Lots 20-23 DP 31208, Tweed Coast Road and Hastings Road, Cabarita be endorsed by Council and forwarded to the Department of Planning as a submission.

REPORT:

Location: Lots 184 – 187 and 191 – 194 in DP 259164 and Lots 20-23 DP 31208, Tweed Coast Road and Hastings Road, Cabarita

Zoning: 3(b) General Business

BACKGROUND:

The subject site is situated within the business centre of Cabarita adjoining commercial and residential development. The site fronts both Tweed Coast Road and Hastings Road encompassing 12 allotments.

In terms of broader strategic planning, the subject proposal is consistent with Council's adopted Retail Policy (resolved at Council's meeting of 16 November 2005), and responds to the need for a new major supermarket facility in this part of the Tweed Coast. However, there are a number of concerns with the details of the current plans of this proposal for which Council officers have been seeking to resolve with the proponent.

The proposed development involves a four storey mixed use development comprising of:

- 40 residential units (16 x 2 bedroom units and 24 x 1 bedroom units)
- A supermarket (2375m²), retail shops (1060m²) and kiosk (90m²)
- Public forecourt
- Basement car parking for 204 vehicles

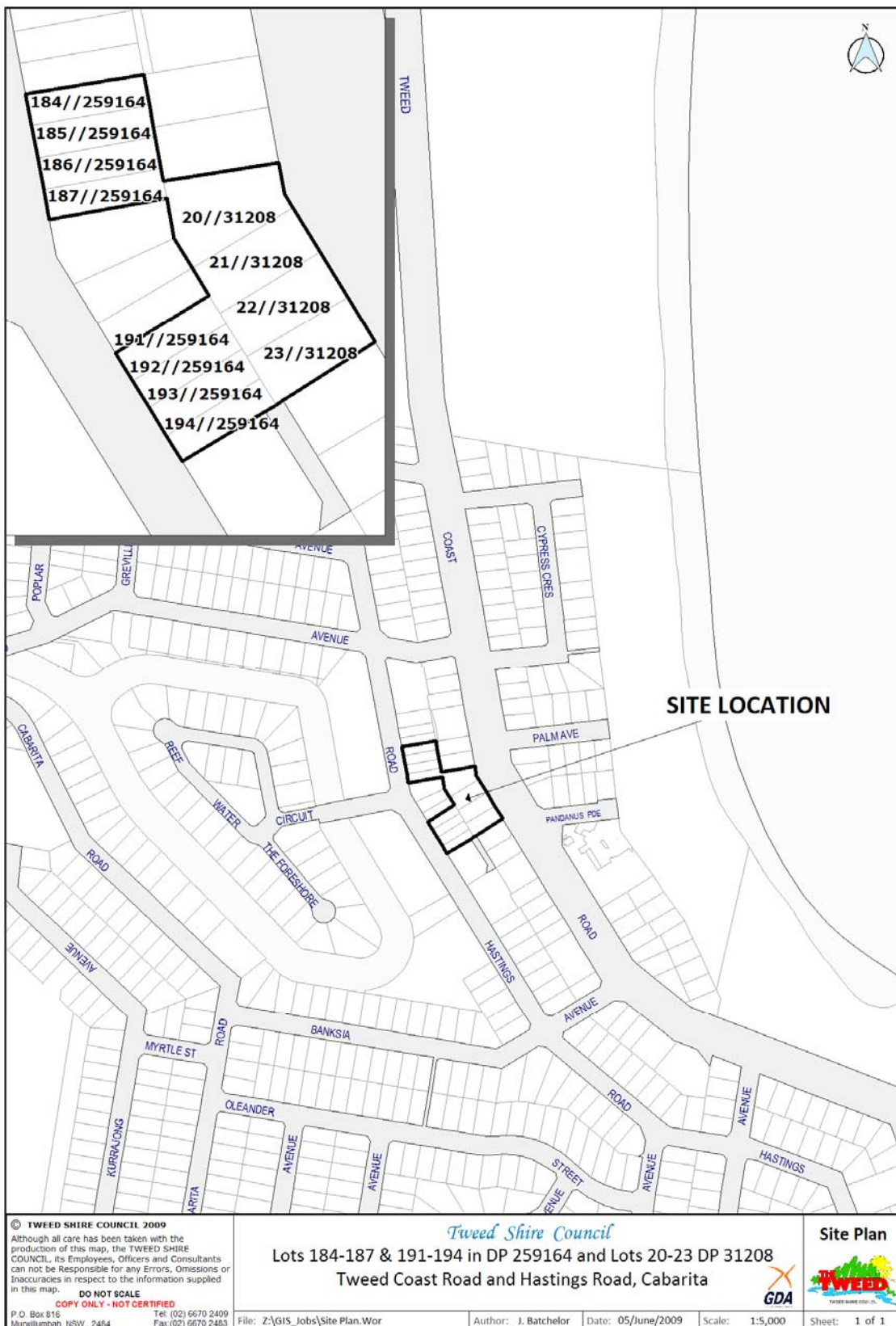
The proposal does not incorporate a service laneway as identified within Clause 38 of the Tweed Local Environmental Plan 2000. The laneway road corridor is identified to run parallel between Tweed Coast Road and Hastings Road starting at Rosewood Ave to the Council car park site in Hastings Road and is maintained to the development site with a new section of lane through the development site onto Hastings Road. The developments' footprint covers some of the area intended for the service lane, essentially fragmenting laneway access to the site's north and south.

The development is likely to result in future inconsistency with the Tweed DCP for the three lots in between the subject site. Should the laneway not extend to serve these lots their vehicular access will inevitably be from Hastings Road which is not permitted as per Tweed DCP Section B19 - Bogangar/Cabarita Beach Locality Plan. The laneway may be relocated wholly within these sites as an alternative however the appropriate landowners must be consulted with prior to the Department adopting this option. It is noted the proposed development also seeks vehicular access directly from Hastings Road.

Council staff have met with the applicant on several occasions to discuss in particular the service laneway issue. This matter has also been discussed with the Department of Planning.

Issues relating to the proposal's sewer relocation, car parking shortfall and on-site vehicular manoeuvrability, stormwater management, streetscape works and waste management require further information to be submitted by the applicant.

SITE DIAGRAM:



DEVELOPMENT PLANS:



CABARITA HEADLAND
RESIDENTIAL

RETAIL SHOPS
PEDISTRIAN CROSSING
TO BEACH ACCESS

3 STOREY RESORT

3 STOREY MIXED
DEVELOPMENTS

VEHICULAR ACCESS
FROM HASTINGS

LOCATION

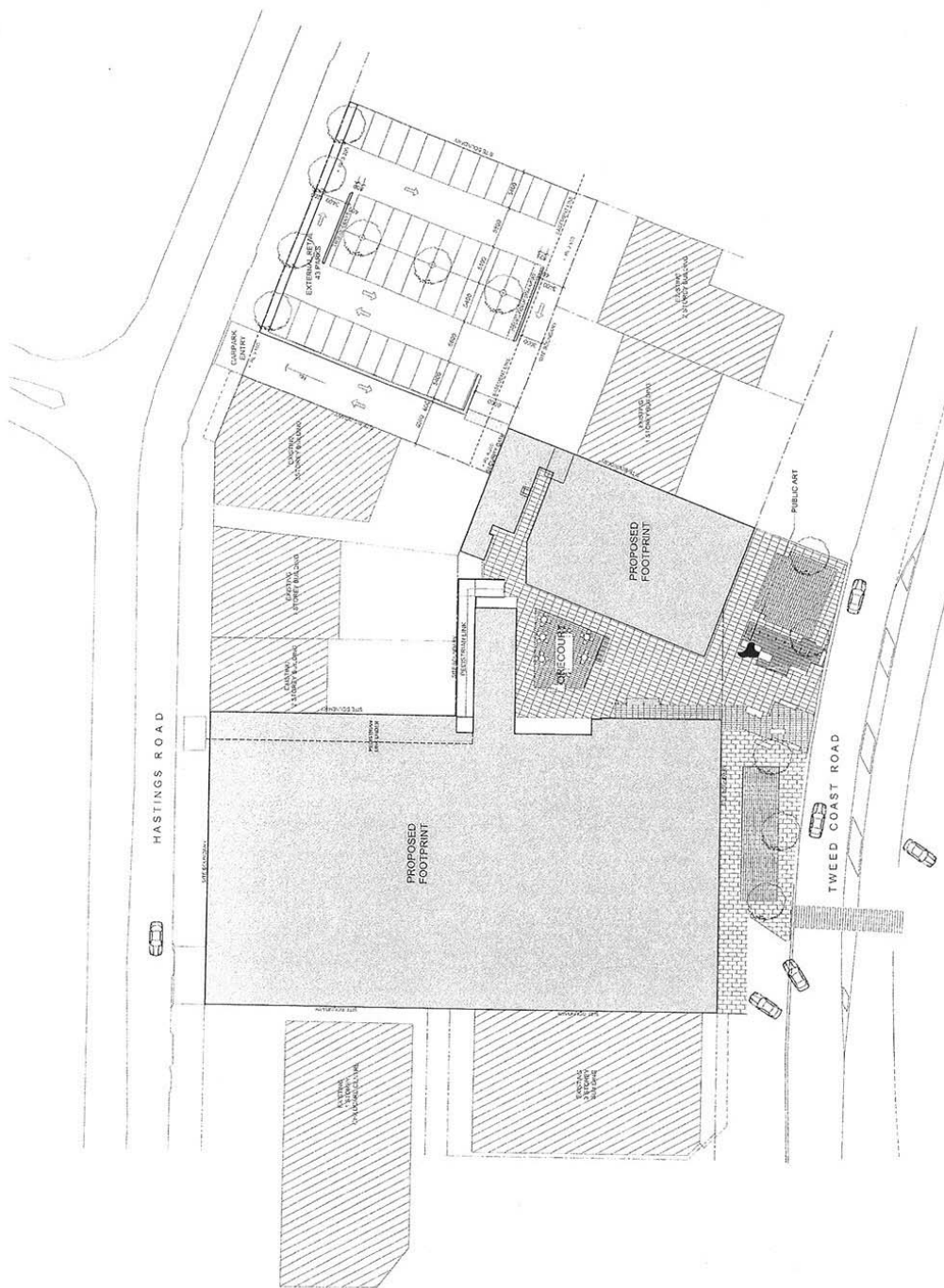
The site is located between Temari Coasts and Hastings Road, Cabarita, NSW. It is in close proximity to similar coastal towns of Casuarina, Kingscliff, Portsville and Resorts of Salt/Peppers.





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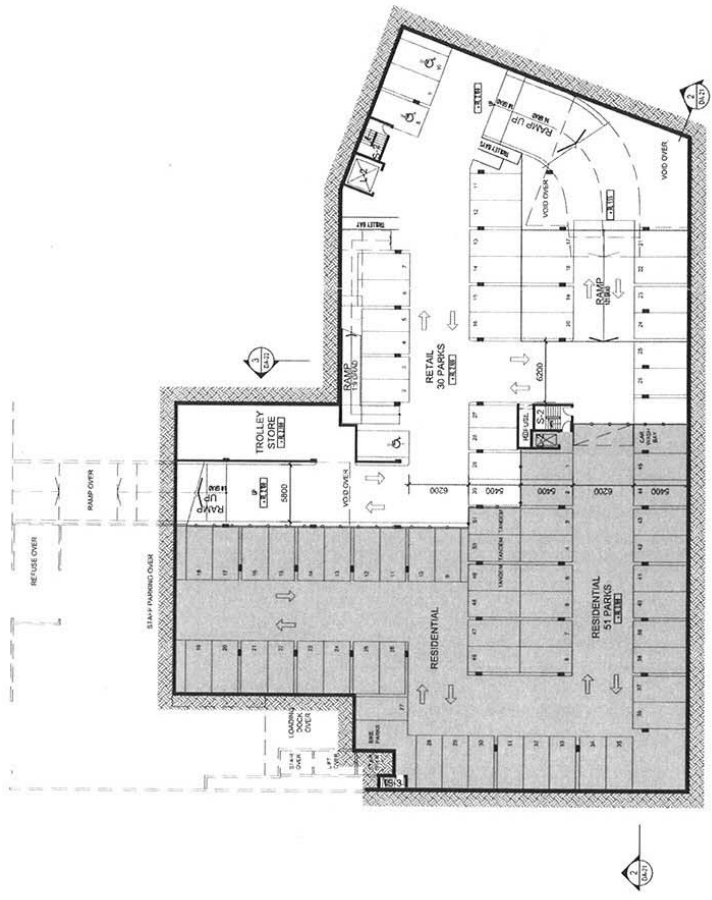
CABARITA DEVELOPMENT | Perspectives
24.02.09 | Dev. Application | DA-24 | A



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CABARITA DEVELOPMENT Site Plan
 1:500 @ A3
 24.02.09 Dev Application DA-11

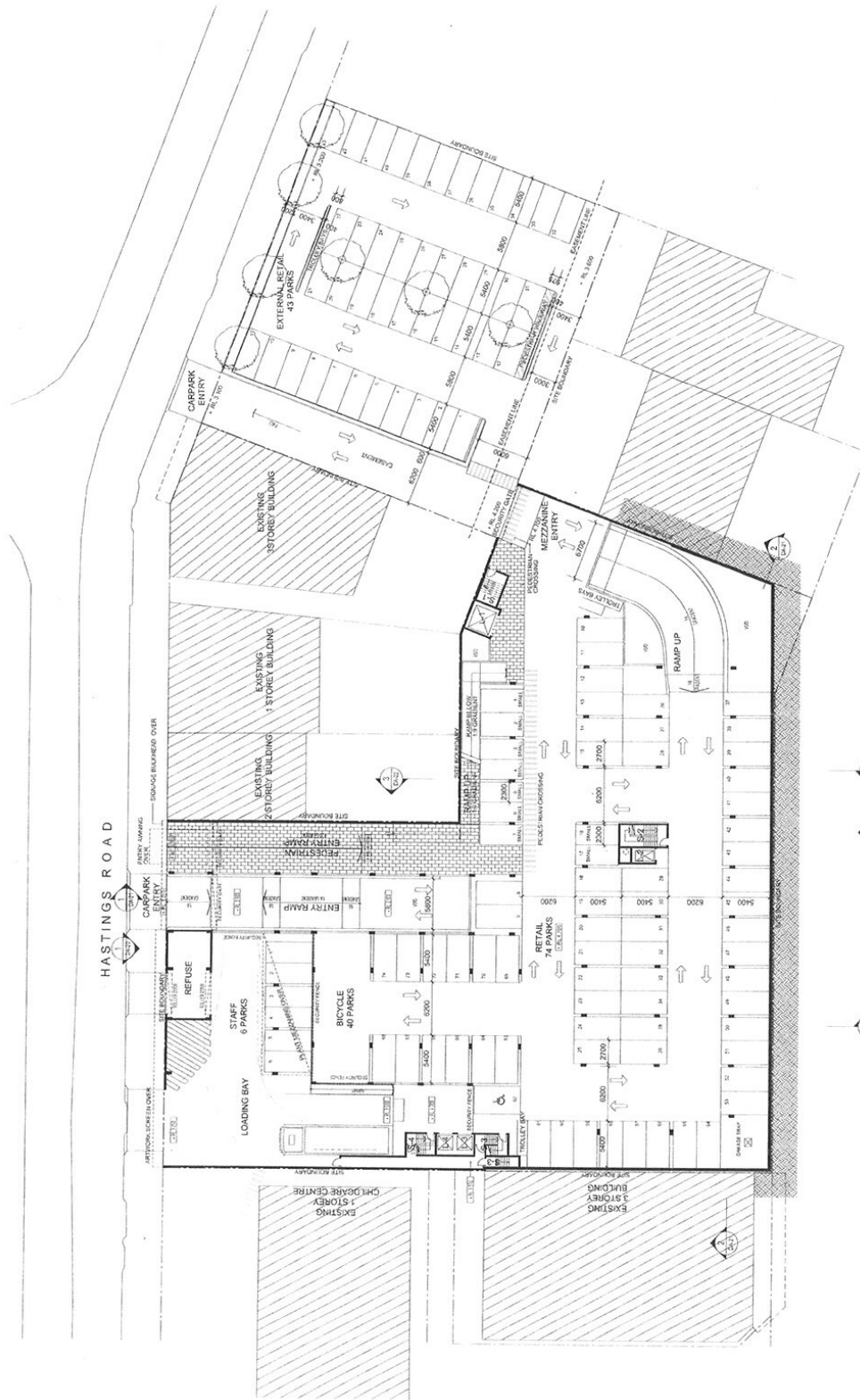




CABARITA DEVELOPMENT Basement Lower Plan
 24.02.09 Dev. Application DA-12

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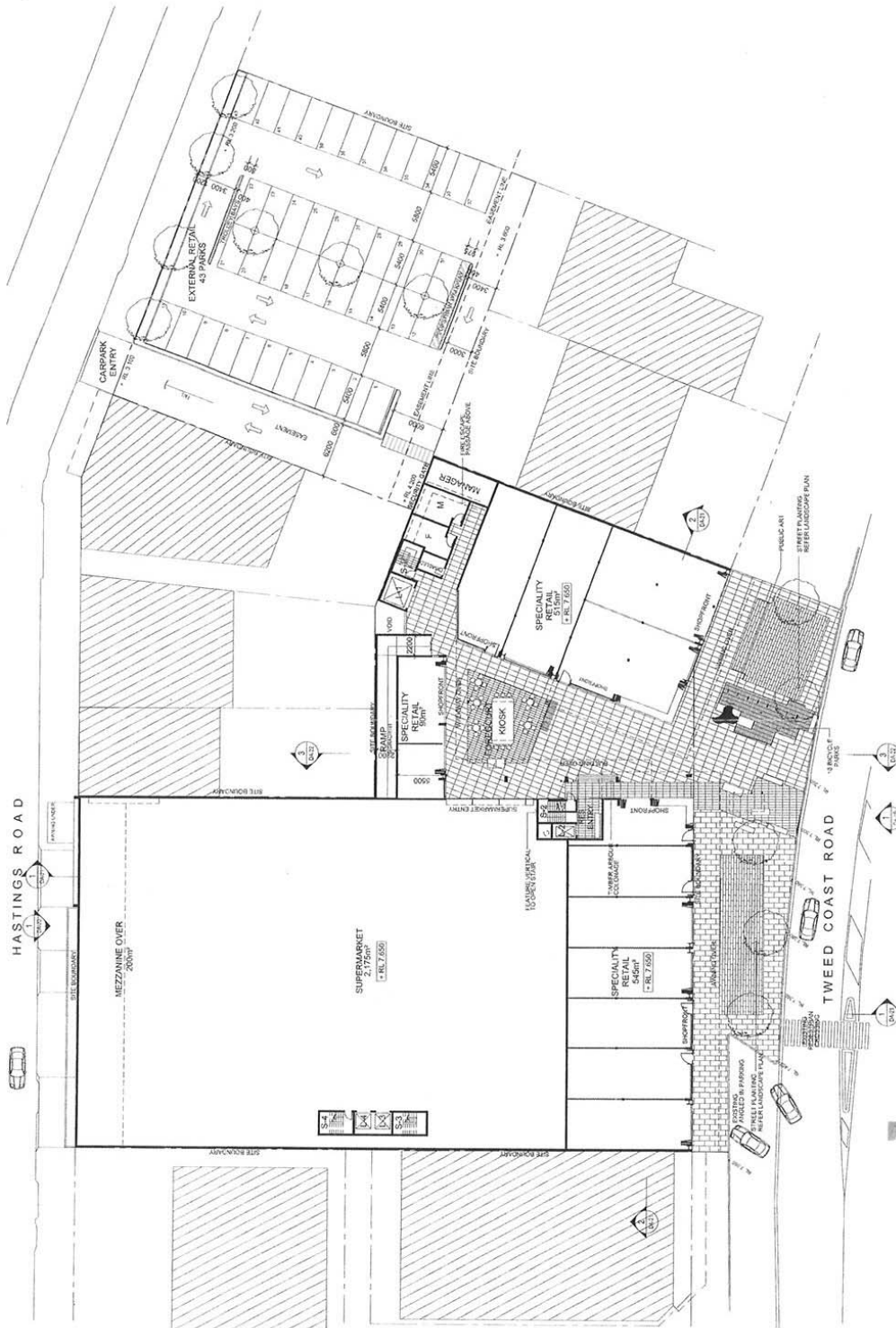




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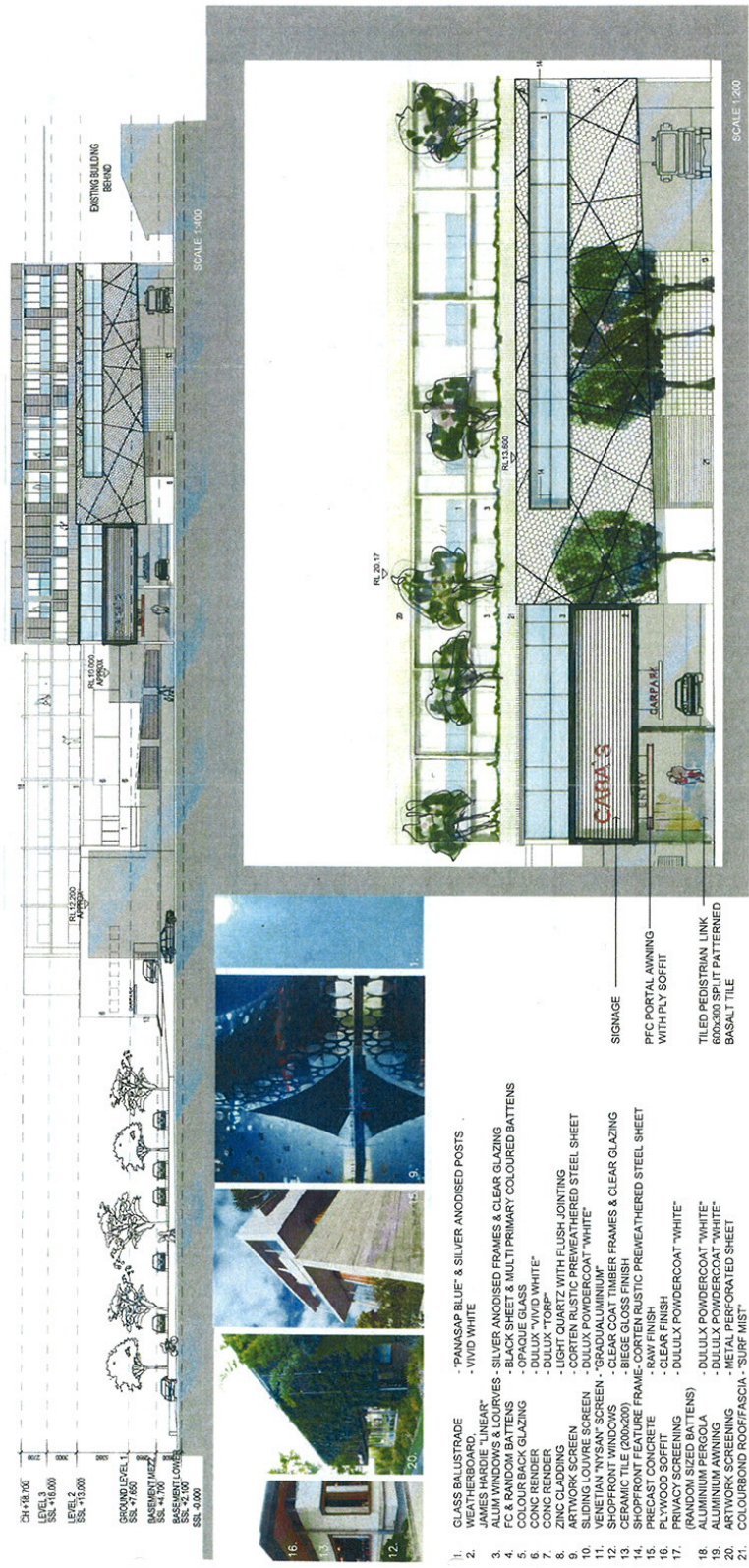


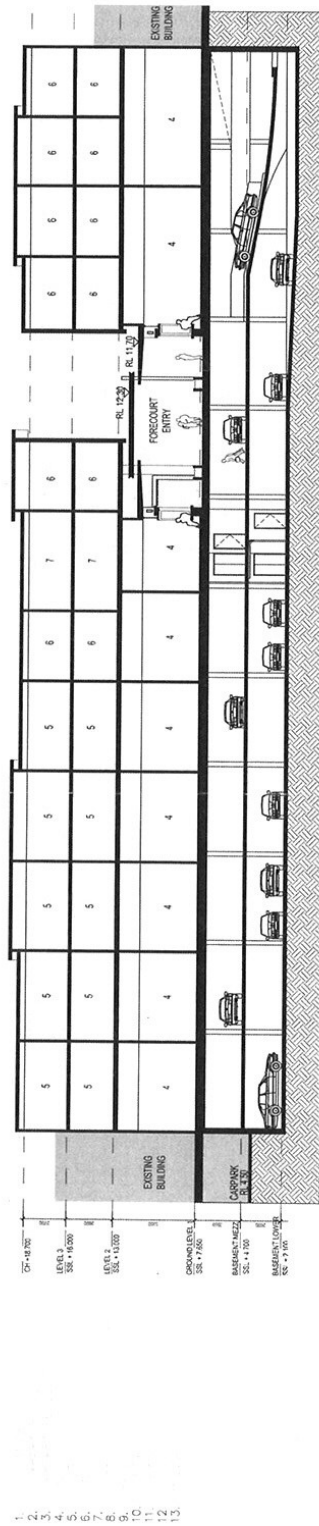
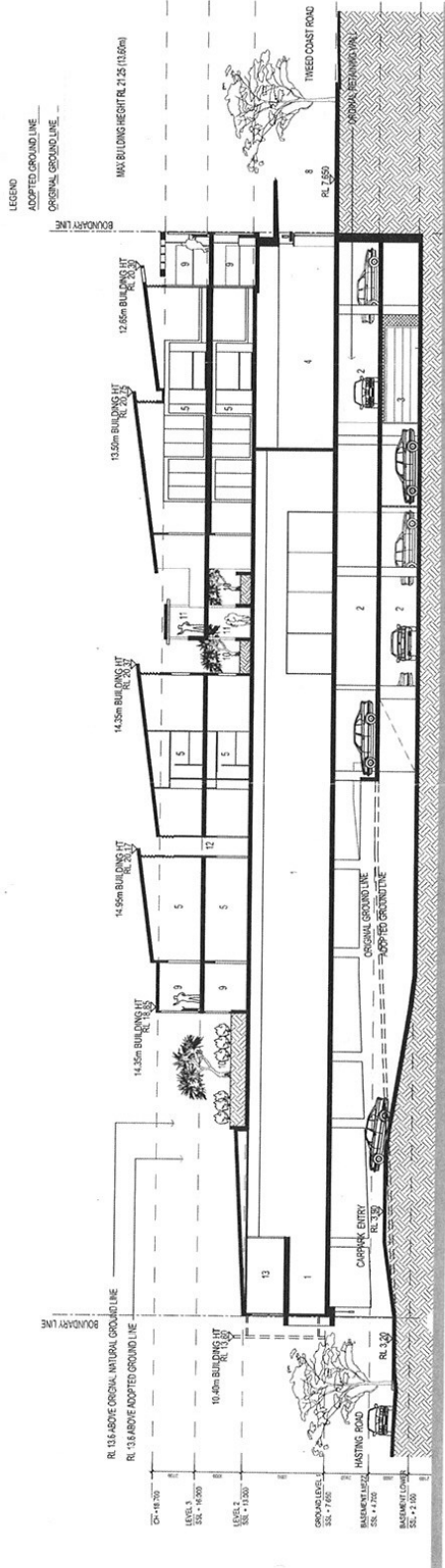
CABARITA DEVELOPMENT | Basement Mezzanine Plan
 1:400 @ A3 | 23.04.09 | Dev. Application | DA-13 | F



CABARITA DEVELOPMENT | Ground Level 1 Plan
 23.04.09 | Dev. Application | DA-14

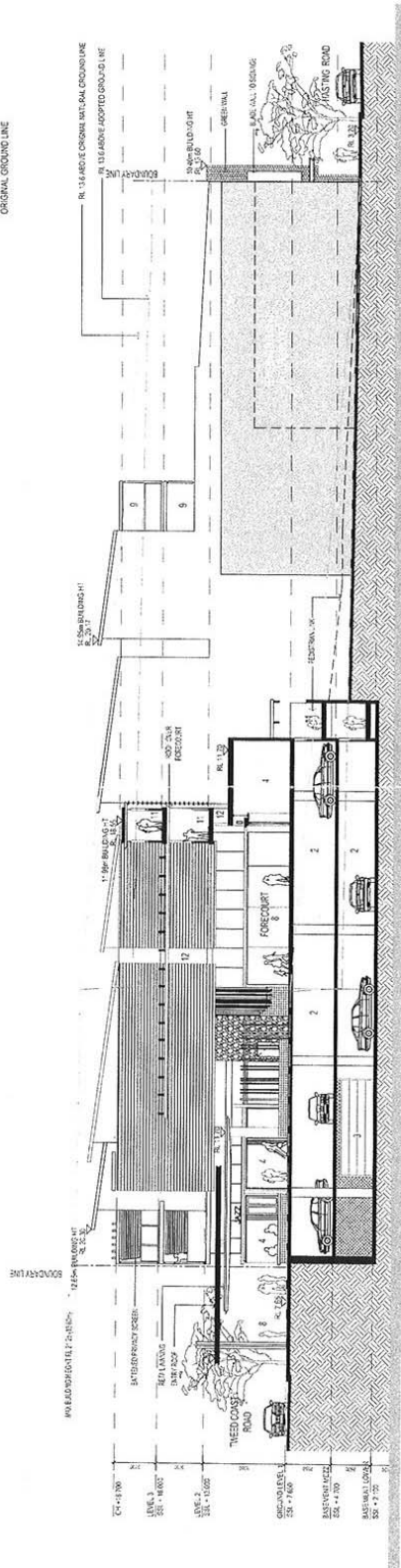
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CABARITA DEVELOPMENT Sections
 1:250 @ A3 | 17.04.09 | Dev. Application DA-21 | 2

LEGEND
 ADOPTED GROUND LINE
 ORIGINAL GROUND LINE



section 3

- 1. MEADSGATE CHURCH
- 2. ENTRANCE PORCH
- 3. RETI RAVING
- 4. 1st FLOOR BUILDING
- 5. FORECOURT
- 6. THEODORE ROAD
- 7. TRUCK BUILDING
- 8. MATERIAL
- 9. BASEBALL BRIDGE
- 10. HASTING ROAD
- 11. FINISHED

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 1011250001 1 141 12500001 stockwell.com

CABARITA DEVELOPMENT Sections
 1:250 @ A3 24.02.09 Dev. Application DA-22 | A

LEGEND	
	COASTAL FEATURE TREE Banksia integrifolia
	COASTAL FEATURE TREE Banksia integrifolia
	COASTAL SPACE TREE Corymbia avicarpa
	COASTAL SPACE TREE Corymbia avicarpa
	FOOTPRINT TREE Metrosideros polymorpha
	FOOTPRINT TREE Metrosideros polymorpha
	NATIVE PALM Livistona australis
	SHRUBS
	CLUMPING PLANTS
	GROUNDCOVERS
	MOUNDING
	TURF
	TIMBER SEATING
	PUBLIC ART STATEMENT



JEREMY FERRIER LANDSCAPE ARCHITECT



SCALE 1:200 @ A1
DATE 2009/02/20
DRAWING 20015/0401
ISSUE (A)

CABARITA DEVELOPMENT - Landscape Concept

The Department of Planning have invited Council to provide a submission regarding the EA. The following matters have been identified as being of importance to include in any submission to the Department.

Planning Comment:

Tweed Council's Adopted Retail Strategy Position

At its meeting of 16 November 2005, Council (The Administrators) adopted a policy position on a consultant's Draft Retail Strategy Report. The subject proposal is considered to be generally consistent with the following elements of this policy position:

1. *The character of existing towns and villages and the retail facilities they already have be protected.*

The development will result in a positive change of character within the central business district of Cabarita. The development will assist to reinforce this precinct as the central commercial precinct.

2. *Where appropriate, Council will support the incremental expansion of existing retail centres in such a way as not to threaten or fracture those existing centres, rather than building new ones.*

The proposal is not an expanse of the Village, and will not threaten or fracture other surrounding centres.

3. *Reinforce Tweed Heads south as the major district retail centre by encouraging the expansion and when Tweed's population demands that increased range and level of shopping.*

The proposal is anticipated to comprise of a smaller style supermarket and several specialty shops on the ground floor. The proposal will not detract from or be a major competitor to Tweed Heads south shopping district.

4. *Maintain and wherever possible enhance the special appeal of the retail centre of Murwillumbah and those village centres of similar style.*

The proposal enhances the coastal environment through the use of high quality design and finishes. The proposal will compliment the surrounding existing development. The proposal will contribute to an active town centre environment.

5. *Limit the scale of new large scale retail centres in the coastal region to a level which caters for the majority of chore type shopping needs. This concept to reflect the need to reduce fuel consumption and to support sustainability within each centre through discouraging vehicle use and encouraging walking and cycling.*

Whilst the proposal is not considered to large scale retail centre, it is anticipated to cater for the community's chore shopping needs. Due to its location the site is highly accessible, it is anticipated residents within the close proximity will walk or cycle to the development.

6. *Council does not support the establishment of another district retail shopping centre.*

The proposal does not comprise of a district retail shopping centre.

7. *The retail concepts in these recommendations form the basis of locality plans in the Shire and any retail development applications which are submitted in the interim of these locality plans being prepared and approved by Council be assessed so that the above retail strategies are supported and not compromised.*

Section B19 - Bogangar/Cabarita Beach Locality Plan has since been incorporated into the Tweed DCP. The proposal is generally consistent with the requirements of this section. The proposal enhances the coastal environment through the use of high quality urban design. The development integrates commercial and residential development. The proposal will contribute to an active town centre environment.

Tweed Local Environmental Plan 2000

1. The proposal does not incorporate a satisfactory future road corridor as identified within Clause 38 of the Tweed LEP. The corridor is identified to run parallel between Tweed Coast Road and Hastings Road starting at Rosewood Ave and continuing to the Council car park site in Hastings Road.

The intention of the proposed laneway is to develop a service laneway providing access for car parking facilities and service vehicles to the rear of properties fronting Tweed Coast Road and Hastings Road.

The laneway provides a desirable planning outcome as it enables the servicing of developments out of the public view and enables pedestrian movements along the streets without interferences from vehicles.

Clause 38 of the TLEP 2000 requires consideration of the effect of development on the future alignment of the road corridor. The development will essentially fragment the laneway as its footprint is proposed to extend over the area intended for the laneway. The development will restrict the continuation of the laneway to the south of the site and restrict its operation to the north.

2. The development is proposed to be four storeys and the TLEP 2000 identifies the site as being a three storey limitation.

Tweed Development Control Plan

1. The proposed development is inconsistent with the Tweed DCP Section B19 - Bogangar/Cabarita Beach Locality Plan. Should the laneway not extend to serve No. 84, 86 and 88 Hastings Road, their direct vehicular access will inevitably be from Hastings Road which is not permitted as per the DCP. It is noted the proposed development's vehicular access is proposed directly from Hastings Road.
2. Section B19 of the Tweed DCP states '*Lots situated on the western side of Tweed Coast Road will be accessed via the Laneway situated between Tweed Coast Road and Hastings Road.*' Should access for the proposal be granted via Hastings Road

as opposed to the laneway, it is considered imperative that the development's treatment along Hastings Road is to a pedestrian scale and attention is paid to minimising the vehicular-pedestrian conflict. In addition, a condition of consent should be included requiring Council approval of the final detailed screening treatment (including colour and material board) along Hastings Road prior to issue of a Construction Certificate.

3. An objective of Section B19 of the Tweed DCP states '*Strengthen the village centre through high quality urban design and streetscape improvements.*' It is noted that the application involves streetscape works however defers final design to a later stage, in consultation with Council. It is requested that a condition be imposed on any consent issued that a streetscape and landscaping plan be approved by Council prior to the issue of a Construction Certificate. This matter is discussed in further detail within the streetscape section of this report.
4. It is noted that the application does not address all relevant and applicable areas of Section B19 of the Tweed DCP. The applicant should be requested to provide a full assessment of the application against the Tweed DCP.

Design Considerations

1. The development could be improved with regards to State Environmental Planning Policy No. 65 Design Quality Guidelines. The number of units being serviced per lift could be reduced. The natural ventilation and sun exposure of the units could also be improved. The single aspect nature of the design contributes towards reduced natural ventilation and access to natural daylight for a number of units. It is desirable that the Department investigate further layout options to improve the amenity levels afforded to units throughout the development.
2. The provision of upper storey communal space/s, for example a roof terrace, communal courtyard areas and the like could be incorporated into the development's design.
3. The unit type mix accommodates only 1 and 2 bedroom units. It would be considered advantageous to include a small number of larger 3 bedroom family units. Opportunity exists for the expansion of unit terraces on Level 2 fronting Hastings Road to potentially achieve this objective. In addition, the inclusion of at least one unit which can be adapted for disabled access is also recommended.
4. The applicant is strongly encouraged to improve permeability and legibility of the site by creating improved through site link/s.

Engineering Comment:

(Please refer to Attachment 1 for supporting diagrams and maps that identify the main future laneway and car parking and access issues related to the current proposal).

Future Laneway

1. As previously discussed, the Tweed LEP 2000 identifies a service laneway road corridor parallel to the Tweed Coast Road and Hastings Road.

The laneway provides a desirable planning outcome as it allows the primary frontages of the properties to the Tweed Coast Road to be designed without driveway penetrations across the pedestrian footpaths at regular intervals which detracts from the amenity of the CBD and is a safety concern for pedestrians.

Portions of the proposed laneway are already dedicated in compliance with the TLEP 2000. The proposed mixed use development has been designed so that the car park and service vehicle access is from Hastings Road.

2. As discussed the proposal is likely to result in an inconsistency with Section B19 of the Tweed DCP. The Section states that properties fronting The Tweed Coast Road and Hastings Road will not have direct vehicular access to these properties which are planned to be serviced from the proposed central laneway shown in the TLEP 2000. Whilst this restriction is supported in terms of traffic and pedestrian management along The Tweed Coast Road and should be enforced, it is not considered essential for properties fronting Hastings Road. In this regard 'controlled' access to lots is not seen as a traffic problem provided the driveways are sufficiently spaced and not provided at every lot.
3. The implications of Council permitting a change from the TLEP 2000 that reduces the development potential on Lots 188, 189, 190 DP259164 should be further investigated or an agreement from the owners of these properties should be obtained. If this aspect can be resolved, and with some modification of the access easement proposed to accommodate truck turning paths, the northern section of the laneway as proposed may be acceptable.
4. The proposed discontinuation of the laneway to the southern Council car park site is more problematic. Council approved a mixed use building on SP 77616 (No 47 Tweed Coast Road) which has all its vehicular including service vehicle access from the lane. This was required on the basis that the laneway corridor would continue to be acquired. The proposed development cuts the proposed laneway at the common boundary of this existing development and the proposed development leaving the constructed section of the laneway to terminate with no turn area for service vehicles to utilise to exit the laneway.

The applicant was requested to provide a continuation of the laneway westward along the southern boundary of the subject site to Hastings Road to enable the laneway to continue to function or, to investigate the impact of the laneway in consultation with the owners of SP 77616 Tweed Coast Road as to how service trucks could utilise the basement car park to turn so they could exit via the laneway on a forward direction. The applicant advised a redesign is not possible, no advice regarding negotiations with the owners of SP 77616 has been received.

The applicant's suggested solution was for the trucks to reverse back to the Council car park site and use the Council land to turn to exit back onto Hastings Road. This is unacceptable for safety reasons as reversing trucks along a laneway whilst cars are accessing two private car parks and Councils car park. Furthermore it would restrict Councils development potential on the Council land by sacrificing public land for a turnaround area that is not required if the TLEP 2000 laneway was enforced. It should also be noted a design for the public Council car park has already been completed. This is seen as the most critical issue, which is not addressed within the EA.

The northern section of the proposed public laneway can remain functional should the proposal be constructed, subject to the owners of Lots 188, 189, 190 DP259164 providing written agreement to relocate the laneway on their properties or legal advice is obtained stating Council has no liability for impact of such relocation.

The issue with the southern section of the laneway, which is constructed, in regards to service vehicle access/egress to Lot 5 DP1102016 Tweed Coast Road could be resolved if the applicant obtains an agreement from the owner stating it is possible for the type and size of vehicle servicing Lot 5 DP1102016 to utilise the basement carpark area to make a three point turn to egress the site in a forward direction. The development potential of Lot 1 DP831592 Tweed Coast Road is also affected.

The applicant should seek agreement from the affected property owners as discussed above. Whilst the development appears to have some planning merit, it is recommended that the Department of Planning staff contact the affected property owners identified in this report seeking their written acceptance of the impacts on their properties.

Car Parking and Access

1. The proposed car park access to the proposed development off Hastings Road is considered acceptable provided the access to the loading bay is made to be inaccessible to semi trailer trucks, unless the loading bay is upgraded to cater for such vehicles. Semi trailers manoeuvring on the public road reversing onto the site is not acceptable. It is recommended that 'physical barrier' options such as balustrades and mature landscaping be constructed along this frontage within Hastings Road to ensure this cannot occur.
2. It is noted that the proposed access into the ground level car park and upper level car park of the development are located close to the existing intersection of Hastings Road and Reef Water Circuit.

The applicant is asked to demonstrate that the two proposed access points into the car park do not have any impact on the intersection of Hastings Road and Reef Water Circuit. Detail of any proposed traffic management due to the additional traffic and access points on Hastings Road is to be provided to Council.

3. The proposal provides on-site parking for 194 vehicles and 2 HRV spaces. The applicant is currently short 56 car parking spaces and 3 HRV spaces (this includes the 20% reduction for the commercial component as specified in section 2.4.1 of the DCP Section A2).

The shortfall in car parking numbers is considered significant and it is recommended the applicant provide the required car parking numbers to Council's standards. Further details regarding calculations can be forwarded to the Department under separate cover.

4. Due to insufficient car parking provided, the seven small car parking spaces within the retail parking area are not supported.

5. It is recommended that the 6 tandem parking spaces within the residential parking area are allocated to units in the strata plan to avoid future parking problems.
6. The applicant should demonstrate that the existing accesses to adjoining Lot 2 DP 772172 (2 storey brick dwelling) and Lot 1 DP 772172 (2 storey concrete rendered units) are unaffected or otherwise by the proposed development. It is noted that Lot 2 DP 772172 does not currently benefit from the existing 3m right of carriageway.

Manoeuvring Issues

1. The proposed development has the following problems with traffic manoeuvrability;
 - Turning templates show that vehicles turning into the ground level car park are turning into one way on coming traffic.
 - Turning templates show vehicles turning left from the ground level car park to the upper level basement car park are turning into on coming traffic from the access ramp. If the ground level car park is full, vehicles will make a left turn into the upper level basement car park for parking spaces.

An amended layout is required to provide a safe manoeuvrability in the car parks, with turning templates to demonstrate compliance.

Heavy Vehicle Loading Bay

- The 12.5m heavy vehicle shown on plan no. DA13 revision F prepared by Stockwell does not demonstrate adequately that the vehicle can manoeuvre on site and enter and leave the site in a forward direction.

The applicant is requested to clearly demonstrate with turning templates for a 12.5m heavy vehicle that the vehicle can adequately manoeuvre on site and enter and leave the site in a forward direction. The detail is to be provided at a maximum scale of 1:200.

Garbage Truck

- Turning templates for a garbage truck are to be provided to demonstrate that the vehicles enter and leave the site in a forward direction.

Heavy Vehicles

- Woolworth's supermarkets generally have a standard size delivery truck which services all stores and this is usually a semi trailer. It is noted that correspondence has been provided by Woolworths stating a smaller vehicle of 12.5m in length will service the development. It is noted in the correspondence from Woolworths that metropolitan stores have been mentioned only. Concern is raised that a semi trailer will still use Hastings Road for deliveries.

Pedestrians / Footpaths / Cycleway

1. A footpath is required along the frontage of the site on both Tweed Coast Road and Hastings Road.

Sewer Relocation

1. The proposed sewer relocation is problematic as the report makes the assertion that the sewer can be diverted along the wall of the basement to another sewer in Hastings Road. No sketch plans showing pipe grades or the route have been included in the EA. The report warns that there may be a clash with existing services. Within Hastings Road, there is a 450 mm diameter trunk water main, a 250 mm diameter distribution main and a 100 mm reticulation main, as well as a 375 mm diameter stormwater main. The matter of temporary servicing of the upstream properties during construction has also not been addressed.

The applicant is required to submit an application under Section 68 for sewerage works for the relocation of the sewer main and provide an appropriate easement to drain sewage within the building.

However, approval of the development should be dependent upon the applicant demonstrating in detail that the sewer can be satisfactorily relocated.

Flooding Issues

1. The applicant was required to amend the basement carparking to provide 500mm freeboard above design flood level (RL 3.4m AHD) for the inflow of water, as per DCP Section A3 - Development of Flood Liable Land.

The applicant has now graded the basement driveway to bund the lower level to RL 3.9m AHD, as required, having abandoned previous options for installing hydraulic flood protection devices, which are generally not acceptable.

Provided other openings are similarly protected, particularly the stairwell at the southern end of the ground floor, the development is considered to comply with the flooding DCP. Conditions of consent can be applied in this regard.

Section 4.8.4 of the EA provides a Flood Access and Evacuation Plan for the site. High land in Cabarita Beach reduces the need to evacuate, even in the probable maximum flood. It is noted that the plan directs residents to drive along Clothiers Creek Road to the Pacific Motorway when evacuating. The portion of Clothiers Creek Road adjacent to the Motorway is highly flood prone, and one of the first local roads to be closed in a flood event. As such, the plan should be amended to direct people wishing to access the Motorway to use Tweed Coast Road and try to rejoin the Motorway at Chinderah or Pottsville.

Stormwater Management

1. The applicant was previously requested to undertake a detailed engineering assessment of the capacity of the downstream drainage network to accept post-development flows from the development. If the public system was found to be insufficient, the developer must provide upgrades to the receiving system to cater for the additional demand, and/or provide an on site stormwater detention system (OSD) to limit site discharges to a maximum of 200L/s/ha for the Q100 storm. A Stormwater Impact Assessment has been provided in Appendix R of the EA.

There are a number of concerns raised regarding this impact assessment:

- a. Pre-development impervious areas appear to be over-estimated at 70%, which understates the impact of the development.
- b. Based on Council's GIS, the catchments to which the development will discharge are incorrect. The site is serviced by two separate piped systems in Hastings Rd. Lots 20-23 and Lots 184-187 discharge to the northern system, and Lots 191-194 discharge to the southern system. The Stormwater report assesses Lots 20-23 and 191-194 as a single catchment, and Lots 184-187 as another catchment as the basis for comparing pre and post development flows, which is incorrect.
- c. There are no supporting calculations for the assessment of existing capacity of the street drainage systems, and only one of the street drainage systems has been considered.
- d. No water sensitive urban design (WSUD) measures have been incorporated into the development to try and mitigate the impacts of the development.
- e. There is no consideration of the 450mm diameter public stormwater main that traverses the site through Lots 184-185.
- f. Engineering drawings were not submitted with the EA.

In lieu of an amended stormwater management plan, conditions of consent shall be recommended for the provision of on site detention of stormwater (OSD), to limit peak discharges to 200L/s/ha for the 100 year ARI intensity storm. If the Department of Planning request a revised SWMP, which is Council's preferred approach, it should be forwarded for Council officer's comments.

According to the report, stormwater treatment devices will be provided for basement and driveway catchments, as required by Council standards, with trade waste areas separate.

Erosion sediment controls rely on installation of barriers and other devices. Management of basement stormwater/ground water will be a central concern for the development.

Recreation Services and Community and Cultural Services Comment:

Streetscape

1. Tweed Shire Council is currently in the process of producing a 'Streetscape Masterplan' for the centre of Cabarita which incorporates the subject site. It is estimated the Streetscape Masterplan will be completed within six months including the exhibition period. The proposal and all streetscape works including street tree location and species type, alfresco dining, paving finishes, furniture suite and the like must comply with Tweed Shire Council proposed streetscape masterplan. It is noted this has been discussed with the applicant and Department of Planning.

- There is to be no advertising signage on the footpath within the road reserve. Public art is acceptable provided consultation with Council occurs.
- Underground power is encouraged as Council is proposing to install conduit underground for all future developers to utilise.
- The existing Telstra phone box will need to be relocated to accommodate the development, final location will be determined within the masterplan.
- Trees planted within the external car park are to be on a 1:6 ratio (1 tree:6 bays) to provide natural shade.
- To discourage the use of double B trucks on-site it is recommended that centre median planting along Hasting Street in isolated areas is provided to prevent a reversing manoeuvre, but still allowing pedestrian access across the Street.
- A pedestrian pathway exists along Hasting Street (on the Eastern side) this pathway must be shown on any plans submitted
- Hastings Street is to have trees planted along the development length within the road reserve at approximately 8 metre centres.

Building Comment:

1. Council's Building Services Unit raised no objection regarding the proposal subject to conditions of consent (refer to attachment for draft conditions of consent).

Waste Management Comment:

1. Insufficient information is provided within the EA pertaining to waste management for the proposed development. Further information in the form of a waste management plan should be requested from the applicant. Further details may be provided to the Department upon request.

Environment and Health Service Comment:

Contamination

1. The Applicant has submitted a *Limited Environmental Site Assessment, Service Station, 39-45 Tweed Coast Rd, CABARITA NSW*, dated March 2008 and provided comment as above. The Environment Health Unit has not undertaken an assessment to establish the adequacy of the report however:
 - Any assessment, remediation, validation and audit of a contaminated site shall be undertaken in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites* (NSW EPA 1997) and relevant guidelines and standards.
 - It should be noted that dewatering will be required during construction and the quality of ground water discharged needs to be addressed.
 - A Site Audit Statement for the whole of the site, including both soil and groundwater assessments, is required to be submitted prior to the release of any construction certificate. The Statement shall demonstrate that the site has been remediated to a standard that is suitable for the proposed land use, and is not harmful to human health or the environment. The Statement shall be provided by a site auditor accredited under the provisions of the *Contaminated*

Land Management Act 1997 and be in accordance with the relevant Department of Environment and Climate Change guidelines.

The Draft Statement of Commitment referring to demolition of the existing structures onsite appear to be irrelevant as the application is not seeking approval for demolition works but is to be subject of a separate application.

Acid Sulfate Soils

1. The Applicant has submitted an *Acid Sulfate Soil Investigation (207-7864)* prepared by Soils Survey dated Jan 2008. The TSC Environment Health Unit has not undertaken an assessment to establish the adequacy of the report however submits:
 - The report is based on the understanding that a multilevel building with single basement is proposed. Earthworks are understood to consist of excavations of up to 5.0m for the proposed carparks, tapering to no excavations on the western borders. This does not appear to reflect the proposed submission.
 - The report states that field investigations were not carried out in accordance with the ASSMACC ASS Manual nor AS 1726-1993 Geotechnical Site Investigations.

Dewatering

The applicant has submitted an Acid Sulfate Soil Investigation Report and Council's Acid Sulfate Soil Planning maps indicate that the site is located in an area identified as Class 3. An Acid Sulfate Soils Management Plan and Dewatering Management Plan have been prepared in accordance with Council's requirements and the EPA guidelines. A copy of the management plans are attached for consideration.

Appendix M – Acid Sulfate Soils Report

This development proposal seeks approval under the Water Management Act 2000 to dewater the site during the construction phase of the development pursuant to Section 91(1) of the Act.

Comment

The Applicant has submitted an *Acid Sulfate Soil Investigation (207-7864)* prepared by Soils Survey dated Jan 2008. The Dewatering Management Plan is embedded within that report. The Plan is not in accordance with Council's requirements and therefore submits:

- No dewatering shall be permitted on-site without prior written approval from the General Manager, or his delegate, of Tweed Shire Council. Any submission for approval shall include a Dewatering Management Plan and accompanied by a copy of the licence issued by the Department of Water and Energy for such activity. The Dewatering Management Plan shall include but not be limited to:
 - (i) A site plan drawn to scale which indicates the extent of the excavation area and estimated zone of influence of the dewatering activity relative to any

adjoining buildings together with an assessment of any impacts likely to occur to any adjoining buildings as a result of the dewatering activities.

- (ii) The location to be indicated on the site plan of the area that will be utilised for the positioning of any treatment tank or sedimentation pond on the site including any reserve area to be used for such purpose in the event of the need for additional treatment facilities to be incorporated on the site.
- (iii) Details of the proposed method of mechanical aeration to be used in the event that it is necessary to aerate the groundwater to achieve an acceptable Dissolved Oxygen level prior to the offsite discharge of groundwater and where this will be incorporated on the site.
- (iv) The provision of written advice from the operator of any on site groundwater treatment system stating that the system to be used will be able to treat the groundwater to the required treatment level prior to discharge. Note. Particular attention is to be given to achieving the required detention times prior to discharge of the groundwater. Advice that the system is simply capable of achieving the necessary treatment will not be acceptable

The applicant shall arrange for a site inspection to be carried out with Council's Authorised Officer and all representatives involved in the dewatering activity including consultants and personnel responsible under any Dewatering Management Plan approved by Council's General Manager or delegate. Such site inspection shall be arranged and carried out prior to the commencement of any offsite dewatering activity occurring.

Council's Authorised Officer shall be advised within 24 hours in the event of detection of any failure associated with the dewatering activity being carried out on the site.

Construction Noise/Dust Matters

Draft Statement of Commitments includes:

Construction of the Development

- Detailed construction management and geotechnical assessments will be undertaken within the detailed design phase, with all recommendations being adhered to within the construction process.
- Minimise noise by limiting work hours to the approved timeframe and in accordance with the Construction Management Plan.
- All acoustic and traffic management measures will be maintained at all times in accordance with the Construction Management Plan.
- Limit dust by covering exposed areas of soil with a building fabric or other material specified in accordance with the Environmental Action Plan. All construction works will be complimented by best practice site control (sediment and erosion control measures).

- Ensure that vibrations caused by drilling activity are monitored closely to ensure that they do not exceed the levels outlined in the Construction Management plans.
- Ensure that the site is safe. The principal contractor shall prepare a Health and Safety Plan for the site in accordance with the relevant Codes and Legislation.
- All adjoining owners will be notified of works commencing and advised of a contact person to liaise with during construction process.
- Limit impacts to the amenity of adjoining site by following a construction Management Plan. Ensure that adjoining properties are kept well informed with the construction program so that they are informed and any complaints can be addressed.

Comment

The Applicant has submitted a *Construction Noise Management Plan* prepared by Carter Rytenskild Group dated 20 Feb 2009. The Plan prepared does not consider the Draft Construction Noise Guidelines prepared by the Department of Environment and Climate Change which revises the existing guideline on which Council's current requirements are based. It is considered that once construction design details are finalised an amended Construction Noise Management Plan should be submitted for approval.

- The Construction Management Plan shall include but not be limited to the management of noise and dust generated on site and details of erosion and sediment control measures. The Plan shall require the approval of the General Manager, or his delegate, prior to issue of any construction certificate.

Operational Noise Amenity

Comment

The Applicant has submitted a *Preliminary Environmental Noise Impact Assessment* prepared by Carter Rytenskild Group dated 13 Dec 2007. The TSC Environment Health Unit has not undertaken an assessment to establish the adequacy of the report as it is considered that it is not the appointed assessment authority however submits:

Evidence exists that unacceptable noise nuisance is experienced by surrounding residents of shopping precincts from mechanical plant and loading areas. Adequate detail should be provided and assessed by Tweed Shire Council at design stage and prior to the release of any construction certificate.

Operational hours to be stipulated within any consent issued.

Food Premises Construction and Footpath Dining

The applicant has submitted that opportunity exists to configure a specialty retail precinct incorporating food/beverage outlets facing Tweed Coast Road, taking advantage of after hours trading and al fresco dining within the footpath reserve. Tweed Shire Council has advised of their support for this use. A separate application will be submitted to Council once tenants have been secured.

The proposal also seeks consent specifically for a supermarket and a Kiosk area, while the remaining tenancies are to be used for specialty retail stores. Development consent will be sought in the future for the fit-out of these retail units.

Comment

No detail provided. Food premises construction shall comply with the Food Act, relevant Code and Australian Standard.

- Any premises used for the storage, preparation or sale of food are to comply with the Food Act 2003, FSANZ Food Safety Standards, AS 4674-2004 Design, Construction and Fit-out of Food Premises.
- The details of any kitchen exhaust system are to be provided and approved prior to the release of the construction certificate, if required. Such details are to include the location of discharge to the air, capture velocity, size and hood and angle filters. The system shall comply with AS1668.2 Ventilation Requirements.
- The use of the footpath for footpath trading is not permitted without an appropriate Lease Agreement being entered into with Tweed Shire Council. No lease agreement shall be entered into unless the proposed use complies with Council's Footpath Trading Policy.

Lighting

The applicant proposes secure parking within the basement area and the provision of appropriate lighting facilities relative to same.

The applicant proposes after hours lighting to public spaces and accessibility to management.

Comment

- Light spill should not create a nuisance for surrounding residents and therefore design detail should be required to be submitted and approved prior to release of any construction certificate issued.

Conditions of Consent

Should the Department resolve the above issues and prepare to grant consent for the development, Council officers may draft appropriate conditions of consent including those relating to contribution charges.

RECOMMENDATION

That the Department of Planning:

1. Notes all issues raised within this report; and

2. Liaises with the owners of Lots 188, 189 and 190 DP259164 Hastings Road and Lot 1 DP831592 Tweed Coast Road, explaining the impact of the proposal on their properties and seeking written agreement; and
3. Contact the owners of SP 77616 detailing the impact of the proposal and seeks the owners written agreement that their property can be adequately serviced without the laneway continuation.

OPTIONS:

1. Council resolve to adopt the matters raised within this report and forward to the Department of Planning as a submission; or
2. Council resolve not to provide a submission to the Department; or
3. Council resolve to provide an alternate submission to the Department.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The issues raised within this report identify several key areas of inconsistency with the TLEP and the DCP. Further information is required from the applicant to address these issues and those other matters identified within this report. Consultation with affected land owners should be undertaken by the Department of Planning. The issues identified in this report should be forwarded to the Department of Planning for its consideration.

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. Figures 1 to 5 – A series of maps and diagrams relating to the future laneway and car parking access issues relating to the subject proposal (ECM 2068925)
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